Ағылшын тілі

"Юриспруденция" мамандығы бойынша мәтіндерді оқуға арналған оқу құралы

Английский язык

Пособие для чтения
текстов по специальности
"Юриспруденция"

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АҒЫЛШЫН ТІЛІ

“ЮРИСПРУДЕНЦИЯ ” МАМАНДЫҒЫ БОЙЫНША МӘТІНДЕРДІ ОҚУҒА АРНАЛҒАН ОҚУ-ӘДІСТЕМЕЛІК ҚҰРАЛ

АНГЛИЙСКИЙ ЯЗЫК

ПОСОБИЕ ДЛЯ ЧТЕНИЯ ТЕКСТОВ ПО СПЕЦИАЛЬНОСТИ “ЮРИСПРУДЕНЦИЯ”

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В учебное пособие включены тексты, отражающие ряд тем по специальности.

Пособие состоит из 2-х разделов. Первый раздел состоит из адаптированных текстов по специальности, второй содержит тексты, взятые из оригинальных источников. Каждый раздел, в свою очередь, также подразделяется на две части: тексты по уголовному праву и по гражданскому праву.

После каждого текста дается краткий лексический минимум, а также предлагаются вопросы для контроля понимания текстов.

Данное учебное пособие предназначено для студентов юридических вузов и может быть использовано как в аудитории, так и для самостоятельной работы.

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Введение

Практическое владение иностранным языком в условиях обучения в неязыковом вузе предполагает умение читать и понимать литературу на иностранном языке по специальности. Будущий специалист должен уметь использовать в своей работе специальную литературу на иностранном языке с целью извлечения информации.

Настоящее пособие предназначено для студентов, обучающихся по специальности "Юриспруденция" очного и заочного отделений.

Пособие представляет собой сборник текстов по вопросам права и может использоваться как дополнительный материал для чтения специальной литературы на казахском и русском отделениях. Сборник состоит из 2 разделов: 1-ый раздел включает адаптированные тексты и предназначен для студентов младших курсов; 2-ой раздел содержит тексты из оригинальных источников и предусмотрен для студентов старших курсов и магистрантов. В каждом разделе содержатся тексты по уголовному праву и гражданскому праву. Все тексты сопровождаются глоссарием, включающим наиболее употребительные слова и словосочетания и направлен на расширение активного словаря по специальности. Вопросы, которые даются после каждого текста, способствуют более глубокому извлечению из текста смысловой информации.

Кіріспе

Тілдік емес жоғары оқу орындарында шетел тілін практика жүзінде меңгеру оқу мен мамандық бойынша шетел тіліндегі әдебиетті түсінуден тұрады. Болашақ маман өз жұмысында шетел тіліндегі арнайы әдебиетті керекті ақпаратты алу мақсатында қолдана білуі қажет.

Аталмыш нұсқау "Юриспруденция" мамандығының күндізгі және сырттай оқитын бөлімдерінің студенттеріне арналған.

Нұсқауды құқық мәселелеріне байланысты мәтіндер жинағы деп қарастыра аламыз. Бұл мәтіндерді қазақ және орыс бөлімдерінде оқуға арналған қосымша материалдар ретінде қолдануға болады. Жинақ 2 бөлімнен тұрады: 1-бөлімге кіші курс студенттері үшін дағдылануға арналған мәтіндер енген; 2-бөлімге жоғары курс студенттері мен магистранттарға арналған нақты қайнар көздерден алынған мәтіндер енген. Әр бөлімде қылмыстық және азаматтық құқыққа байланысты мәтіндер қамтылған. Әр мәтіннің соңында ең көп қолданылатын сөздер мен сөз тіркестері енген мамандық бойынша белсенді сөздік шеңберін кеңейтуге бағытталған глоссари берілген. Әр мәтіннен кейін қойылатын сұрақтар мәтіннен тереңірек мағыналы мәлімет алуға мүмкіндік береді.

UNIT 1

Part 1
Criminal Law

Text 1
Criminal Justice

The Government's strategy for dealing with crime is to sustain the rule of law by preventing crime where possible; to detect culprits when crimes are committed; to convict the guilty and acquit the innocent; to deal firmly, adequately and sensibly with those found guilty; and to provide more effective support for the victims of crime. It is also concerned with ensuring that public confidence in the criminal justice system is maintained and that a proper balance between the rights of the citizen and the needs of the community as a whole is maintained.

With continuing concern in Britain, as in many other countries, over rising crime rights, public expenditure in the law and order programme reflects the special priority given by the Government to these greater police manpower, the probation service find extra spending on prison building. More than two-thirds of total expenditure is initially incurred by local authorities (with the help of central government grants), mainly of the police service.

A number of measures to strengthen the criminal system have been taken. The Drug Trafficking Offences Act 1986 provides for the pre-trial freezing of suspected drug trafficker's assets, backed up on conviction by immediate confiscation of the assets to the value of the proceeds of the crime; similar provisions are included in the Criminal Justice (Scotland) Act 1987. The Public Order Act 1986 codifies the common law offences of riot, unlawful assembly and affray; enhances the powers of the police to control public processions and assemblies likely to result in serious disorder or disruption; strengthens the law against incitement to racial hatred; and provides additional powers to combat football hooliganism. Under the Criminal Justice Act 1987 a Serious Fraud Office with wide powers to investigate and prosecute serious or complex fraud in England, Wales and Northern Ireland was established in 1988.

The criminal law, like the law generally, is interpreted by the courts but changes in the law are matters for Parliament. In practice most legislation

affecting criminal law is government-sponsored, but there is usually consultation between the government departments and the legal profession, the police, the probation service (in Scotland, the social work agencies) and voluntary bodies.

Vocabulary

1. to prevent crime	- предотвращать преступление	- қылмыстың алдын алу
2. to commit crime	- совершать преступление	- қылмыс жасау
3. to detect culprit	- разыскивать, находить преступника (виновного)	- қылмыскерді (кінәліні) іздеу, табу
4. guilty	- виновный	- кінәлі
5. innocent	- невиновный	- кінәсіз
6. victim	- потерпевший, жертва	- жәбірленуші, құрбан
7. probation	- доказательство	- дәлел
8. local authorities	- органы местной власти	- жергілікті үкімет органдары
9. criminal justice system	- система уголовного правосудия	- қылмыстық сот әділдігінің жүйесі
10. assets	- имущество	- мүлік
11. pre-trial	- досудебный, предшествующий судебному процессу	- сотқа дейінгі
12. offence	- правонарушение, преступление	- құқық бұзу, қылмыс жасау
13. riot	- учинение беспорядков	- тәртіпсіздік шығару (істеу)
14. affray	- драка между двумя или более лицами в публичном месте	- жұрт алдындағы екі немесе одан көп адамның төбелесі
15. to investigate	- расследовать, рассматривать (дело)	- (істі) қарау, тексеру
16. to prosecute	- преследовать в судебном порядке, преследовать в уголовном порядке	- сот тәртібімен ізге түсу, қылмысты іс тәртібімен ізге түсу
17. legislation	- законодательство	- заң шығарушылық
18. voluntary body	- добровольное общество	- ерікті қоғам

Answer the questions:

1. What is the essence of the Government's strategy for dealing with crime?
2. What does the Drug Trafficking Offence Act 1986 provide for?
3. Are there similar provisions in the Criminal Justice (Scotland) Act 1987?
4. What does the public Order Act 1986 codify?
5. What Act was established on a Serious Fraud in 1988?
6. How is most legislation affecting criminal law sponsored in practice?

Text 2
English Criminal Law

Criminal Law is that part of the law of the land which is concerned with crimes.

The English criminal law has never been reduced to a single code but many particular topics have been codified by separate statutes, for example, the Larceny Act (1916), which deals with various forms of theft and related offences such as fraudulent conversion and the offences against the Person Act (1861), which covers many forms of assault and personal violence. Criminal statutes call for judicial interpretation, just as a comprehensive criminal code would do, and authoritative rulings by the courts on the meaning of statutes are as much part of the criminal law as are the statutes themselves.

A crime, according to the doctrine of the Common Law, is made up of an outward act and the state of mind of the criminal. He must have a guilty mind, or mens rea, in addition to committing the physical act which is forbidden. This doctrine of mens rea is still of importance, particularly in some Common Law crimes, but in many statutory crimes it has ceased to be of much significance. Every crime, it may be said, has its own kind of guilty mind. This clearly exists if the intention is to commit the criminal act, knowing it to be such. But every person is taken to intend the probable consequences of his act and so a person who treats another so violently that he jumps out of a window to escape and is killed by the fall is guilty of murder. Sometimes mens rea may take the form of the negligence or mental inadvertence, as in manslaughter by neglect. Then the mental state must be proved to exist, in the crime of burglary. In the case of murder the necessary mens rea is expressed by the phrase "malice aforethought". This phrase does not imply that murder can be committed only if it is premeditated. Nor need malice in the ordinary sense of spite or ill-will be present in the mind of the murderer.

An act is said in the criminal law to be done maliciously if it is done intentionally without a just cause for excuse.

Vocabulary

1. statute	- законодательный акт	- заң (жүргізу) актісі
2. larceny	- хищение, похищение имущества	- мүлік ұрлау
3. theft	- кража , воровство	- ұрлық, тонау
4. fraudulent conversion	- получение денег или имущества обманным путем	- ақша немесе мүлікті алдамшы жолмен алу
5. assault	- нападение, словесное оскорбление или угроза физическим насилием	- балағаттау немесе дене зақымын жасау қауіпін төндіру
6. personal violence	- насилие над личностью	- жеке басқа озбырлық жасау
7. judicial interpretation	- толкование, выработанное судебной практикой	- сот ісі тәжірибесі арқылы жасалған түсіндірме
8. court	- суд	- сот
9. criminal	- преступник; лицо, виновное в совершении преступления	- қылмыскер, қылмысқа кінәлі адам
10. to forbid	- запрещать	- тиым салу
11. to treat	- обратиться, обращаться	- қарау, біреу немесе бірдеңе ретінде қабылдау
12. murder	- убийство	- кісі өлтіру
13. inadvertence	- небрежность, оплошность, невнимательность	- ұқыпсыздық зейінсіздік
burglary	- кража со взломом	- (сындырып, бұзып) тонау
mens rea (лат.)	- вина	- кінә

Answer the questions:

1. What is Criminal Law concerned with?
2. What do criminal statutes call for?

3. What is a crime, according to the doctrine of the Common Law, made up?
4. Does every crime have its own kind of guilty mind?
5. What does mens rea mean?
6. What forms may mens rea take?

Text 3
Criminal Courts of England

In England there are two main classes of criminal courts, those in which the trial of the more serious offences takes place before a judge and jury, and those in which less serious offences are tried before magistrates without a jury. The courts in the first class are either assizes or quarter sessions. The second class consists of magistrates' courts, sometimes referred to as petty sessions.

The assizes are held in every county, usually in a county town, being visited at least twice a year by a judge who is commissioned by the Queen to administer justice in this area. He is usually a High Court judge.

In London and the surrounding area the Central Criminal Court takes the place of the assizes. Trials are there presided over either by a High Court judge or by one of the special judges of that court, such as the Recorder of the City of London and the Common Sergeant. This court is not superior to the assizes.

Court of quarter sessions are held at least four times a year for counties and for certain boroughs. The courts have the same jurisdiction as assizes with a few exceptions. For example, murder, bigamy, and some other specified crimes cannot be tried at quarter sessions. In counties the court is presided over by a Chairman of quarter sessions, usually an experienced barrister, and in boroughs by a barrister known as the Recorder. Justices of the peace may sit on the bench with the Chairman or Recorder but they play no part in the trial, which is with a jury. When the court is acting as a court of appeal from a magistrates' court there is no jury and the justices as a body decide the appeal.

Magistrates' courts sit frequently in counties boroughs for the trial of less serious offences, known as summary offences, without a jury. These courts were known until recently as courts of summary jurisdiction.

An appeal from a magistrates' court goes to quarter sessions or, if a point of law is raised, to the Queen's Bench Division of the High Court.

The Queens Bench Division of the High Court of Justice is very rarely the scene of a criminal trial.

The Divisional Court of the Queen's Bench Division, consisting of three judges (often presided over by the Lord Chief Justice), is a court of appeal on points of law from magistrates' courts and also from quarter sessions when that court is acting as an appellate tribunal from a magistrates' court. The appeal by case stated is in no sense a re-hearing of the case and witnesses are not heard. That court can also supervise the proceedings of magistrates' courts and quarter sessions.

The Court of Criminal Appeal hears appeals from assizes and quarter sessions. Only the convicted person may appeal, there being no right of appeal by the prosecutor against a jury's verdict of Not Guilty.

The Court consists usually of three judges of the Queen's Bench Division, the Lord Chief Justice of England normally presiding over the other two. In cases of special importance a "full court" of five or more judges sits.

The Court has power to increase a sentence on appeal and not merely to reduce it. The Court may set aside a jury's verdict of Guilty if they think it is unreasonable or not supported by the evidence. But the Court will not do this merely because the case for the prosecution was weak or because the Court itself has some doubt as to the correctness of the verdict.

The Home Secretary has power to refer a case to the Court or to take its opinion on any particular point. The House of Lords, as a court of law consisting of the Lords of Appeal in Ordinary and the Lord Chancellor, is the supreme court of appeal in criminal matters.

