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ИНОСТРАННЫЙ ЯЗЫК (английский) В ЮРИСПРУДЕНЦИИ

методические указания для практической работы
по изучению дисциплины для студентов направления подготовки
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CONTENTS

1. LEXICAL AND TRANSLATION TRAINING:	
LAW EDUCATION.....	4
2. GRAMMAR SECTION.....	12

LAW EDUCATION

*Before reading task: comment on the following quote by Aristotle.
What does it mean? Why did he say so?*

“Law is reason free from passion” Aristotle

Text1. Read and translate

Why law? That's a question you're going to be asked over and over again if you are starting to think a career in law might be the one for you. You'll be answering it on work placement application forms, during mock interviews, at tutor meetings, when applying for courses, at scholarship interviews... the list goes on.

It has some variations – “why do you want to be a lawyer?” and “why do you think you're suited to a career in law?” – but it's basically the same question.

So if you are at school or college and thinking about a career in law, it's a good idea to start considering how you're going to answer it. And not just because you'd look stupid if you fluffed it.

Once you've worked out “why law”, you will find you can apply yourself to the process of achieving your goal in a more focused, determined and disciplined manner. When you're filling out application forms, you need to be structured and logical in your answers. A personal question – “why law?” – can feel somehow unexpected. It is easy to get into a muddle if you have not thought it through.

The first time I answered this question, I was applying for a mini-pupillage and had little legal experience. I wrote: “Law, being a vital component in the successful integration of people, impresses me with its in-built readiness to change in accordance with society. My answer was not a convincing enough argument and I

was unsuccessful as a result. How did I know that law is a dynamic professional environment within which to work? There was no proof to back it up.

Many different kinds of people succeed at the law, and the best answer really will depend on your personality. Law affects every part of our lives and it is really not difficult to find examples of that: driving a car, buying something from a shop, getting into a fight, being employed, renting a house... There is no right answer, just a convincing one.

There are some characteristics that your interviewers, tutors and employers will be expecting from you straight away, such as how good you might be with clients, how much commercial awareness you have, and what characteristics you can bring to a role. Work experience helps prove you are competent in these areas, and leaves you with a wealth of examples to talk about on application forms and during interviews.

Why law? To become a true professional you will answer this question again and again. Let's start just now.

At Oxford Law School

Task: *study the dialogue between a British and an overseas law student.*

Alexander: Frankly speaking, I can't get used to this University. No, it's not what I mean. I can't get used to the fact that I have to compare all the time the peculiarities of at least two different legal systems.

Robert: What exactly do you find unusual?

Alexander: Well, for example, a judge here is capable of "making law". I just can't comprehend it though I do understand that our systems are based on different legal

Александр: Откровенно говоря, я не могу привыкнуть к этому университету. Нет, это не то, что я имею в виду. Я не могу привыкнуть к тому, что вынужден все время сравнивать особенности, по крайней мере, двух различных правовых систем.

Роберт: Что именно ты находишь необычным?

Александр: Ну, например, судья может создавать закон. Я просто не могу это понять, хотя я действительно осознаю, что наши правовые системы основаны на

principles.

Robert: Yes, a judge must create a new law when an Act of Parliament makes no provision and there is no existing precedent for the case under consideration.

Alexander: I think a judge must experience a feeling of great responsibility doing it.

Robert: No doubt, as his decision will become a new precedent for other courts to follow in future. And mind that the doctrine of precedent is the essential feature of British Law.

Alexander: Don't you want to say that the role of Common Law is greater than that of Statutory Law?

Robert: No, I wouldn't say that. But Common Law still remains the basis of Law. But as to continental codes they get out of date too often. You should admit it.

Alexander: Yes, life changes, it dictates new rules and that's why the laws must also change not to become outdated. But what is worth discussing is the way they are changed. I'm sorry, I must be going

...

совершенно различных правовых принципах.

Роберт: Да, судья должен создать новый закон, когда нет постановления Парламента и нет прецедента по рассматриваемому делу.

Александр: Судья, должно быть, испытывает огромное чувство ответственности, делая это.

Роберт: Несомненно, т.к. его решение станет новым прецедентом, которому другие суды должны будут следовать в будущем. Ты должен помнить, что доктрина прецедента является существенной чертой Британского права.