Vocabulary

1. trial	- судебное разбирательство, судебный процесс	- сотта қарау, сот ici
2. offence	- правонарушение, преступление	- құқық бұзушылық, қылмыс
3. assize	- суд присяжных; выездная судебная сессия	- сот мүшелері, сыртқа шығып істеуші сот сессиясы
4. quarter session	- квартальные сессии	- тоқсандық сессиялар
5. petty session	- малые сессии (коллегия из 2-х или более мировых судей	- кіші сессиялар (екі немесе одан да көп бітім төрешілерінен тұратын алқа)

6. to administer justice	- осуществлять правосудие	- сот әділдігін жүргізу
7. murder	- убийство (тяжкое, совершенное с заранее обдуманным умыслом	- кісі өлтіру (алдын-ала) дайындалған, ауыр түрдегі
8. bigamy	- двоебрачие	- қос неке
9. barrister	- барристер, адвокат высшего ранга, имеющий право выступать в суде	- барристер, сотта сөз алуға құқылы, жоғарғы шендегі адвокат
10. justice of the peace	- мировой судья	- бітім төрешісі
11. court of appeal	- аппелляционный суд	- шағым қараушы сот
12. summary offences	- преступления, преследуемые в порядке суммарного производства	- біріктірілген түрде қаралатын қылмыстар
13. magistrates' court	- магистратский суд; мировой суд	- магистраттар соты бітім соты
14. re-hearing of the case	- вторичное слушание дела	- істің қайта қаралуы
15. witness	- свидетель	- куәгер
16. convicted person	- осужденный	- сотталған адам
17. prosecutor	- обвинитель; лицо, возбуждающее и осуществляющее уголовное дело	- айыптаушы қылмыстық іс қозғаушы және оны жүргізуші адам

Answer the questions:

1. How many classes of criminal courts are there in England? What are they?
2. Where are assizes held?
3. How often are courts of quarter sessions held?
4. Are there any differences between assizes and courts of quarter sessions?
5. What do magistrates' courts sit for?
6. What does the Court of Criminal Appeal hear?
7. What does the Court of Criminal Appeal consist of?
8. What power does the Court have?
9. What power does the Home Secretary have?
10. The house of Lords is the Supreme Court of appeal in criminal matters, isn't it?

Text 4
United States Criminal Courts

In 1787 the leaders of the states who were successfully asserting their independence agreed that each of them would relinquish a measure of that independence to a central government. But the powers which they surrendered were to be limited and clearly defined. And the Constitution which set out the agreement made it clear that such powers as were not specifically conferred on the Federal Government were to remain with the states.

In the result, each state has its own system of criminal law, enforced in its own courts. And in addition the Federal Government has a system of courts to deal with, among other matters, offences against federal statutes. A citizen of New York who is accused of keeping a disorderly house is tried in the county courts or the city courts set up under the authority of New York State. But if he is alleged to have robbed mails he will be tried in the district court before a federal judge. Problems sometimes arise when a criminal is wanted by both federal and state authorities, though procedure exists to cover most cases of overlapping jurisdiction.

The system of federal courts consists of the district court in each locality, which hears cases in the first instance; the courts of appeals, which hear appeals from the district courts; and the United States Supreme Court, which is the ultimate court of appeal in matters involving important points of law. All these courts exercise both a civil and a criminal jurisdiction. In each state the judicial system differs according to history, necessity and taste, but all follow a similar pattern. Serious offences are tried in courts known by a variety of names - superior courts, county courts, circuit courts, etc.

Vocabulary

1. to assert independence	- заявлять о своей независимости; утверждать независимость	- тәуелсіздікті жариялау тәуелсіздікті бекіту
2. federal statutes	- федеральные законодательные акты	- федералдық заң актілері
3. procedure	- процесс; порядок; судопроизводство	- іс; тәртіп; сот жүргізу
4. to be accused of smth.	- быть обвиненным в чем-либо	- бірдеңеге айыпталу

5. to be tried	- быть привлеченным к судебной ответственности	- сот алдындағы жауапкершілікке тартылу
6. to allege	- заявлять	- мәлімдеу
7. to hear a case	- разбирать дело; слушать дело	- іс қарау; істі тыңдау
8. circuit courts	- окружные суды	- округ соттары
9. to exercise	- осуществлять	- іске асыру; қолдану

Answer the questions:

1. Why does each state have its own system of criminal law?
2. What has the Federal Government set up in addition to state courts?
3. What does the system of federal courts consist of?
4. Do all these courts exercise both a civil and a criminal jurisdiction?
5. Are there any differences among judicial systems of all states?

Text 5
Criminal Law of Kazakhstan

1. Criminal Law

Objectives of criminal law:

The objectives of criminal law involve the defense of social values in cases in which crimes are tried in court and punished, as well as the prevention of crime. Rehabilitation of prisoners and their education is also a goal, but many consider this objective to be secondary to the protection of society.

The General Part of the Criminal Code; the Modern Philosophy of Criminal Law:

The new criminal code of Kazakhstan, which came into effect at the start of 1998, supports a modern philosophy of criminal law in that it protects the rights of the accused. The general part of the code sets out the principles by which the criminal sanctions set out in the special part of the code are interpreted. Thus all citizens are equal before the law, according to Article14 of the criminal code, and only the criminal code is to determine what is a crime (Art.1). Articles 4 and 5 indicate that the position of a convicted person will not be made worse by the retroactive enforcement of a new criminal law.

The principle of legality is important, as are the principle of equality (Art.14), the principle of personal culpability, the principle of justice and the principle of humanitarianism.

The Elements of a Crime

In any given crime, the court must establish four basic elements: the object of the crime, the objective side, the subject of the crime, and the subjective side. Under object we mean good or social value which is defended by the criminal law and to which the criminal did harm. This might be in a broader sense social interests, but in a specific case we might speak of a person as the object (the one acted upon) by the specific criminal. The object of a crime is one of the obligatory sides of the composition of a crime, as without an object (victim or damage to society) there is no crime. In the code, the defence of personal interests are suggested in the section on crimes against the person, and the interests of the state are mentioned in other sections, as are the defense of social interests.

The objective side of a crime is the totality of elements which characterize the external behavior of a criminal. Thus the active behavior which the criminal did constitutes the elements of the crime. Theft, the elements of which consist of the covert taking of some one else's property, must be shown in court to constitute the objective side of the crime. The elements of theft are set out in the dispositive section of Article 175, and then the sanction sets out the punishment. The situation, the time, the place, the weapon, and so on are important in the qualification of the crime. A causational link must be established between the action of the accused and the crime committed.

The subject is the physical person who committed the crime. He must be sane, and he must have reached the proper age for the subject requirement to be met.

The subjective side of the crime is the psychological relationship of a person to the deed and its consequences. The motive is important, as is the goal of the criminal and his culpability. The issue of forethought is important in an intent crime. We speak of indirect intent if the criminal sees only the possibility of dangerous consequences for society. All of them are important in the correct qualification of a given crime.

With regard to the state of mind of the criminal, it is also interesting to note that the law sets out two types of state of mind involving crimes which are due to a lack of caution. One is negligence, which comes up when the accused does not see the possibility of the dangerous act occurring. The

other state of mind, which is treated differently by the courts, is recklessness, as here the accused sees the dangerous possible consequences, and ignores them in a light-minded manner.

Vocabulary

1. defence of social values	- защита общественных ценностей	- қоғамдық құндылықтарды қорғау
2. to punish	- наказывать	- айып салу
3. rehabilitation	- восстановление в правах, реабилитация	- құқық жаңғырту, реабилитация
4. criminal code	- уголовный кодекс	- қылмыстық іс ережелерінің жинағы
5. to protect	- защита, охранять	- қорғау, күзету
6. culpability	- виновность	- кінәлік
7. to defend	- защищать	- қорғау
8. behavior	- поведение	- мінез-құлық, тәртіп
9. causational link	- причинная связь	- себепті байланыс
10. intent crime	- преднамеренное преступление	- арнайы дайындалған қылмыс
11. consequence	- последствие, заключение	- салдары, қорытынды
12. caution	- предупреждение арестованному при его задержании	- ұсталған мезеттегі ескертпе
13. negligence	- небрежность	- ұқыпсыздық, салақтық
14. recklessness	- самонадеянность	- өркөкіректік

Answer the questions:

1. What do the objectives of criminal law involve?
2. When did the new criminal code of Kazakhstan come into effect?
3. What does it support?
4. What are different articles of the code about?
5. What are four basic elements of any crimes?
6. What is the objective side of a crime?
7. What is the subjective side of a crime?

2. Types of Crimes

The special part of the code is essentially a list of the types of crimes, and in the sanction it sets out the guidelines for sentencing each type of crime. The first category, "Crimes Against the Person," includes murder, rape, and deliberate causation of damage to health. Murder implies intent, and thus it is different from an unintentional homicide, which would be caused by either recklessness or negligence. Crimes against the person also include kidnapping and illegal placement of a person in a psychiatric hospital.

Chapter 2 is entitled "Crimes against the Family and Juveniles", and includes illegal involvement of a juvenile in criminal activity, as well as trading in juveniles. Chapter 3 is entitled "Crimes Against Constitutional Rights and Other Rights and Freedoms". It includes interference in the work of electoral commissions, infringement upon the right to hold a meeting or rally, and interference in the legal professional activity of a journalist. Chapter 4 is entitled "Crimes Against the Peace and Safety of Mankind". It includes ecocide, genocide, and planning or starting an aggressive war. Chapter 5 is entitled "Crimes Against the Constitutional Order and the State." It includes high treason, espionage, forcible seizure of power, and armed insurrection.

Chapter 6 is important for those who plan to work in business, as it is entitled "Crimes Against Property." It includes theft, which is the furtive (secretive) stealing of someone else's property, and robbery, which is the open stealing of some one else's property. The code also mentions embezzlement, which is the stealing of entrusted property, in Article 176. Fraud is a criminal act, as is extortion, and sale of stolen property.

Chapter 7, entitled "Crimes in the Sphere of Economic Activity", includes crimes against banking legislation, as well as the securities laws, the bankruptcy law, and the tax legislation. Banking without a license is a crime, as is legalization of funds illegally obtained. Submission of deliberately false information concerning banking transactions is a crime, as is illegal divulgement of a banking secret. Illegal use of funds of a bank is a crime, too.

The violation of the procedure on the emission of securities is a crime, as is introduction into a register of securities holders of deliberately false information. Providing deliberately false information on securities transactions is a crime, as is violation of the rules concerning securities transactions. (Arts. 204 and 205)

Illegal action in bankruptcy, such as concealing of material obligations or property, is punishable by a period of imprisonment up to one year. A

preferential transfer to one creditor is also a crime, as is deliberate bankruptcy or false bankruptcy. Evasion of taxes by organizations is a crime punishable by up to one year.

Chapter 8, entitled "Crimes Against the Interests of the Employer in a Commercial Context", includes bribery as a crime punishable by up to two years in prison.

Chapter 9 deals with "Crimes Against the Public Safety and Order". It includes terrorism, seizure of a hostage, banditism, the creation of criminal group, hijacking, and other significant offences.

Chapter 10 includes "Crimes Against Morality and the Health of the Population". Stealing narcotics is a crime, as is illegal cultivation of narcotic or psychotropic plants.

Chapter 11 deals with "Ecological Crimes", while chapter 12 sets out "Transport Crimes". Chapter 13 deals with "Crimes Against the Interests of the Civil Service", and includes "Abuse of Official Powers" as well as "Exceeding the Authority of a State Official". Both the giving of a bribe and the receipt of a bribe by a state official are crimes. Chapter 14 sets out "Crimes Against the Government Order". It includes "Infringement on the Honor and Dignity of the President". Chapter 15, which sets out the "Crimes Against the Justice System and the Implementation of Punishment", makes it a crime to obstruct a preliminary investigation, to give false evidence in court, or coerce someone into providing evidence. Military crimes are in chapter 16, the final section of the code.

Vocabulary

1. to sentence	- выносить приговор	- □кім шы□ару
2. rape	- изнасиловать	- зорлау
3. causation of damage	- причинение вреда, ущерба	- зиянкестік жасау
4. homicide	- убийство, лишение человека жизни	- кісі □лімі, адам □мірін □ию
5. kidnapping	- похищение людей	- адам □рлау
6. juvenile	- несовершеннолетний	- к□мелетке толма□ан
7. interference	- вмешательство	- (б□гет болып) араласу
8. infringement	- нарушение (прав, закона, норм)	- (□□ы□, за□, ереже) б□зу
9. genocide	- геноцид	- з□лмат (геноцид)
10. high treason	- государственная измена	- мемлекеттік опасыздық

11. forcible seizure of power	- принудительный, насильственный захват власти	- күштеп (басып, тартып) алу
12. stealing	- похищение имущества	- мүлік ұрлау
13. embezzlement	- присвоение имущества; растрата	- мүлікті (заңсыз) иелену; шығын (жасау)
14. fraud	- обман, мошенничество	- алдау; алаяқтық
15. extortion	- вымогательство	- қорқытып талап ету
16. sale of stolen property	- продажа краденной, похищенной собственности, имущества	- ұрланған мүлікті (меншік затты) сату
17. securities	- ценные бумаги	- бағалы қағаздар
18. tax legislation	- налоговое законодательство	- салықты қызығушылығы
19. securities transactions	- сделки с ценными бумагами	- бағалы қағаздармен мәміле (іс, келісім) жасау
20. period of imprisonment	- срок тюремного заключения	- түрмеге қамау мерзімі
21. seizure of a hostage	- захват заложника	-кепілдікке адам ұстау
22. hijacking	- 1. воздушное пиратство; угон трансп. Средства - остановка на дороге и ограбление (автомобиля и др.)	- 1. әуе қарақшылығы; көлік ұрлап әкету; 2. жол қарақшылығы
23. to give a false evidence	- дать ложное показание	- жалған мәлімет беру
24. to coerce	- принуждать	- еріксіз істету; зорлау

Answer the questions:

1. What does the first category of crimes include?
2. How is the 2-nd chapter entitled and what crimes does it include?
3. What is the 3-rd (the 4-th … the 16-th) Chapter about? What crimes do they include?