Александр: Не хочешь ли ты сказать, что роль общего права более значима, чем роль статутного права?

Роберт: Нет, я бы так не сказал. Но Общее право все еще остается основой права. Что касается континентальных кодексов, то они слишком часто устаревают. Ты должен признать это.

Александр: Да, жизнь меняется, она диктует новые правила. Вот почему законы должны тоже меняться, чтобы не устаревать. Но, что стоит обсудить, так это то, как они изменяются. Прости, я спешу ...

Ex. 1. Find English equivalents to the following:

создавать, существенная черта, рассматриваемое дело, быть способным что-то делать, привыкнуть, необычный, понимать, стоять чего-то, постановление, по крайней мере, быть основанным, следовать чему-то, ответственность, устареть, особенность.

Ex. 2. Fill in the blanks with the appropriate derivatives form the box:

to interpret - interpretation

to operate - operation

to apply - application

to exaggerate - exaggeration

to interrupt - interruption

to regulate - regulation

1. If a particular law doesn't operate in society there of course must be good reason for that. Its _____ depends on various circumstances including those of social system itself, political situation and social trends.
2. Judge applies law. _____ of Law is backed by police and court system.
3. The law will be interrupted to interpret it for the particular case. _____ and _____ of law is made by judge in the Common Law system.
4. I am afraid he has exaggerated the importance of the event. His _____ makes it difficult to understand its actual impact.
5. It is the legal system that regulates relations between institutions of this kind and private individuals. These _____ make it possible to interact peacefully.

Ex. 3. Sum up the information you have learned from the dialogue making use of the following:

to get used to smth., peculiarity, to comprehend, to create, provision, precedent, responsibility, essential feature, to admit, to get out of date, to be worth doing smth.

Revision Translation

Task: translate into English.

Закон

Закон – нормативный акт, принятый высшим представительным органом государственной власти либо непосредственно волеизъявлением населения (референдумом). Закон регулирует наиболее важные общественные отношения. Закон как самостоятельный источник права сложился еще в древности и пришел на смену правовому обычаю.

Он обладает наибольшей юридической силой по отношению к нормативным актам всех иных органов государства. В то же время Закон может отменить любой иной нормативный акт. Любой правовой акт, противоречащий Закону, должен признаваться недействительным. Закон имеет особый порядок принятия - специальная

normative

directly

referendum

replaced

annul

inconsistent (with)

void

legislative

процедура: законодательная инициатива, обсуждение законопроекта, принятие и его опубликование.

Законы подразделяются на конституционные и обыкновенные. Обыкновенные законы считаются принятыми, если за них подано более 1/2 голосов депутатов. Эти законы, в свою очередь, делятся на кодификационные и текущие.

К числу кодификационных относятся основы законодательства государств, кодексы. Текущие законы регламентируют различные конкретные вопросы политической, хозяйственной и социально-культурной жизни общества.

ordinary

codified, current
fundamentals

regulate

Task 1

The different styles of training reflect the different worlds that the two kinds of lawyers live in, and also the different skills that they develop. Solicitors have to deal with the realities of the everyday world and its problems. Most of their work is done away from the courts. They often become experts in the details of particular areas of the law. Barristers, on the other hand, live a more rarefied existence. For one thing, they tend to come from the upper strata of society. Furthermore, their protection from everyday realities is increased by certain legal rules. For example, they are not supposed to talk to any of their clients, or to their client's witnesses, except in the presence of the solicitor who has hired them. They are experts on general principles of the law rather than on details, and they acquire the special skill of eloquence in public speaking. When they present a case in court, they, like judges, put on the archaic gown and wig which, it is supposed, emphasize the impersonal majesty of the law.

Task 2. Translate into English.

1. Американская юридическая система выросла в основном из английского общего права, но в области подготовки юристов и их работы имеются существенные различия.

2. Существует два вида юристов в Англии. Солиситоры занимаются правовыми вопросами своих клиентов, включая составление документов, таких как завещания, документов для развода и контрактов, представляют дела своих клиентов в магистратских судах. Солиситоры нанимают других юристов, барристеров для своих клиентов. Барристеры должны посещать одну из четырёх школ подготовки барристеров в Лондоне. После четырёх лет обучения барристеры сдают экзамены.

3. В США адвокаты не делятся на какие-либо категории, что не исключает их специализации по тем или иным вопросам и по видам деятельности. Для получения права на занятие адвокатской практикой в большинстве штатов необходимо сдать экзамены, организуемые судами. Во многих штатах для допуска к такому экзамену требуется диплом о высшем юридическом образовании. Лицо, допущенное после экзаменов к адвокатской практике, получает право выступать во всех судах данного штата. Для выступления в судах другого штата от адвоката требуется либо сдача нового экзамена, либо лишь получение соответствующего разрешения. Последнее правило распространяется и на федеральные суды.

Task 3. *Divide it into paragraphs. Compare the legal profession in Spain, the UK and the USA.*

Legal Profession in Spain

The practice of any legal profession in Spain requires a law degree at a Law School. After obtaining the law degree a Doctorate in Law provides specialization of knowledge in a certain area through lectures and seminars and the presentation of a thesis on a legal topic. The main legal professions in Spain are: lawyers, procurators, notaries, judges and magistrates, public prosecutors and professors. Lawyers carry on the advice and defense of public and private interests through the application of legal science and legal techniques. The rules and organization of the

profession of lawyers are stated at the “Estatuto General de la Abogachia Espacola”. It provides a definition of lawyer, its functions, rights and duties, the requirements to practice as a lawyer and the governing organisms of the legal profession. For the legal practice it’s necessary to be incorporated to the Bar Association. There is one Bar Association in each province and in major towns. Bar Associations are organized by the “Consejo General de la Abogacia Espasola”. Lawyers can settle their retributions but contingent fees are expressly prohibited. Unlike lawyers who give advice, procurators represent the parties in court through a power of attorney. They also receive and deliver documents from and to court. Notaries perform a public service conferring authenticity to documents. To develop their function they have a delegated power from the State. In this sense, they depend from the Ministry of Justice and they join the profession after passing an official examination.

Task 4: *read the dialogue and reproduce it a) abridged, b) in the form of a monologue.*

At the Exam

Professor: You know, the most important of the Queen’s Ministers is the Prime Minister. In his relation to the other Ministers he has been described by one well-known authority as being like the sun among the planets. Can you explain why?

Student: Well, as far as I remember, the Prime Minister is the Queen’s chief adviser. His opinions shape the policy of the Government. Besides he is the leader of the largest party.

Professor: Do you know the official title of the Prime Minister?

Student: No, I’m sorry, I don’t.

Professor: It is “Prime Minister and First Lord of the Treasury”. The Treasury is the department of the Government. It handles the nation’s money. This fact, as you can

see, proves that modern Premiers hold great power. And do you know who performs the real work of the treasury?

Student: If I'm not mistaken, it's the Chancellor of the Exchequer.

Professor: You are right. It is known that after a General Election the Queen asks the leader of the largest political party to form a Government and a Cabinet. Is there any rule deciding which departments should be represented in the Cabinet?

Student: I am sure, there isn't any rule. But usually the Prime Minister includes in his cabinet the Chancellor of the Exchequer and the Secretary of State for Foreign Affairs. It's important to mention that all ministerial appointments are made by the Prime Minister. He might appoint, dismiss and transfer to another Department. This shows how powerful he is.

Professor: Do you want to say that he doesn't need anybody's approval?

Student: No, I don't mean that. Before making his appointments the Prime Minister takes a list to the Queen and seeks her approval. The Queen may make suggestions.

Professor: Tell me, who can dissolve Parliament?

Student: As I see it, the Prime Minister can only advise the Queen to do it and she can accept advise only from him.

Professor: And the last question: what is the most important feature of the British form of government?

Student: Let me think... Well, I believe it's responsibility. All Ministers are responsible to Parliament, to the elected representatives of the ordinary people.

Professor: Very good. You know the subject. I am quite satisfied with your answer.