Text 6
Criminal Procedure in Kazakhstan

1. Criminal Proceeding

Principles of Criminal procedure.

The principles of criminal procedure are almost the same as in a civil procedure: the principle of legitimacy, the equality of prosecutor and defendant in a criminal proceeding, court procedure is effectuated only by a court, the language of criminal proceeding, release from the duty to give witness testimony, freedom to bring a complain to procedural acts and etc. The Code added several principles specific to a criminal procedure: the presumption of innocence, the unacceptability of a repeat conviction and investigation, impossibility of collecting evidence in illegal manner.

Differences between cases of public and private investigation and accusation.

According to Article 32, in criminal procedure we have cases of public and private investigation and accusation. The differences are the following:

1.The cases, which can be filed by an application of the victim of the crime and listed in the Art.33, belong to the investigation in a private order. There are a number of crimes which are in this category, for instance, coercion - Art.112 of the Criminal Code, rape - Art.120 of the Criminal Code, slander - Art.130 of the Criminal Code, etc.

2.The cases of private investigation are subject cessation if there is reconciliation between the accused person and the victim of the crime.

3.Cases of private investigation are directed to a court.

There is a third category of investigation - private - public. The main distinctions of this category are: a number of crimes which shall be filed in a public-private order is fixed in Art.34 of the Criminal Procedure Code. For instance, violation of intellectual-property rights - Art.184 of the Criminal Code, deliberate destruction or damage of alien property - Art.187 of the Criminal Code, etc.; the cases in private-public order shall be filed if there is an application of the victim of the crime; private-public investigation and accusation of the cases is the function of the investigation organs; cases of this category can be ceased by reconciliation of the accused person and the victim of the crime if the accused person commited a crime of petty or medium seriousness for the first time in his (her) life.

Other cases which are not in the Art.33 and 34 belong to the category of public investigation and accusation.

Criminal investigation proceeding: stages and characteristics (before the court proceeding).

1 stage of the investigation proceeding: initiation of a case.

A case can be filed by an investigation organ on the following grounds (Art.177):

1.An application of citizens. 2.Appearance of the guilty with application. 3.Messages from civil servants. 4.Information in Media. 5.Discovery of the event of a crime by investigative organs.

Generally, the period of the investigation of a case is two months, but a period can be extended till 6 months if the case is complex, but further extension of this period is only by a sanction of a prosecutor (Art.196 of the Code).

2 stage of the investigation proceeding: investigation.

In this stage investigative organs investigate the case and collect evidence. Investigative acts: examination of the accused person, witnesses, cross-examination, exhumation, search, investigative experiment, etc.

3 stage is accusative conclusion or cession of the case.

Vocabulary

1. legitimacy	- законность	- заңдылық; заңға сәйкестік
2. prosecutor	- обвинитель	- айыптаушы
3. defendant	- ответчик, обвиняемый	- жауапқа тартылушы айыпталушы
4. criminal proceeding	- уголовное судебное разбирательство	- қылмыстық істі сот арқылы қарау
5. witness testimony	- свидетельские показания	- куәгердің мәліметтері
6. to bring a complain	- подавать жалобу	- шағымдану
7. presumption of innocence	- презумпция невиновности	- кінәсіздік презумпциясы
8. repeat conviction	- повторное осуждение	- қайтадан сотталу
9. illegal manner	- незаконный, противоправный способ	- заңсыз әдіс
10. accusation	- обвинение, обвинительный акт	- айып, айыптау актісі
11. coercion	- угроза	- қоқан-лоқы, қауіп-қатер
12. slander	- оскорбление	- қорлау, тіл тигізу
13. initiation of a case	- возбуждение дела	- іс қозғау

14. investigation	- расследование	- іс жүргізу; тексеру
15. accusative conclusion	- обвинительное решение	- айыптау қорытындысы, шешімі

Answer the questions:

1. What are the principles of criminal procedure?
2. What are the differences between the cases of public and private investigation and accusation?
3. Are there any distinctions of public-private investigation? What are they?
4. How many stages does the criminal investigation proceeding have? Name them.

2. Participants in the criminal proceeding

1 category - state organs.

A court is a judicial organ, which provides impartial judgement of the case in accordance with law. A Court of the 1-st instance consists of one judge, and if there is a case involving the death penalty - 3 judges. A Court in the 2-nd instance consists of one judge, causation - 3 judges.

District court generally provides for the criminal proceeding in the 1-st instance. If there are criminal cases of grave seriousness (felonies) and very grave seriousness of crime, they are subject to an oblast court proceeding. If the cases involve high treason of the President of Kz, judges of the Supreme Court, deputies of the Parliament, Prosecutor General, members of the Constitutional Council, or crimes of the Government of Kz, they shall proceed to the Supreme Court of Kz as the court of the 1-st instance.

Procuratura is a state organ for the highest enforcement of accurate and unitary application of law, the legitimacy of investigation (Art.1 of the law On Procuratura). The prosecutor (procuror) gives a written sanction for-

1. arrest of a person who is suspected or accused,
2. search,
3. dismissal of the accused person from the position, putting the person in a hospital for medical expertise,
4. effectuating investigative acts if they are related to violation of constitutional rights.

2 category - participants who protect their rights.

The case is initiated against a person who is suspected (Art.68). The grounds for seizure (Art.132). If there is a sufficient basis for the seizure of the suspect, the person can be seized and detained not more than 72 hours. During this time the person can make a phone call and meet an advocate confidentially. If the measure of suppression was not selected in this time, or there is no act of the investigation organs about an accusation, the suspect shall be released. If the measure of suppression was selected, the suspect person is detained for not more than 10 days. Measures of suppression (Chapter 18).

The accused is a person against whom the case is brought if there is an act of the investigative organs about an accusation (Art.69). The accused person can reject the help of an advocate and defend himself/herself. For the rights and duties of the accused person see Art.69.

In accordance with law, rights and interests of the suspect and the accused persons are protected by an advocate, spouse or close relatives, legal representative, representative of trade unions and other organizations (Art.70, 74). There are several cases when legal help of a defendant is compulsory, see Art.71.

A person is considered a victim of the crime if there are grounds to assume that moral harm, or physical and property damage were done to him/her (Art.75). The private prosecutor in cases of private investigation and accusation is a person who brings a complaint to a court and takes part in a court proceeding as a prosecutor (Art.76).

3 category of the participants are witness, expert, specialist, interpreter, secretary and bailiff.

Vocabulary

1. Impartial judgement	- справедливый приговор, судебное решение	- әділ үкім, сот шешімі
2. death penalty	- смертная казнь	- өлім жазасы
3. felony	- фелония (тяжкое преступление)	- фелония (ауыр қылмыс)
4. Prosecutor General	- генеральный прокурор	- бас прокурор
5. enforcement	- принудительное осуществление, принуждение к исполнению	- күштеп іске асыру, еріксіз істету

6. legitimacy of investigation	- законность расследования	- істі тексерудің заңдылығы
7. to suspect	- подозревать	- күмәндану, күдіктену
8. search	- 1.обыск, 2. розыск	- 1. тінту 2. іздеу
9. dismissal	- 1. увольнение 2. отклонение (иска), прекращение (дела)	- 1. жұмыстан шығару; 2. (арызды) қайтару, (істі) тоқтату
10. to protect the rights	- защищать права	- құқық қорғау
11. to detain	- брать под стражу	- қамауға алу
12. measure of suppression	- мера пресечения, мера запрещения	- жазалау шарасы, тыйым салу шарасы
13. to release	- освобождать	- босату
14. moral harm	- моральный ущерб	- моральдық шығын, иманға нұсқа келтіру
15. witness	- свидетель	- куәгер
16. bailiff	- 1.судебный пристав; 2. попечитель	- 1. соттағы күзет 2.қамқоршы

Answer the questions:

1. What are the participants in the criminal proceeding?
2. What is a Court?
3. What types of courts are there in Kz?
4. What is Procuratura?
5. Who belongs to the second category of the participants in the criminal proceeding?
6. Whom does the third category of the participants include?

Part 2
Civil Justice

Text 1
The Civil Law

The main sub-divisions of law of England, Wales and Northern Ireland are: family law of property, the law of contract and the law of torts (covering injuries suffered by one person at the hands of another irrespective of any contract between them and including concepts such as negligence, defamation and trespass). Other branches of the civil law include constitutional and administrative (particularly concerned with the use of executive power), industrial, maritime and ecclesiastical law. Scottish civil law has its own, often analogous, branches.

A review body was set up in 1985 to consider improving the machinery of civil justice in England and Wales. Its report was published in June 1988 and it recommended reforms designed to reduce delays in the handing of cases, ensure the best use of court resources and reduce the cost of litigation.

Civil Courts
England and Wales

The limited civil jurisdiction of magistrates courts extends to matrimonial proceedings for custody and maintenance orders, adoption orders and affiliation and guardianship orders. The courts also have jurisdiction regarding nuisances under the public health legislation and the recovery of rates. Committees of magistrates license public houses, betting shops and clubs.

The jurisdiction of the 274 county courts covers actions founded upon contract and tort (with minor exceptions); trust and mortgage cases; and actions for the recovery of land. Cases involving claims exceeding set limits may be tried in the country court by consent of the parties or in certain circumstances on transfer from the High Court.

Other matters dealt with by the county courts include hire purchase, the Rent Acts, landlord and tenant, and adoption cases. Divorce cases are determined in those courts designated as divorce county courts, and outside London bankruptcies are dealt with in certain county courts. The courts also deal with complaints of race and sex discrimination. Where small claims are

concerned (especially those involving consumers), there are special arbitration facilities and simplified procedures.

All Judges of the Supreme Court (comprising the Court of Appeal, the Crown Court and the High Court) and all circuit judges and recorders have power to sit in the county courts, but each court has one or more circuit judges assigned to it by the Lord Chancellor, and the regular sittings of the court are mostly taken by them. The judge normally sits alone, although on request the court may, exceptionally, order trial with a jury.

The High Court of Justice is divided into the Chancery Division, the Queen's Bench Division and the Family Division. Its jurisdiction is both original and appellate and covers civil and some criminal cases. In general, particular types of work are assigned to a particular division. The Family Division, for instance, is concerned with all jurisdiction affecting the family, including that relating to a particular division. The Family Division, for instance, is concerned with all jurisdiction affecting the family, including that relating to adoption and guardianship. The Chancery Division deals with the interpretation of wills and the administration of estates. Maritime and commercial law is the responsibility of admiralty and commercial courts of the Queen's Bench Division. A consultative paper examining the issues involved in setting up a unified jurisdiction in family and domestic matters - a single "family court" - was published in mid - 1986.

Each of the 80 or so judges of the High Court is attached to one division on appointment but may be transferred to any other division while in office. Outside London (where the High Court sits at the Royal Courts of Justice) sittings are held at 26 county court centers. For the hearing of cases at first instance, High Court judges sit alone. Appeals in civil matters from lower courts are heard by courts of two (or sometimes three) judges, or by single judges of the appropriate division, nominated by the Lord Chancellor.

Vocabulary

1. improving the machinery of civil justice	- улучшение организации гражданского правосудия	- азаматтық сот әділдігін ұйымдастыруды жақсарту
2. to reduce delays	- сокращать задержки	- ұстамдарды қысқарту
3. the limited civil jurisdiction	- ограниченное гражданское полномочие	- шектелген азаматтық өкілеттіліктер

4. maintenance orders	- назначение алиментов	- алиментті тағайындау
5. adoption orders and affiliation orders	- разрешение на установление и признание отцовства	- әкелігін тану мен баланы бағып алуға рұқсат алу
6. committees of magistrates licence	- комитеты судей лицензируют	- сот комитеттері лицензиялайды
7. actions for the recovery of land	- дела о земельном взыскании	- жерді талап ету туралы істер
8. on transfer from the High Court)	- по переводу (дела) из Высшего суда	- жоғарғы соттан (істі) аудару бойынша
9. involving consumers	- ...в которые вовлечены потребители	- қатысқан
10. circuit judges assigned to	-...окружные судьи, назначенные	- ...сайланған округтік судьялар
11. recorders	- главные уголовные судьи	- басты қылмыстық судьялар
12. its jurisdiction is both original and appellate	- он может быть как судом первой инстанции, так и апелляционным	- ол бірінші сатылы сотта аппеляциялық сотта бола алады
13. the administration of estates	- управление имуществом	- мүлікті басқару
14. unified jurisdiction	- единая юрисдикция	- бірыңғай юрисдикция

Answer the questions:

1. What are the main sub-divisions of the civil law of England, Wales and Northern Ireland?
2. What can you say about other branches of the civil law of these countries?
3. What was the aim of setting up a review body in 1985 in England and Wales? What reforms were recommended by it?
4. What do you know about the limited civil jurisdiction of magistrates' courts?
5. What can you say about other matters dealt with by the county courts?
6. Do judges of the Supreme Court have power to sit in the county courts?
7. How is the High Court of justice divided?
8. How many judges are there in the High Court? Where do these judges work while in office?
9. How are cases heard at first instance by the High Court?

Text 2
Appeals in England and Wales

Appeals in matrimonial, adoption and guardianship proceedings heard by magistrates' courts go to a divisional court of the Family Division of the High Court. Affiliation appeals are heard by the Crown Court, as are appeals from decisions of licensing committees of magistrates. Appeals from the High Court and county courts are heard in the Court of Appeal (Civil Division), consisting of the Master of the Rolls and 27 Lords justices of appeal, and may go on to the House of Lords, the final court of appeal in civil and criminal cases.

The judges in the House of Lords are the nine Lords of Appeal in Ordinary, who must have a quorum of three, but usually sit as a group of five, and sometimes even of seven. Lay peers do not attend the hearing of appeals (which normally take place in a committee room and not in the legislative chamber), but peers who hold or have held high judicial may also sit. The president of the House in its judicial capacity is the Lord Chancellor.

Vocabulary

1. affiliation appeals	- апелляция по делам усыновления	- асырап алу ісіндегі апелляция
2. decisions of the licening committees of magistrates	- решения уполномоченных комитетов мировых судей	- бітім төреші комитетінің құзіреті мен шешімі
3. the Master of the Rolls	- хранитель судебного архива	- сот үкімдерін сақтаушы
4. Lords of Appeal in Ordinary	- Лорды по апелляциям постоянные члены суда	- апелляция лордтары сотының тұрақты мүшелері
5. lay peers	- пэры-непрофессиональные юристы	- пэрлер – кәсіпқой емес заңгерлер
6. the legislative chamber	- законодательная палата	- заң шығаратын палата

Answer the questions:

1. Where are affiliation appeals heard?
2. Where are appeals from the High Court and county courts heard?
3. What do you know about the judges in the House of Lords?

4. What is known to you about lay peers?
5. Who is the president of the House in its judicial capacity?

Text 3
Civil Courts in Scotland

The main civil courts are the sheriff courts and the Court of Session. The civil jurisdiction of the sheriff court extends to most kinds of action and is normally unlimited by the value of the case. Much of the work is done by the sheriff, against whose decisions an appeal may be made to the sheriff principal or directly to the Court of Session.

The Court of Session sits only in Edinburgh, and in general has jurisdiction to deal with all kinds of action. The main exception is an action exclusive to the sheriff court, where the value claimed is less than a set amount. It is divided into two parts: the Outer House, a court of first instance, and the Inner House, mainly an appeal court. The Inner House is divided into two divisions of equal status, each consisting of four judges - the first divisions being presided over by the Lord President and the second division, by the Lord Justice Clerk. Appeals to the Inner House may be made from the Outer House and from the sheriff court. From the Inner House an appeal may go to the House of Lords. The judges of the Court of Session are the same as those of the High Court of Justiciary. The Lord President of the Court of Session holds the office of Lord Justice General in the High Court of Justiciary.

The Scottish Land Court is a special court, which deals exclusively with matters concerning agriculture. Its chairman has the status and tenure of a judge of the Court of Session and its other members are lay specialists in agriculture.

Vocabulary

1. the value of the case	- важность дела	- ісінің маңыздылығы
2...is an action exclusive to...	-...относящийся исключительно к	- ...тек қана... қатысты
3. the value claimed	- цена иска	- талаптың бағасы
4. the Lord Justice Clerk	- вице-председатель Высшего уголовного и председатель внешней палаты сессионного суда	- жоғарғы қылмыстық соттың төрағасының орынбасары және сессиялық соттың сыртқы палатасының төрағасы

5. the High court of justiciary	- высокий суд юстициариев	- юстициарилердің жоғарғы соты
6. Lord Justice General	- лорд – верховный судья (председатель сессионного суда Шотландии)	- лорд-жоғарғы сот (Шотландияның сессиялық сотының төрағасы)
7. tenure	- срок пребывания в должности	- өкілеттік мерзімі
8. lay specialists	- назначенные специалисты	- тағайындалған мамандар

Answer the questions:

1. What are the main civil courts?
2. Where does the Court of Session sit?
3. Name the structure of the Session court in Scotland and what houses is it divided into?
4. How is the case tried in courts of Inner and Outer Houses of the Session court?
5. What matters does the Scottish land Court deal with?

Text 4

Civil Proceedings (Part I)

In England and Wales civil proceedings are instituted by the aggrieved person; no preliminary inquiry on the authenticity of the grievance is required. Actions in the High Court are usually begun by a writ of summons served on the defendant by the plaintiff, stating the nature of the claim. A defendant intending to contest the claim informs the court. Documents setting out the precise question in dispute (the pleadings) are then delivered to the court. County court proceedings are initiated by a summons served on the defendant by the court; subsequent procedure is simpler than in the High Court.

A decree of divorce must be pronounced in open court, but a procedure for most undefended cases dispenses with the need to give evidence in court and permits written evidence to be considered by the registrar.

Civil proceedings, as a private-matter, can usually be abandoned or ended by compromise at any time. Actions brought to court are usually tried without a jury, except in defamation, false imprisonment, or malicious prosecution cases, when either party may, except in certain special circumstances, insist on trial by jury, or a fraud case, when the defendant may claim this right. The jury

decides questions of fact and damages awarded to the injured party; majority verdicts be accepted.

Vocabulary

1. the aggrieved person	- потерпевший	- жәбірленуші
2. preliminary inquiry on the authenticity of the grievance	- предварительное расследование подлинности жалобы	- шағымның негіздігін алдын-ала тергеу
3. a writ of summons	- приказ (повестка) вызов в суд	- сотқа шақыру туралы бұйрық
4. plaintiff	- истец	- талапкер
5. to contest a claim	- оспорить иск	- талапты шағымдау
6. pleadings	- судебные прения	- сот талқылауы
7.to dispense with the need to give evidence	- обходиться без надобности давать показания	- айғақ беру қажетін қолданбау
8. registrar	- регистратор суда	- сот тіркеушісі
9.to abandon (about a private matter)	- закрывать (о частном деле)	- (жеке істі) жабу
10. false imprisonment	- незаконное заточение (заключение в тюрьму)	- заңсыз қамау
11.malicious prosecution) case	- предумышленное ложное обвинение	- қасақана жалған айып

Answer the questions:

1. Who are civil proceedings in England and Wales instituted by?
2. How are usually actions in the High court begun?
3. Where must a decree of devorce be pronounced?
4. Are actions brought to court usually tried without a jury? What are the exceptions?
5. What questions does the jury decide?

Text 5
Civil Proceedings (Part II)

An action in a magistrates' court is begun by a complaint on which the court may serve the defendant with a summons. This contains details of the

complaint and the date on which it will be heard. Parties and witnesses give their evidence at the court hearing. Domestic proceedings are normally heard by not more than three lay justices including, where practicable, a woman; members of the public are not allowed to be present. The court may order provision for custody, access and supervision of children, as well as maintenance payments for spouses and children.

Judgments in civil cases are enforceable through the authority of the court. Most are for sums of money and may be enforced, in cases of default, by seizure of the debtor's goods or by a court order requiring an employer to make periodic payments to the court by deduction from the debtor's wages. Other judgments can take the form of an injunction restraining someone from performing an illegal act. Refusal to obey a judgment may result in imprisonment for contempt of court. Arrest under an order of committal may be effected only on a warrant.

Normally the court orders the courts of an action to be paid by the party losing it, but, in the case of family law maintenance proceedings, a magistrates' court can order either party to pay the whole or part of the other's costs.

In Scotland proceedings in the Court of Session or ordinary actions in the sheriff court are initiated by serving the defender with a summons (an initial writ in the sheriff court). In Court of Session actions the next step is the publication of the action in the court lists. A defender who intends to contest the action must inform the court; if he or she does not appear, the court grants a decree in absence in favour of the pursuer. In ordinary actions in the sheriff court the defender is simply required to give a written notice of intention to defend within a certain number of days after service of the initial writ, and this is followed by a formal appearance in court by the parties to the dispute or their solicitors.

In summary cases (involving small sums) in the sheriff court the procedure is less formal. The statement of claim is incorporated in the summons. The procedure is designed to enable most actions to be carried through without the parties involved having to appear in court. Normally they (or their representatives) need appear only when an action is defended. A new small claims procedure is about to be introduced.

Proceedings in Northern Ireland are similar to those in England and Wales. County court proceedings are commenced by a civil bill served on the defendant there are no pleadings in the county court. Judgments of civil courts are enforceable through a centralised procedure administered by the Enforcement of Judgments Office.

Vocabulary

1. domestic proceedings	- местные дела
2. lay justices	- назначенные юристы
3. maintenance payments for spouses...	- содержательные платежи супругам
4....are enforceable through the authority of the court...	- обеспечиваются властью суда
5. default	- невыполнение денежных обязательств
6. seizure of the debtor's goods	- арест имущества должника
7. by deduction from the debtor's wages	- путем вычета (удержания) из заработной платы должника
8. can take the form of an injunction	- облекаться в форму постановления
9. an illegal act	- противоправное деяние
10. contempt of court	- неуважение к суду
11. the cost of an action	- издержки судебного процесса
12. to contest the action	- оспаривать иск
13. the pursuer	- истец
14. after service of the initial writ	- после подачи повестки
15. without the parties involved having to appear in court	- без привлечения сторон к явке в суд
16. pleadings	- судебные прения
17. the Enforcement of judgement Office	- Принудительный аппарат судопроизводства

Answer the questions:

1. What details does a summons contain?
2. Speak about domestic proceedings?

- жергілікті істер

- тағайындалған
  заңгерлер
- ерлі-зайыптыларға
  көмек төлемдер

- сот билігімен
  қамтамасыз етіледі

- ақшалы
  міндеттемелерді
  орындамау
- борышкердің
  мүлкін тәркілеу
- борышкердің
  жалақысынан
  ұстап қалу жолымен

- үкім нысанына
  айналау, сүйену
- құқыққа қайшы
  іс-қимыл
- сотты құрметтемеу
- сот процессінің
  шығындары
- талапқа шағым
  келтіру
- талапкер
- шақыру берілгеннен
  кейін
- тараптарды сотқа
  шақырусыз

- сот талқылаулары
- сот өндірісінің
  мәжбірлеу аппараты

3. What can you say about judgements in civil cases?
4. How are proceedings in the Court of Session or ordinary actions in the sheriff court in Scotland initiated?
5. Are proceedings in Northern Ireland similar to those in England or not?

Text 6
Administrative Tribunals

Administrative tribunals exercise judicial functions separate from the courts. Generally, they set up under statutory powers, which govern their constitution, functions and procedure.. Compared with the courts, they tend to be more accessible, less formal and less expensive. They also have expert knowledge in their particular jurisdictions.

The expansion of the tribunal system in the United Kingdom comparatively recent, most tribunals having been set up since 1945. Independent of the Government, tribunals rule on certain rights and obligations of private citizens towards one another or towards a government department of other public authority. A number of important tribunals decide disputes between private citizens - for example, industrial tribunals have a major part to play in employment disputes. Some (such as those concerned with social security) resolve claims by private citizens against public authorities. A further group (including tax tribunals) decide disputed claims by public authorities against private citizens, while others decide issues and disputes which do not directly affect financial rights and liabilities (such as the right to enter or visit the United Kingdom).

Tribunal members are normally appointed by the minister concerned with the subject, but other authorities have the power of appointment in some cases. For example, the Lord Chancellor (and, in Scotland, the Lord President of the Court of Session) makes most appointments where a lawyer chairman or member is required.

In many tribunal jurisdictions, a two-tier system operates with an initial right of appeal to a lower tribunal and a final right of appeal, usually on a point of law, to a higher tribunal. Appeals on a point of law only from some of the higher tribunals may be made to the High Court in England and Wales, to the Court of Session in Scotland, and to the Court of Appeal in Northern Ireland. There are a few exceptions including, for example, immigration appeals where there is no right of appeal directly from the Immigration Appeals Tribunal to the courts.

The Council on Tribunals (an independent body established in 1958) exercises general supervision over most tribunals, advising on draft legislation and rules of procedure, monitoring their activities and reporting on particular matters. A Scottish Committee of the Council exercises the same function in Scotland. The Council has a similar responsibility with regard to public inquires.

Restrictive Practices Court

Restrictive Practices Court is a specialised United Kingdom court, which deals with monopolies and restrictive trade practices. It comprises five judges and up to ten other people with expertise in industry, commerce or public life.