Task 5. *How is the following expressed in the dialogue? Translate into English*

1. power or right to control and command
2. that which a person thinks about something
3. to influence and determine the course
4. to deal with, control

5. a principle or order which guides behaviour
6. choosing of someone for a position, job
7. to sent away (from employment)
8. to move officially from one place, job to another
9. official permission
10. to end or break up

GRAMMAR SECTION

Grammar to be revised: *The Passive Voice*

Ex. 1. *Translate the sentences used in the Passive Voice. Ask and answer different types of questions working in pairs.*

1. The Law *is defined* as a set of rules which form the pattern of behaviour of a given society.
2. The Law *is based* upon the recorded experiences of society and the community in their efforts to define and regulate the relationships between their members.
3. In ancient times laws *were derived* from old customs and in some cases *were codified* by the order of a strong ruler, and then they became known under the ruler's name, like Hammurabi's Code of Laws or Justinian's Digest.
4. Though in many cases the names of ancient lawgivers *are unknown*, their teachings *have been known* to millions of people.
5. It seems that the Ten Commandments from the Bible *are known* to all people, both religious and non-religious.
6. Besides strictly religious commandments, there are those that *are* willingly *accepted* by most people: to show honour and devotion to our parents, not to murder, not to be unfaithful to our spouses, not to steal, not to bear false witness not to desire greedily anything that belongs to our neighbours.
7. The Koran *is considered* the most revered book among Muslims. The Koran is the basis of Islamic law, the Sharia.

8. Another ancient law the initiator of which *is unknown* is the law of the talion: an eye for an eye, a tooth for a tooth.
9. In Anglo-Saxon Law the death penalty *has been considered* a customary response to certain kinds of offence.
10. Nowadays legislators are members of legislature who *are empowered* to make, change or repeal the laws of the country or state and levy taxes.
11. Civil law system *is based* on Roman law and the French Napoleonic Code, the German and Swiss Codes.
12. In civil law countries legislation *is seen* as the primary source of law.

Ex. 2. *Express the same idea using the Passive Voice and translate the sentences into Russian.*

Model: The society *has established* **the criminal law** to maintain peace and order. (**The criminal law ...**)

The criminal law *has been established* to maintain peace and order.

1. A governing power *establishes* laws to maintain peace, secure justice for its members, define the legal rights of the individual and community, and to punish offenders for legal wrongs.
2. The civil law is the portion of the law which *defines* and *determines* the rights of the individual in protecting his person and his property.
3. The criminal law *protects* society and the community from the injurious and harmful acts of individuals.
4. People *use* the word 'law' to mean many things.
5. Generally we *use* the word 'law' to indicate all law and we also *use* it to mean a single enactment of a lawmaking body, a statute.
6. The criminal law *assures* a person charged with a crime of a fair and speedy trial.
7. Parliament *makes* laws, and they constitute parliamentary or statutory law.
8. In all societies prescriptive laws *regulate* relations between people.

9. Members of every community *have made* laws for themselves in self-protection.
10. The Law *embraces* all the spheres of production, distribution and exchange.
11. The Law *lays down* the measures for combating encroachment on the state system and the existing order of social relations.
12. We often *refer* to the law.

Ex. 3. Give answers to the following questions using the *Passive Voice*.

1. What were laws derived from in ancient times?
2. Are there any commandments in the Bible that are willingly accepted by most people? Why is it so?
3. Are all legislators' names remembered in history? In what cases are they remembered?
4. What principle is the Civil law of based on?
5. How are most legal systems classified?
6. What has the Common Law of England been developed from?
7. Why is the English system called the Common Law system? Is it applied throughout the country?
8. What law is used by the countries which were colonized at some time by Britain?
9. What is Civil Law system based on?
10. What are the judgments of courts in civil law countries based on?
11. Who are common law judges selected from?
12. What is the Muslim legal system based on? Do you know in what countries it is used?

Ex. 4. Choose the right verb from the box below and put it in the gap in the correct tense and voice form.

to draw up	to rediscover	to pass	to govern
to carve	to exhibit	to devise	to adopt
to set up	to lay down	to revise	to settle
to read	to cover	to make	to say
to lose	to observe	to conquer	to write

- One of the most detailed ancient legal codes _____ in about 1758 B.C. by Hammurabi, a king of Babylonia.
- The entire code, consisting of 282 paragraphs, _____ into a great stone pillar which _____ in the temple of the Babylonian god Marduk so that it could _____ by every citizen.
- The pillar _____ for centuries after the fall of Babylon in the 16th century B.C., and only in 1901 it _____ by a French archaeologist amid the ruins of the Persian city of Susa.
- The pillar _____ now in the Louvre museum in Paris.
- The laws which _____ by Hammurabi were more extensive than any that had gone before.
- Hammurabi's laws _____ crime, divorce and marriage, inheritance and property contracts, regulations about taxes and price of goods, the rights of slave owners and slaves, etc.
- The cruel principle of revenge: an eye for an eye and a tooth for a tooth _____ in the code.
- In the 7th century B.C. Greece's first written code of law _____ by Draco.
- Draco's laws were shockingly severe, so severe that people _____ they _____ not in ink but in blood.