Vocabulary

1. to have expert knowledge in their particular jurisdiction	- обладать экспертными знаниями в их специфической юрисдикции	- олардың арнайы юриспруденция-сындағы сараптау біліміне ие болу
2. the expansion of the tribunal system	- экспансия системы трибуналов	- трибунал жүйелерінің ұлғаюы
3. to be concerned with social security	- заниматься общественной безопасностью	- қоғамдық қауіпсіздікпен айналысу
4. public authority	- государственная власть	- мемлекеттік билік
5. tax tribunals	- налоговые трибуналы	- салық трибуналдары
6. tribunal jurisdictions	- юрисдикции трибунала	- трибуналдық юрисдикциясы
7. disputed claim	- оспоренная жалоба	- наразылық тудырған шағым
8. a two-tier system	- двухъярусная система	- екі сатылы жүйе
9. to advise on draft legislation	- давать заключения (предложения) по проекту законодательства	- заң жобасы бойынша қорытынды беру
10. to monitor one's activities	- контролировать чью-либо деятельность	- біреудің іс-әрекеттерін бақылау

Answer the questions:

1. What functions do administrative tribunals exercise?
2. What time have most tribunals having been set up since?
3. What do the tribunals deal with?
4. Who appoints the tribunal members?
5. What do you know about a two-tier system?
6. What are the functions of the Council on Tribunals?

UNIT 2

Part 1
Criminal Law

Text 1
The Criminal Process

The criminal process begins when a sworn affidavit is filed with the court charging a defendant with the commission of a crime. Depending on the nature of the offence charged, the defendant may be arrested (if not already in custody) or merely summoned to appear in court to answer the charge. When arrested, the defendant is given an opportunity to post a bond and be released pending the next court appearance. The only purpose of the bond is to ensure the defendant's appearance at the trial; it is not designed to punish the accused. A failure to appear results in a forfeiture of the amount of the bond. If the judge is convinced that a bond is not necessary to ensure the defendant's appearance, the judge may release the defendant on his or her own recognizance.

In felony cases, many states provide for a preliminary hearing to determine whether there is probable cause to bind the defendant over to the grand jury. Depending on the locality, the grand jury usually consists of 15 to 23 jurors, who determine whether there is sufficient evidence to require the defendant to stand trial. Absent sufficient evidence, the grand jury ignores the case and the defendant goes free. If the grand jury determines that there is sufficient evidence, it indicts the defendant, who must stand trial.

After indictment, the defendant is arraigned before a judge. At that time the defendant is called on to enter a plea. The most common pleas are guilty, not guilty, and not guilty by reason of insanity. Some states recognize the plea of nolo contendere (no contest), a plea that does not admit guilt, but submits to the court's discretionary resolution of the case. A plea of nolo contendere may not be used against the defendant in a related civil case.

If a plea of guilty is entered, the judge sentences the defendant. Many states provide for a presentence report. It contains a profile of the defendant and aids the judge by providing detailed information about the defendant. If a

nolo contendere plea is entered, the judge must decide whether the facts as contained in the indictment constitute the crime as a charged. When a plea of not guilty or not guilty by reason of insanity has been entered, the defendant is afforded a full trial.

Vocabulary

1. a sworn affidavit	- скрепленное присягой письменное показание	- антпен берілген қағаз жүзіндегі жауап
2. custody	- содержание под стражей, тюремное заключение	- күзетке алу, түрмеге қамау
3. to summon	- вызывать, вручать приказ о вызове в суд	- сотқа шақыру, сотқа шақыру бұйрығын беру
4. trial	- судебный процесс, судебное разбирательство	- сот (процесі), сотта қарау
5. forfeiture	- потеря, конфискация, переход в казну	- шығын, тәркілеу, қазынаға аудару
6. preliminary hearing	- предварительное слушание по делу	- істің алдын-ала сотқа дейінгі тыңдалуы
7. grand jury	- большое жюри (коллегия из 12-23 присяжных)	- қазылардың үлкен (12-23 мүшеден тұратын) алқасы
8. to indict	- предъявлять обвинение	- айып тағу
9. indictment	- обвинительный акт	- айып (тау) актісі
10. to arraign	- предъявлять обвинение, привлекать к суду	- айыптау, сот□а тарту
11. to enter a plea	- представлять (в суд) объяснение по вопросу о виновности	- кінә (айып) туралы түсініктемені сота көрсету
12. by reason of insanity	- по причине невменяемости, душевной болезни	- есі дұрыс еместігі себебінен
13. discretionary resolution	- предоставленное на усмотрение решение	- қарастырылуға берілген шешім

Answer the questions:

1. When does the criminal process begin?
2. What happens with defendant depending on the nature of the offense charged?
3. What opportunity is given to the defendant in case of arrest?
4. What is the purpose of the bond?
5. What does the grand jury determine?
6. What are the most common pleas?

Text 2
Interrogation: A Definition

The police interrogation is an adversary situation. Rather than being a give-and-take circumstance like the interview, it's a mind-matching competitive interaction between the officer and the suspect. The officer is trying to find out something that will incriminate the suspect, and the suspect is doing his best to keep the officer from doing just that. Thus, an interrogation can be demanding and exhausting process, physically, mentally, and emotionally. The police interrogator must be prepared for an experience that may be both draining and frustrating.

An interrogation may be defined as a systematic questioning in a formal situation where the subject is resistant or unwilling to participate. The fact that the person being questioned has a strong vested interest in keeping information from the police is what distinguishes an interrogation from an interview.

The general objective of any interrogation is to discover the truth. However, the truth is not always that the suspect is guilty. The officer must be as interested in discovering innocence as he is in establishing guilt. Whenever an interrogation results in a discovery of the truth, it must be considered successful, whether or not a prosecution follows.

More specifically, the objectives of the interrogation include obtaining a confession or admission; gaining information to support a prosecution; and determining such additional facts as the identities of other participants in the crime, the location of additional evidence, and the whereabouts of loot or stolen property. Other objectives may include uncovering information to clear the suspect of additional offences, to corroborate information previously learned from other witnesses, and to preview possible defences.

It's important that the investigator understands the differences between a confession and an admission. A confession is a voluntary statement, which describes the details of the corpus delicti, including the intent to commit the crime, and leaves no room for the possibility of innocence. Thus, the mere statement, "All right, I did it" doesn't stand as a confession. An admission, on the other hand, is a statement of fact from which an inference of guilt may be drawn; in itself, it doesn't stand as fully incriminating. For example, a suspect may admit to having been at the scene of a crime while actively denying having had anything to do with the crime itself.

Vocabulary

1. interrogation	- допрос	- тергеу, жауап алу
2. to incriminate the suspect	- вменять в вину подозреваемому лицу	- күдікті адамға кінә тағу
3. to discover innocence	- обнаружить невиновность	- кінәсіздікті табу
4. to establish guilt	- установить вину	- кінәні көрсету (табу)
5. prosecution	- ведение (судебного дела), обвинение	- сот ісін жүргізу, айыптау
6. confession	- признание, признание иска	- мойынға алу, талапты мойындау
7. admission	- признание (факта)	- қабылдау, мойындау
8. loot property	- награбленное имущество	- ұрланған мүлік
9. to corroborate	- подтверждать, подкреплять	- растау, бекіту
10. corpus delicti	- состав преступления	- қылмыстың құрамы
11. inference of guilt	- заключение вины	
12. evidence	- доказательство, улика, свидетельское показание	- дәлел, айғақ, куәгердің жауабы
13. to discover the truth	- узнать правду	- шындықты табу
14. voluntary statement	- добровольное (сознательное) признание	- өз еркімен (саналы түрде) мойындау

Answer the questions:

1. How may the police interrogation be defined?
2. What is the general objective of any interrogation?
3. Are there any other objectives of the interrogation?
4. What are the differences between confession and admission?

Text 3
The Investigator's Role: A Delicate Balance

The criminal investigator plays a crucial part in the administration of criminal justice. Whether or not a prosecution is successful often depends on how thorough an investigator is when collecting facts and information. Thoroughness isn't the only criterion, however; the investigator must also walk a fine line between what's legal and what isn't, both when developing and seizing evidence and when preparing it for use during a prosecution.

Many legal limitations and guidelines exist, which help an investigator to know precisely what he can and can't do during an investigation. The competent investigator, then, will have a working knowledge of these limitations and guidelines. For example, the law defines what types of evidence are admissible and what types aren't, in addition to stating how evidence can and can't be presented. A lack of familiarity with these definitions - or an unwillingness to go along with them - can lead to unneccessary complications and cause problems later on.

The investigator must also realize the boundaries of his role. Basically, the investigator is a gatherer of facts; he is never a judge, jury, prosecutor, and/or accuser, and should never presume to be. He is responsible for providing the legal evidence necessary to prove or disprove some element of a case; his opinions or personal feelings must be permitted to come into play.

The investigator isn't a loner, and a successful investigation isn't the result of only one person's efforts. Instead, many different people and agencies - federal, state, and local - are often involved in an investigation, and they must be willing to work together. The investigator should be aware of and understand the rights and responsibilities of others involved in a case and see to it that information is passed on to appropriate persons and offices.

Thus, the investigator's role is a fact-finding one defined by a number of legal considerations. He should know the law, know the limitations of his role, and always be conscious of the delicate balance between what the law requires and what the law allows.

Vocabulary

1. thorough	- полный, основательный, тщательный	- толық, кеңінен
2. a crucial part	- решающая роль	- ақтық, шешуші роль

3. to walk a line	- проводить черту	- бітіру, аяқтау
4. to present an evidence	- представлять улику, показание)	- дәлел, айғақ келтіру
5. to cause problems	- быть причиной проблем	- қиындыққа себепкер болу
6. boundary	- граница	- шекара
7. to presume	- предполагать, допускать	- болжалдау, болжам жасау
8. to be aware of smth	- знать, сознавать	- түйсікке алу, білу
9. a case	- дело	- іс
10. to be conscious	- отдавать себе отчет в чем-либо	- жауап бере алу
11. legal cosiderations	- правовые рассмотрения	- құқықтық қаралымдар
12. to require	- требовать	- талап ету
13. to allow	- позволять	- рұқсат ету

Answer the questions:

1. Does the criminal investigator play a crucial part in the administration of criminal justice?
2. What does the success of prosecutor depend on?
3. Are there any limitations and guidelines, which help an investigator in his work?
4. What is the investigator responsible for?
5. Is a successful investigation the result of investigator only?

Text 4
Investigating Juvenile Crimes

The primary investigators assigned to follow-up duties should usually investigate to conclusion all crimes in the classes of offences assigned to them, even though juveniles may be involved in some cases as either victims or perpetrators. The reasons for this are as follows:

- The offender's age is seldom known prior to arrest and cannot be determined until an investigation is undertaken.
- To assume a perpetrator's age before the identity is known often results in controversy and friction, as the follow-up investigator may initiate a reclassification of an offence as juvenile in order to avoid work or the embarrassment of a low percentage clearance rate.

- Divided responsibility is undesirable; thus, cases in one class should be assigned to one division or unit.
- There are cases, which peculiarly involve juveniles; thus, some classes of cases may be assigned to a juvenile unit for follow-up investigations. Such classes include school vandalism, child beating, and missing children cases, which may be logically assigned to the juvenile unit.
- The detective division has as its primary purpose the investigation and clearance by arrest of assigned classes of cases, and its members are usually best qualified to investigate them.
- Accountability for case investigations and clearances is achieved when there is clear-cut assignment of responsibility to one division or unit of specified classes of cases. Individual investigators can be evaluated on the basis of their accomplishments when there is no division of responsibility.

The juvenile unit should have exclusive responsibility for the disposition of juvenile offenders, and juvenile investigators should participate in interrogations. This requires juvenile investigators to make social background investigations in sufficient depth to ascertain facts and personal information about the juveniles in order to make proper dispositions. Departmental policy might also require that a juvenile investigator participate in the interrogation of all juvenile offenders, since there is a very different psychological relationship between investigators and juveniles.

Vocabulary

1. juvenile	- несовершеннолетний	- кәмелетке толмаған
2. perpetrator	- преступник, пособник преступления	- қылмыскер
3. to undertake an investigation	- предпринимать расследование, браться за расследование	- тергеуді (тексеруді) қолға алу
4. controversy	- спор, дискуссия	- айтыс, талас, талқы
5. friction	- трения, разногласия	- түсініспеушілік
6. to initiate a reclassification	- начать пере-классификацию	- қайтадан класси-фикациялауды бастау
7. embarrassment	- затруднение, замешательство, запутанность (в делах)	- қиындық, (істің) шиеленісуі

8. clearance	- оплата долга; устранение препятствий; разрешение	- қарызды қайтару, кедергіні жою
9. responsibility	- ответственность	- жауапкершілік
10. child beating	- избиение ребёнка	- баланы ұрып-соғу
11. juvenile offender	- несовершеннолетний правонарушитель	- кәмелетке жетпеген (жасөспірім), құқық бұзушы
12.clear-cut assignment of responsibility	- возложение ответственности	- жауапкершілік арту

Answer the questions:

1.What are the reasons, which the juvenile crime investigator should take into account?
2. Why should juvenile investigators participate in interrogations?
3. What might departmental policy require? Why?

Text 5
Bribery

Bribery is the offering or receiving of anything of value to influence official action. Commercial bribery occurs when bribery is used to acquire sensitive information from a competitor, such as customer lists, new product lines, unpainted secrets, or expansion plans.

Bribing federal officials is a federal crime. In addition, states have laws making it a crime to bribe anyone. In the 1970s, widespread bribery of public officials came to light when the Watergate Special Prosecution Force uncovered numerous illegal campaign contributions. Additionally, Abscam, a sting operation, used decoys to film transactions of federal legislators taking bribes. This resulted in passage of federal and state laws known as anti-corrupt practice acts. These acts typically not only limit the amount of campaign contributions but also require strict reporting and disclosure.

In some foreign countries bribing local officials is an accepted way of doing business. In fact, in these countries giving bribes is legal. Without such bribes, business slows or comes to a halt. Although this form of bribery may be innovative and disguised, it is no less bribery. For example, a typical case might involve a large highly competitive project. The size of the project is

such that the bribe may be buried in the price of the bid without obvious detection. Until 1977 companies doing business in foreign countries were basically free from domestic prosecution for bribery. In that year, however, Congress passed the Foreign Corrupt Practices Act making it a crime to bribe an official of another country.

The Foreign Corrupt Practices Act establishes accounting procedures making it virtually impossible for companies to attempt to disguise bribes. Violation of the law carries a penalty for companies of up to $2 million and for individuals, up to $100,000 with five years' imprisonment.

"Grease" payments to foreign officials to speed up the governmental process (as opposed to influencing officials to decide favorably) are legal. This would include fees given to low-level bureaucrats to process licenses and stamp documents.

Vocabulary

1. to bribe	- подкупать, давать предлагать взятку	-пара беру
2. bribery	- взяточничество	- пара берушілік
3. to acquire information	- приобретать, овладевать информацией	- мәлімет (мағлұмат) алу, қолға түсіру
3. illegal	- противозаконный, противоправный, нелегальный	- заңсыз, заңға қарсы
4. transactions	- сделка, операция	- келісім, мәміле, іс
5. legislator	- законодатель, член законодательного органа	- заң шығарушы, заң шығаратын органның мүшесі
6. prosecution	- судебное преследование	- сотпен қудалау, сот тәртібімен іс жүргізу
7. to disguise bribes	- маскировать, скрывать взятки	- параны бүркемелеу (тығу, жасыру)
8. violation	- нарушение (прав, закона)	- бұзу (заңды, құқықты)
9. penalty	- штраф, наказание	- жаза (беру), айып (салу)
10. imprisonment	- тюремное заключение, лишение свободы	- түрмеге қамау, бас бостандығынан айыру
11. to come to a halt	- останавливаться	- тоқтау, тоқтамға келу
12. decoy	- обман, соблазн	- жалған, тартымдылық

Answer the questions:

1. What is bribery?
2. When does commercial bribery occur?
3. When did widespread bribery of public officials come to light?
4. When and why did Congress pass the Foreign Corrupt Practices Act?
5. What does this document establish?

Text 6

Computer Crime

Computer technology has revolutionized major segments of our society, not the least of which is the business world. With the advent of computers and computerized data base systems, a new crime has emerged - computer crime. A computer crime is any illegal act requiring knowledge of computer technology, or involving use of a computer. Most computer crimes are committed for economic gain.

There are two distinct classes of computer crimes. First, the computer may be used as the tool of a crime, as in the cases of embezzlement and fraud. In one case involving an insurance fraud, employees of an insurance company manufactured insurance policies issued to fictitious insured persons so that the company could resell the policies and avert a cash flow problem. Before the scam was uncovered, stockholders in the company sustained monumental losses. Several company officials responsible for the crime served jail terms.

The second class of computer crimes are those where the computer is the object of a crime. In this category are sabotage and theft. Massive quantities of computer information can be stored on microchips the size of pinheads. Many companies now store customer accounts, product codes, inventory data, and other financial data on computer. Similar to other property, the data is subject to sabotage and destruction as illustrated by the recent outbreak of computer viruses. A computer virus occurs when someone mischievously introduces into a computer system a computer program that destroys existing data.

Additionally, magnetic tapes and disks contain data that may be the real object of theft. Such data may contain detailed information about employees, products, financial information, or trade secrets, which a competitor would find helpful. Theft occurs when there is unauthorized entry into a computer system by use of an illegally obtained password.

Finally, employees who access their computers at work for personal use without authorization commit a crime tantamount to theft. This computer time has been deemed to be valuable property and is analogous to the unauthorized use of another's automobile.

Vocabulary

1. advent	- появление, наступление	- пайда болу, келу
2. data base system	- система базы данных	- мәліметтер жиынтығының жүйесі
3. to commit a crime	- совершать преступление	- қылмыс жасау
4. economic gain	- экономическая прибыль	- экономикалық пайда
5. tool of a crime	- орудие преступления	- қылмыс құралы
6. embezzlement	- присвоение имущества, растрата	- мүлікті иемденіп кету; ысырап қылу
7. fraund	- обман, мошенничество	- жалған, өтірік, алдау; алаяқтық
8. insurance company	- страховая компания	- қауіпсіздендіру компаниясы
9. employee	- служащий, работник по найму	- жұмыскер
10. cash flow	- движение денежной наличности	- (тірі) қолма-қол ақша қозғалысы (жүрісі)
11. stockholder	- акционер	- үлес иесі, акционер
12. jail term	- срок тюремного заключения	- түрмеде отыру мерзімі
13. to destroy existing data	- уничтожить существующие данные	- (қазіргі) бар мәліметті жою
14. tantamount	- равносильный, равноценный	- бірдей, тең бағалы

Answer the questions:

1. What is a computer crime?
2. What is the essence of the first class of computer crimes?
3. What crimes are referred to the second class of computer crimes?
4. What data do magnetic tapes and disks contain?
5. When does theft occur?

Part 2
Civil Litigation

Text 1
Definition of Civil Litigation

Litigation is the use of the legal process to settle disputes between people. It is a mechanism provided by government to allow for a means of impartial decision making to settle disputes between people individually, businesses, and governmental entities. Its purpose is to provide a method of dispute resolution that is not based on acts of violence, coercion, and economic disparity.

Litigation in the United States usually takes one of three forms. Each has its own procedures for resolving disputes. In addition, each has its own body of principles in determining the rights and responsibilities of the parties or people affected by it. These three forms are criminal litigation, administrative litigation, and civil litigation.

Criminal litigation is the process by which an individual is prosecuted for committing an act that our society, through its legislature, has deemed to be antisocial.

Administrative litigation is the process by which private individuals, businesses, and administrative agencies resolve disputes before an administrative agency concerning the applicability, eligibility, and enforcement of an administrative agency's regulations.

Civil litigation is the process by which private individuals, businesses, and governments resolve disputes that are neither criminal nor administrative concerning the payment of money, ownership and possession of property, marital obligations, the prevention of injury to a party, and declarations of rights and responsibilities of the various parties involved. Civil litigation tends to concern itself predominantly with the following topical areas of law: contracts, torts, property, matrimonial, equity, and antitrust. Contract law is concerned with the wrongs or injuries arising from the violation of an obligation or duty created by consent of the parties involved. Tort law involves private injuries or wrongs arising from a breach of duty created by law. Property law is concerned with the rights and responsibilities of ownership and possession of real and personal property. Matrimonial law involves the rights and responsibilities of marriage, divorce, custody of children, support and alimony, and division of marital property. Equity law is concerned with providing relief

and remedies for parties who would otherwise have no other recourse in law. Antitrust law involves the protection of trade and commerce from monopolies, restraints of trade, and other anticompetitive schemes.

Vocabulary

1. recourse	- прибежище, Обращение за помощью	- көмекке шақыру
2. remedy	- средство защиты права	- құқықты қорғау тәсілі
3. impartial	- беспристрастный, справедливый	- әділ, әділетті
4. entity	- организация	- ұйым
5. disparity	- неравенство, несоответствие	- теңсіздік, сәйкес келмеу
6. to resolve	- решать, разрешать	- шешу
7. to prosecute	- обвинять	- кінәлау
8. aplicability	- приемлимость	- жарамдылық
9. eligibility	- приемлимость	- икемділік
10. tort	- деликт, гражданское правонарушение	- деликт, азамат құқық бұзушылық
11. antitrust	- антитрестовский	- антитрестік
12. content	- согласие	- келісім
13. custody	- опека	- қамқорлық
14. alimony	- алименты, содержание	- алимент
15. relief	- помощь, пособие по безработице	- көмек, жұмыссыздыққа берілетін ақы

Answer the questions:

1. Give the definition of litigation. What is its purpose?
2. What forms does litigation in the United States usually take?
3. What is civil (criminal, administrative) litigation?
4. What topical areas of law does civil litigation tend to concern itself predominantly with?
5. Speak about each law (contract, tort, property, matrimonial, equity and antitrust).

Text 2
Regulation of the Litigation Process

From the moment litigation is commenced until its final determination, its course is channeled and regulated by detailed rules. The purpose of these rules is to define the issues of law and fact that are in dispute and to control the methods by which the opposing parties may present factual and legal arguments in support of their respective positions. The sources of these rules vary. The most important for our purposes are comprehensive codes and court decisions that govern in minute detail each step of the litigation process.

In modern times courts have established comprehensive rules, without reference to particular cases, governing virtually every phase of the litigation process. In establishing these rules, courts have acted either pursuant to authority expressly granted to them by statute or pursuant to their inherent authority to regulate their own activities. In most jurisdictions, it is the highest court that writes these rules both for itself and for lower courts in the same jurisdiction. In addition, the local courts are permitted to promulgate rules concerning certain limited details of procedure before them. The only restriction placed on these local rules is that they may not be either inconsistent or in conflict with the higher court rules.

These bodies of rules are generally referred to as Rules of Civil Procedure. Although to these rules apply only to the federal courts in the United States, they have been adopted either totally or in part, or widely copied by many states. Although some states have rules that are not based on the federal rules, there are enough common threads between the federal rules and the divergent state rules to make the study of the federal rules worthwhile. Based on traditional notions of law school education, the assumption is that if students can fully understand the Federal Rules of Civil Procedure, they can apply that knowledge to help them understand the variations and unique nuances of different state or local rules. In addition to the focus of our attention on the Federal Rules, we will examine the Pennsylvania Rules of Civil Procedure for it represents a study in contrast in how different systems attempt to resolve similar procedural problems and situations.

Rules of civil procedure establish and regulate, stage by stage, the nature and requirements of the litigation process, especially in the time-consuming pretrial stages. Virtually every move a litigation lawyer makes should be checked against provisions of the rules. Although these rules govern only procedure (as distinguished from the substantive rights of a party) virtually every right

of a litigant may be lost if proper procedure is not followed. For example, while the constitution may provide that a plaintiff in a particular kind of civil case is entitled to a trial by jury, the rules of procedure may require that the plaintiff make a formal demand for trial by jury within ten days after receiving defendant's answer to the complaint. (A complaint is the name of the paper by which civil litigation is commenced by a plaintiff.) Despite the constitutional provision, plaintiff may lose the constitutional right to a trial by jury unless the requirements of the rules of civil procedure are complied with.

For the novice entering the field of civil litigation, it is imperative to learn and master the applicable rules of civil procedure for the geographical area of your paralegal practice. This will facilitate the orderly progression of your client's claims. If you neglect to either research or learn the applicable rules of procedure, you may find your client's claim bogged down in a quagmire of procedural issues that may thwart the ultimate resolution of your client's claim.

Vocabulary

1. to channel	- направлять	- ба□ыттау
2. pursuant	- соответственно, согласно	- с□йкес, сай
3. to promulgate	- объявлять, обнародовать	- жариялау, жария ету
4. restriction	- ограничение	- шектеу
5. inconsistent	- несовместимый	- сай келмейтін сәйкес емес
6. divergent	- расходящийся	- таралып жат□ан, к□з□арастары сай келмейтін
7. assumption pretrial	- присвоение - предварительное слушание	- ата□беру - алдын ала ты□дау
8. novise	- начинающий, новичок	- жа□адан бастаушы
9. to neglect	- пренебрегать	- елемеу
10. thwart	- мешать исполнению, разрушать планы	- орындау□а кедергі жасау
11. to commence	- начинать(ся)	- бастау, басталу

Answer the questions:

1. What is the purpose and sources of regulating rules?
2. What kind of rules have courts established in modern times?
3. What is the only restriction placed on the local rules?
4. What do rules of civil procedure establish and regulate stage by stage?
5. What may happen if proper procedure is not followed?
6. What is a complaint?
7. What may happen if you neglect to either research or learn the applicable rules of procedure?

Text 3
The Sources of Law

All rules of procedure must be consistent with the following sources of law: constitutional law, legislative law, and court-made law. Therefore, we will now turn to a brief discussion of these different sources of law.

a. Constitutional Law. The federal government, and every state, has a constitution that not only establishes the framework of its governmental institutions but also sets forth a number of simple but important principles of law. The provisions of all other laws in the jurisdiction are limited by the constitution.

b. Legislative Law. Congress, and every state legislature, makes laws that are referred to as "statutes". In addition, in most states, municipal and county governments are vested by state government with limited legislative power. The laws passed by such local governments are generally called "ordinances".

c. Court-made Law. When a judge resolves disputes concerning legal issues that are important, an opinion is usually written setting forth the essential facts of the case, the judge's view of the law as applied to those facts, and the reasoning that led to this view. The opinions of courts, especially those of appellate courts, have been collected and compiled for hundreds of years.

The early English settlers in America brought with them a body of well-defined legal principles that had evolved in the opinions of English courts

over the centuries since the Norman conquest. This body of law was known as the "common law" and is still used in both federal and state courts in this country. In the course of the two hundred years since American courts have been independent from the formal authority of English law, the common law originally received by American courts has undergone great changes, both through the hundreds of thousands of opinions in which judges have shaped, developed, and interpreted the common law to resolve modern problems, and through statutes, ordinances, and regulations that have changed it.

The Relationships Among the Sources of Law

Before discussing the relationships among different sources of law, it must be understood that there are fifty-one constitutions in the United States - those of each state and the United States Constitution. Similarly, there are fifty-one legislative bodies passing statutes. As a result, conflicts exist whether certain matters may properly be the subject of federal legislation or state legislation, or both. For example, if the federal government makes laws controlling the sale of corporate stocks and bonds to the public, may a state also control sales of these securities within its boundaries? While the answer in this particular situation is yes, the resolution of this question is complex, involving issues of federal constitutional law that go to the heart of our federal system of government. The discussion that follows concerns the constitution, statutes, common law regulations, and ordinances of one state.

Constitutions are the paramount source of law. Any legal principle in a statute or ordinance or in the common law that conflicts with a legal principle in the constitution is invalid and unenforceable. For example, if a state constitution prohibits any support of parochial education, a state legislature may not adopt a law that grants money to parochial schools . Further, to the extent that a particular statute regulates a certain area of activity, that normally supersedes any rules of common law applicable to that area of activity. For example, while common law included the legal principle of "caveat emptor" giving no relief to a buyer who purchased a defective product, statutes have imposed responsibilities on sellers who sell defective products.

In our system of government, it is the courts rather than the legislative or executive branches of government that are charged with the final responsibility interpreting constitutions and legislation. If, for example, a legislature decides that a certain statute is permitted by the constitution (i.e., the statute is constitutional), the courts are not prevented from deciding that the statute is

unconstitutional. Once the highest court of state decides that a statute is unconstitutional or determines the proper interpretation of the language of the statute, neither the state legislature nor the governor may change this decision. All that the legislature is empowered to do is to amend the statute to eliminate its unconstitutional aspects or change the wording of the statute so as to change its interpretation.

Although there are hierarchies in the above-named sources of law, all three have one thing in common - they all take precedence over procedural rules concerning the orderly disposition of civil disputes. This is consistent with the notion that form should not take precedence over substance.

Vocabulary

1. to vest	- наделять (правами)	- беру (құқық беру)
2. ordinance	- указ, статут, закон.	- 1) жарлық, статут, заң
3. issue	- вопрос, проблема	- сұрақ, мәселе
4. to involve	- вовлекать	- іске тарту, қосу; жауапқа тарту
5. paramount invalid	- высший, верховный юридически недействительный, не имеющий силы	- жоғарғы заңды күші жоқ, заңсыз
6. to supersede	- отменять, заменять	- алып тастау, өзгерту
8. «caveat emptor»	- (лат) «пусть покупатель будет осмотрителен»	- сатып алушы абай болсын
9. relief	- 1. средство судебной защиты 2. помощь, пособие	- сотпен қорғау шаралары
10. to impose responsibility	- налагать ответственность	- жауапкершілік жүктеу

Answer the questions:

1. What can you say about constitutional and legislative laws?
2. How many constitutions are there in the United States?
3. Which branch of government is charged with the responsibility of interpreting law? Why?
4. May the state legislature or the governor change the highest court of state decision?
5. What is the legislature empowered to do?

Text 4
Remedies Available in Civil Litigation

Every lawsuit commenced by a party in civil litigation has some specific goal in mind. This goal can be defined simply as what the plaintiff expects as a result of the litigation. Another way of viewing this is by examining the benefits a party can realize as a result of being successful in proving the correctness of his or her position. These benefits or goals can be described as remedies that a court may grant a successful plaintiff or claimant. The following is a short list of the more common remedies available in civil litigation.

1. Money Damages

The most frequent type of relief in civil litigation is an award of a specific amount of money in favor of one party and against another. After the award is made, it is incorporated by the court into a judgement. If the judgement is not paid, the winner is entitled to have court personnel seize and sell the loser's property to obtain the cash required to satisfy the judgement.

a. Compensatory damages. Money damages are calculated to compensate the winner for all economically measurable and legally recognized harm directly resulting from the loser's wrongful conduct. Thus, injured persons suing in tort (and assuming they can prove breach of a duty to them by the defendant) will be entitled to money damages equal to medical expenses and lost wages. Attorney's fees and most other costs of litigation are not, however compensable except in a few, specific types of cases where statutes allow them. On the other hand, some elements of damage deemed compensatory by law will hardly seem to it the definition set forth above. For instance, in personal injury actions, a plaintiff who wins on liability is also entitled to an element of compensatory damages for "pain and suffering" over and above compensation for medical expenses and lost earnings. In addition, the spouse of a successful plaintiff in a personal injury action may be entitled to join in the action and recover an award for "loss of consortium", i.e., the injured spouse's inability to provide normal marital companionship and care.

b. Punitive Damages. In certain types of civil litigation, "punitive" damages may be awarded in addition to compensatory damages. The purpose of

these damages, where authorized by the common law or statute, is to punish a party who has indulged in wrongful conduct that the law deems particularly reprehensible, e.g., defamation or assault and battery.

An example of statutory punitive damages is the federal antitrust laws that permit a successful plaintiff to recover in damages three times the amount of compensable harm shown to have resulted from defendant's illegal conduct. The purpose of these augmented recovery is not only to punish, but also to provide incentive for enforcement of the antitrust laws by private parties.

2. Restoration of Possession of Property

Sometimes civil litigation involves a dispute over the right to possess a certain piece of property. In such cases, the relief sought may be a judgment ordering defendant to turn over possession to plaintiff.

3. Declaration of Rights and Responsibilities

Examples of this kind of remedy include divorces, annulments, paternity actions, custody and visitation rights, and declaratory judgements. The court can determine the legal status of the parties involved such as in divorce where the court terminates a marriage annulment, where the court declares a marriage null and void, paternity where the court determines the legal parentage of a child, and custody where the court determines with whom a child will reside.

4. Equitable Remedies

a. Injunction. An injunction is a decree of a court of equity that generally orders the defendant to cease some activity. It is designed to prevent "irreparable injury" to the plaintiff, that is, injury that is not easily compensated by the award of money damages. Occasionally an injunction may be in the form of requiring the defendant to perform some act, to prevent irreparable injury to the plaintiff.

b. Specific Performance. Where two parties have entered into a contract for sale of a piece of real estate and thereafter one of the parties refuses to perform, a court of equity will issue a decree ordering "specific performance" of the contract requiring the owner to sell the real estate to the buyer. On rare occasions, specific performance may also be ordered

of a contract far sale of property other than real estate if such property is so unique that no comparable substitute can be purchased, e.g., the Mona Lisa.

c. Reformation. When the terms of a written contract or other legal instrument to which one or more parties are bound have been set forth as a result of a mistake by a party or as a result of fraud used against one of the parties, a court of equity will issue a decree, rewriting the instrument in the language it deems the parties would have employed in the absence of mistake or fraud. This remedy is called reformation.

Vocabulary

1. remedy	- средство судебной защиты, средство защиты права	- соттық қорғау құралы құықты қорғау құралы
2. damage	- ущерб, убыток	- залал, шығын
3. harm	- вред, ущерб	- зиян, залал
4. assault and battery	- оскорбление действием	- іс-әрекетпен балағаттау
5. punitive	- карательный	- жазалаушы
6. defamation	- диффамация, клевета	- жала жабу
7. annulment	- аннулирование, отмена	- жою, бастапқы қалпына келтіру
8. paternity	- отцовство	- әкелік, әкелендіру (қорғаншылық)
9. injunction	- судебный запрет	- соттық (сотпен) тыйым салу
10. marital	- супружеский, брачный	- отбасылық, некелік
11. fraud	- обман, мошенничество	- алдау, арбау
12. to cease	- переставать, прекращать	- аяқтау, тоқтату

Answer the questions:

1. What is the difference between compensatory damages and punitive damages?
2. Compare and contrast the remedies of injunctions with specific performance.

3. Compare and contrast the remedies of compensatory damages with injunctions.
4. Compare and contrast the remedies of compensatory damages with specific performance.
5. What is reformation?

Text 5
Settlement of Civil Disputes

Disputes may reach their final resolution by voluntary agreement of the parties or by a decision rendered by a court. The overwhelming majority of civil disputes are terminated by voluntary agreements of the parties rather than by judgment after a trial. This is so because of the time and expense involved in litigating a dispute and the gamble that a trial always presents, no matter how sure one party is of being in the right. Furthermore, judges encourage parties to settle their disputes without trial as this helps reduce the burden on the court system. Many more cases are started than could ever be heard, and even with settlements of large numbers of cases backlogs still exist.

Thus it is frequently in the best interests of the parties as well as of the judicial system for disputes to be resolved without trials. Settlement negotiations, although most common before trial, may take place at any time: before the suit is filed; after the suit is filed, but before the trial; during the trial; or even after the trial while an appeal is pending.

Typically, the parties may have had discussions between themselves before consulting attorneys. If they have not, the attorney or the paralegal acting under the attorney's supervision as part of a litigation team may initially try to explore the possibility of an amicable settlement before starting a lawsuit. Sometimes it is necessary to start a lawsuit because the opponent does not take the dispute seriously. Once a lawsuit has been filed, the subject of making a settlement is bound to arise. Whether a settlement will be reached depends on the relative strengths of each party's case and the willingness of the parties to compromise.

Vocabulary

1. to terminate	- кончать (ся), завершать (ся)	- бітіру аяқтау

2. judgement	- решение суда, приговор	- сот шешімі, жаза
3. gamble	- азартная игра	- құмар ойын
4. a burden	- бремя, тяжесть	- салмақ, ауырлық
5. backlogs	- невыполненные заказы	- орындалмаған тапсырыс
6. pending	- незаконченный, ожидающий решения	- аяқталмаған шешім
7. attorney	- адвокат, юрист	- қорғаушы, заңгер
8. amicable	- дружеский, дружелюбный	- достық
9. overwhelming majority	- подавляющее большинство	- басым көпшілік

Answer the questions:

1. How may disputes reach their final resolution?
2. Why are the overwhelming majority of civil disputes terminated by voluntary agreements of the parties rather than by judgement after a trial?
3. When may settlement negotiations take place?
4. When may the parties have discussions between themselves?
5. Why is it necessary sometimes to start a lawsuit?
6. What does it depend whether a settlement will be reached on?

Text 6
Introduction of Court Systems

Every state in the United States has its own court system. These systems are set up by state constitution, state statute, or a combination of both. In addition to these state court systems, there is a federal court system. The authority for the federal court system is based on Article III of the United States Constitution. In addition, federal legislation has been enacted that elaborates and expands the authority and scope of the federal court system. State and federal court systems exist side by side. As a result of these separate and different systems, there are many questions that can arise such as the interplay of the federal and state courts concerning authority to hear cases, supremacy of systems, and finality of decisions made in each system.

From a systemic perspective, there are strikingly similar characteristics in the federal and state court systems. Both derive their heritage from the legal

system of England and have similar procedures for initially hearing cases and reviewing those initial decisions. Although the terminology describing the various courts within a given system (either federal or state) may vary, the basic functions of these courts are the same.

However, in spite of the overall similarity of the court systems, each state has its own unique brand of civil dispute resolution. No two states have exactly the same laws or the same procedures in their courts. In addition, the federal system is not exactly like that of any of the states.

In order to understand all these court systems, it is important to learn their common characteristics. Every court system is divided into at least two classes of courts: trial and appellate courts. Trial courts are those courts in which a civil dispute is heard initially. In trial courts witnesses testify, a judge presides, and a jury may render a decision (verdict). In appellate courts, the losing party at a trial seeks to have the decision of the trial court reviewed and overturned. Typically, appellate courts decide their cases on the basis of the stenographic record of the testimony at trial, documents presented at trial, pleadings filed, briefs submitted by the parties pointing out the legal authority for the positions they assert, and oral argument where the attorneys seek to clarify and amplify their respective positions. Generally speaking, no new evidence is presented to the appellate courts. The basic mandate of appellate courts is to review the trial proceedings upon request of one of the parties to ensure that the parties received a fair trial with respect to the applicable law involved and that the decision was supported by the evidence (testimony-and documents) presented at the trial.

There is another distinction to keep in mind with respect to trial and appellate courts. Trial courts are generally "inferior" to appellate courts. Inferior refers to the concept that decisions of an appellate court of a state are deemed binding on the trial court within its jurisdiction. Thus, a trial court judge is required to follow the decision of the appellate court even if he or she disagrees. If a state has an intermediate appellate court and a highest appellate court, the decision of the highest appellate court is binding on both the intermediate appellate court(s) and the trial court(s) of the same state.

Vocabulary

1. authority	- власти, полномочия	- билік, өкілеттік
2. to enact	- предписывать, вводить в закон	- заңға еңгізу

3. elaborate	- продуманный	- алдын-ала ойланған
4. scope	- предел, цель, границы, рамки	- шек, мақсат, шекара
5. interplay	- взаимодействие	- өзара іс-қимыл
6. finality	- завершение	- аяқтау
7. initially	- в начальной стадии	- бастапқы сатыда
8. witness	- свидетель, понятой	- куәгер
9. to testify	- давать показания, свидетельствовать	- куәгерлік, куә болу
10. to review	- пересматривать	- қайта қарау
11. to overturn	- опровергнуть	- жоққа шығару, келіспеу
12. to assert	- отстаивать (свои права)	- (өз құқығын) қорғау
13. to amplify	- расширяться, усиливать	- кеңею, күшейту
14. request	- просьба	- өтініш
15. to ensure	- гарантировать	- кепілдік ету
16. applicable	- применимый, подходящий	- қолданатын сәйкес келетін
17. inferior	- ниже стоящий	- төмен тұрған

Answer the questions:

1. Does every state in the United States have its own court system?
2. What article is the authority for the federal court system based on?
3. What can you say about the similarity and distinction in the federal and state court systems?
4. What are trial and what are appellate courts?
5. What is the basic mandate of appellate courts?
6. Name one more distinction between trial and appellate courts.

Text 7
Federal Court System

The federal court system is divided into three different kinds of courts: the U.S. District Courts, U. S. Courts of Appeals and the U.S. Supreme Court.4 Each court has its own distinct role in the process of civil dispute resolution in the federal court system. Since litigation starts first with the trial court, we will examine the role of the U.S. District Court.

1. District Court Organization

In the federal system, the district court is the trial court. It is also the court of original jurisdiction, which refers to the fact that this court has the authority to decide a case when it is first instituted by one of the parties. The district court can also be described as a court of limited jurisdiction. This term means that this court has the authority to adjudicate only cases that fall within a particular class of cases. Another way of describing this term is that these courts have the power to hear only cases that have been prescribed by Congress. Unless a case falls within the limits set up by Congress, the federal courts do not have the authority to decide it.

As a way of organizing the district courts, the United States is divided into districts. Some states have only one district while other states have two or more districts. For example, Montana has but one district called the U. S. District Court for Montana. Pennsylvania has three districts: the U.S. District Court for the Eastern District of Pennsylvania, the U. S. District Court for the Middle District of Pennsylvania, and the U. S. District Court for the Western District of Pennsylvania. The number of federal districts for a given state is related to the population of that state. Accordingly, the larger the state in terms of population, the more districts the state will have. However, every state has at least one district regardless of how sparsely it is populated.

2. United States Court of Appeals

The U. S. Courts of Appeals are the intermediate-level appellate courts in the federal court system. For organizational purposes the United States is divided into twelve geographical areas, known as circuits, that are identifiable by numbers from one to eleven. The twelfth district is designated the District of Columbia Circuit. There is a Court of Appeals for each circuit, which is identified by the number of the circuit. Federal statute establishes the circuits and their geographic jurisdiction.

The number of judges on the Court of Appeals of each circuit depends upon the volume of litigation in the federal courts in that circuit.

As the intermediate appellate court in the federal court system, this court has only appellate jurisdiction. It is empowered to hear the final decisions of the district courts. District court decisions are appealed to the Court of Appeals for the circuit in which the district is located. Absent an appeal to the U.S. Supreme Court, which will be discussed shortly, the decision of the Court of Appeals is considered a final one.

3. United States Supreme Court

The U.S. Supreme Court is the highest court in the country. It has an interesting mix of appellate jurisdiction with respect to both federal and state court cases, as well as original jurisdiction in certain classes of cases. There are two different methods of appellate review in the Supreme Court concerning the decisions of the lower federal courts. Generally, the usual method of review of decisions of the courts of appeals is by the statutory writ of certiorari. This is a discretionary review process by which the members of the Supreme Court can determine what cases they wish to review. If the court declines to exercise its discretion (refuses to allow an appeal), the decision of the Court of Appeals becomes final. If the court allows a petition for review, it can exercise the same kind of appellate review as described earlier in this chapter. Whatever the final outcome is in this appellate review, the decision is final. There is no further review or appeal from the Supreme Court. It is the court of last resort.

Besides its discretionary review process concerning the decisions of the federal courts of appeals, there is a nondiscretionary review process called "appeals as of right." These direct appeals are usually limited to matters set out by statute arising in the lower federal court, and are becoming increasingly less desirable to the Supreme Court.

In addition to the review process of the decisions of the lower federal courts, the Supreme Court has the authority to review decisions of the highest courts of the various states where issues involving the U. S. Constitution and federal law are at stake. For example, if the highest court of the State of Ohio decides that police officers in Ohio can stop and search every person with long hair for drugs and weapons without violating the Fourth Amendment to the U. S. Constitution concerning search and seizures, upon granting a petition for a writ of certiorari from that Ohio decision, the U. S. Supreme Court can review and override the Ohio Supreme Court decision. Because the Supreme Court is the final arbitrator of federal constitutional law, its decision is binding on all states whose decisions it chooses to review.

Vocabulary

1. sparsely	- редко, разбросано	- сирек
2. to designate	- определять назначать на должность	- анықтау лауазымға тағайындау
3. petition	- петиция, просьба, прошение	- петиция, өтініш
4. seizure	- захват, конфискация	- кәмпескелеу

Answer the questions:

1. How is the federal court system divided?
2. What is the district court?
3. What is the number of federal district for a given state related to?
4. What kinds of geographical areas is the United States divided into?
5. What does the number of judges on the court of appeals of each circuit depend upon?
6. Which is the highest court in the United States?
7. What do you know about nondescretionary review process called "appeals as of right?

Text 8
State Courts

Although the Pennsylvania court system will be used as the primary example, it should be noted at the outset that generally the state court systems are organized along lines similar to the federal court system with differences occurring in such areas as names of courts, number of courts, and jurisdiction of courts.

Trial Courts

In Pennsylvania, as well as in most states, there are two types of trial courts. Quite typically, there is a court of general jurisdiction, which is a court that handles a broad range of cases and is presumed to have the right to hear all cases unless the right is specifically taken away from it. This is in direct contrast to the trial courts in the federal courts where there is no presumption of jurisdiction. In Pennsylvania this court is called the Court of Common Pleas. This court has original jurisdiction as well as appellate jurisdiction concerning matters that may arise from appeals from an inferior trial court called the District Justice Court in Pennsylvania. This District Justice Court also has original jurisdiction but it is a court of limited jurisdiction. It can handle only certain kinds of civil cases wherein the amount in controversy is small. The party who appeals a decision of a District Justice Court, gets a whole new trial in the Court of Common Pleas in the judicial district in which the District Justice Court is situated. This appeal process is called a "trial de novo."

Many state court systems have special trial courts to entertain such matters as criminal cases (Criminal Courts), juvenile proceedings (Juvenile Courts), family disputes, such as divorce, support, and child custody (Family Courts), matters relating to estates and trusts (Orphans', Surrogates', or Probate Courts), and civil cases (Civil Trial Courts). In theory, this specialization permits judges who preside in specialized courts to develop a greater degree of expertise within confined areas of the law.

In some states, the distinction between courts of general jurisdiction and courts with special competence has been abolished to a certain degree in favor of a single court that consolidates the functions of various specialized courts. For example, in Philadelphia there is a unified court system called the Court of Common Pleas of Philadelphia County. However, this court is divided into specialty areas such as criminal court, civil trial court, motions court, family court, and orphans' court. This arrangement allows for the central administration of the court. At the same time, the advantages of specialized judicial expertise are not lost because judges may be assigned on a full-time basis to one of the internal divisions of the court.

Vocabulary

1. at the outset	- вначале	- басында
2. inferior	- младший по чину	- лауазымы төмен
3. controversy	- спор, дискуссия	- пікір, талас
4. to entertain	- принимать	- қабылдау
5. to divorce	- развод, расторжение брака	- ажырасу, некені бұзу
6. estate	- сословие, имущество	- тап, меншік
7. distinction	- различие	- айырмашылық
8. to abolish	- отменять, упразднять	
9. unified	- объединенный, унифицированный	- біріккен, бірыңғай
10. orphan	- сирота	- жетім
11. internal	- внутренний	- ішкі
12. trial de novo	- новое рассмотрение дела	- істі жаңадан қарастыру

Answer the questions:

1. How many types of trial court are there in Pennsylvania?
2. What can you say about a court of general jurisdiction?
3. How is this court called in Pennsylvania?
4. Speak about the process "a trial de novo"
5. What is the function of special trial courts?
6. What do you know about unified court system?

Text 9
Appellate Courts

The losing party in a civil lawsuit in a court of general jurisdiction may always appeal the decision to an appellate court. In those states that have a two-tiered appellate system (similar to the federal system), most cases will have to be heard by the intermediate appellate court before appeal to the highest court is possible. State statutes will usually articulate what types of cases are appealable directly to the highest court and which must first go to the immediate appellate court. For example, in Pennsylvania there is a two-tiered appellate court system. A plaintiff in a car accident case concerning money damages for personal injuries sustained as a result of the accident who is dissatisfied with the decision rendered in the trial court (Court of Common Pleas), may appeal this decision to the Superior Court of Pennsylvania (intermediate appellate court) as a matter of right. Should this same plaintiff be dissatisfied with the decision of the Superior Court, he or she may seek review of this decision by filing a petition for allowance of appeal with the Pennsylvania Supreme Court (the highest court). In Pennsylvania, the Supreme Court would then decide if it wishes to hear the case. In other words, the last level of appeal in this state is generally at the discretion of its highest court.

As mentioned earlier in this chapter, if there is a question of federal rights involved, a party who wishes to appeal a state supreme court decision (or its equivalent in states other than Pennsylvania) may request the U.S. Supreme Court to hear the case. Absent some claim of violation of a federal right, the state's highest court is the final authority concerning all matters of state law and procedure.

One final point needs to be made before leaving the discussion of state appellate courts. State intermediate and highest appellate courts may also have original jurisdiction in certain kinds of cases. For instance, in Pennsylvania if a private citizen sues the state or a state public official, the litigation must be commenced in the Commonwealth Court of Pennsylvania (also an intermediate appellate court) instead of following the usual procedure in the Court of Common Pleas. Although the intermediate appellate court has original jurisdiction in this matter, it shares its original jurisdiction with the lower trial court. This shared jurisdiction is called "concurrent jurisdiction."

Vocabulary

1. lawsuit	- судебный процесс, иск, тяжба	- сот процессі, талап
2. statute	- статут, законодательный акт	- статут, заңды акт
3. a plaintiff	- истец, истица	- талапкер
4. to sustain	- поддерживать, подкреплять	- қолдау, күшейту
5. to file	- подавать какой-либо документ	- қандай-да бір құжатты тапсыру
6. discretion	- усмотрение	- қарау
7. to commence	- начинать	- бастау
8. concurrent	-совпадающий, сопутствующее обстоятельство	- сәйкес келетін бір бағыттағы мән-жайлар

Answer the questions:

1. May the losing party appeal the decision to an appellate court?
2. Who will usually articulate what types of cases are appealable directly to the highest court? Speak about two - tiered appellate court system in Pennsylvania.
3. In what case may a party, who wishes to appeal a state supreme court decision, request the U.S. Supreme Court to hear the case?
4. What is the final authority concerning all matters of state law and procedure?
5. What is called concurrent jurisdiction?

Text 10
Arbitrations

Another form of civil dispute resolution that may be provided by the federal and state trial courts is the system of arbitration. This is a system whereby parties litigate a civil dispute in front of a panel of lawyers (usually three lawyers) who render a decision. This procedure may be voluntary or involuntary depending on the court system involved. For example, by local rule in the United States District Court for the Eastern District of Pennsylvania, parties to civil actions for money damages filed in that district must have the case conducted before a panel of three arbitrators. Generally, local rule 8 provides that the amount in controversy (money damages) not exceed $50,000. Arbitrators are attorneys who have been in practice at least five (5) years and

who are admitted to practice in this federal court. Any party may appeal this decision and will be provided with a trial de novo in the district court. This is a relatively new procedure and has not been adopted by all the federal district courts; the Middle and Western Districts of Pennsylvania do not have a similar procedure.

In civil matters, Pennsylvania has adopted a system of compulsory arbitration whereby any lawsuit in which the amount in controversy is less than $20,000 in the larger counties and $10,000 in the smaller counties must be submitted to a board of three lawyers who are members of the bar of the court for decision. Again, any party may appeal this decision; this appeal is in the form of a trial de novo in the Court of Common Pleas.

The philosophy underlying this type of dispute resolution system by the courts is an attempt to alleviate the tremendous backlogs that have occurred in the civil trial courts by providing a system whereby disputes can be handled in a more expeditious and informal basis. At the same time the courts are attempting to comport with notions of a fair hearing procedure by having lawyers conduct the hearing and guaranteeing a trial de novo appeal process in case a party is dissatisfied with the result of the arbitration process.

In addition to systems of compulsory arbitrations, the parties themselves may agree, either informally or by written contract, to voluntarily submit their dispute to a third party for resolution. This voluntary system is frequently used in labor/management, insurance, and construction disputes.

Vocabulary

1. whereby	- посредством чего	- арқылы
2. to render	- докладывать	- жариялау, оқу
3. voluntary	- сознательный, добровольный	- саналы, өз еркімен
4. to involve	- вовлекать	- кірістіру
5. a panel	- список	- тізім
6. to alleviate	- облегчать	- жеңілдету
7. expeditions	- быстрый, скорый	- жылдам, жедел
8. backlog	- задолженность, невыполненные заказы	- қарыз, орындалмаған тапсырыстар
9. compulsory	- обязательный, принудительный	- міндетті

Answer the questions:

1. What is another form of civil dispute resolution that may be provided by the federal and state trial courts?
2. Who are arbitrators?
3. What system has Pennsylvania adopted in civil matters?
4. What do the courts do in case a party is dissatisfied with the result of the arbitration process?
5. Where is the voluntary system frequently used?

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