10. Several decades _____ before Solon, a poet, a military hero and Athens' lawgiver _____ a new code of law.
11. Solon _____ every statute of Draco's code except that of homicide and _____ Athenian law altogether more humane.
12. Before England _____ by the Normans, different areas _____ by different systems of law, which _____ often from those of the various invaders who _____ there.

Ex. 5. Use the verbs given in brackets in the Passive Voice. Translate the sentences.

1. The laws which (to make) in Parliament (to interpret) and (to apply) by courts, but changes in the law itself (to make) in Parliament.
2. Appeals (to hear) by higher courts. Appeals from magistrates' courts (to hear) in the Crown Court.
3. The English legal system (to condition) by two basic concerns.
4. The law should (to administer) by the state so that it could (to apply) evenly over the whole country in order to satisfy its two main functions of control and service.
5. The principle of judicial independence (not to achieve) until 1701, when the Act of Settlement made judges irremovable from office, except by an appeal to the monarch from both Houses of Parliament.
6. Common law originally (to base) on medieval customs and conventions that (to establish) by the Norman kings.
7. Almost all criminal law now (to set out) in Acts of Parliament while the greater part of civil law still depends on common law and guidance of previous decisions.
8. Statutes which (to create) by Acts of Parliament are the ultimate source of law.
9. Parts of common law (to abolish) by Parliament and (to replace) by statute law.
10. Certain changes to the United Kingdom law (to make) to bring it in line with rulings of the Council of European Court of Human Rights.

11. The Napoleon's Code (*to establish*) in 1804 by the Emperor of France Napoleon Bonaparte.
12. The law systems of many countries (*to base*) on the Napoleon's Code.

Ex. 6. *Use the verbs either in the Active or Passive Voice.*

1. With few exceptions, judges never (*to like*) to see themselves as creators of laws regarding that as the province of Parliament.
2. However, over the centuries judges (*to be*) responsible for making a great deal of law, and senior judges still (*to do*) so. If not, how could the common law (*to develop*)?
3. The present British legal system (*to form*) the basis of the Judiciary – the third branch of government – and (*to comprise*) three separate systems – that for England and Wales, that for Scotland and that for Northern Ireland.
4. The law as a whole (*to consist*) partly of statutes, or Acts of Parliament, and partly of common law.
5. Modern statutes usually (*to bring*) into effect by an order made by a minister of the Crown.
6. By-laws are a form of local legislation and (*to design*) to regulate the conduct of members of public.
7. The County Courts (*to establish*) for hearing both criminal and civil cases.
8. Common Law (*to be*) fundamentally judge-made law which (*to develop*) over many centuries.
9. By 1250 a common law (*to promote*) and (*to rule*) the whole country.
10. The Queen (*to sign*) the bill and it (*to become*) an Act of Parliament after it (*to pass*) in the House of Commons and (*to adopt*) in the House of Lords.
11. The spheres of criminal and civil law (*to deal*) with many concepts and ideas that not always easily (*to understand*) by ordinary people.
12. The unwritten Law of England (*to make*) by judges and (*to base*) on cases of precedent. It (*to express*) the sound instincts of the people, the common sense

in human activity and social life.

Ex. 7. Translate into English.

1. При составлении законов должно соблюдаться равновесие между правами и обязанностями граждан, необходимостью порядка и соблюдением основных свобод.
2. В законах отражаются различные ценности общества.
3. Законы основываются на моральных, экономических, политических и социальных ценностях общества.
4. Бесплатное образование и медицинское обслуживание гарантированы законами многих стран.
5. С течением времени меняются социальные ценности, вслед за этим также изменяются законы.
6. Задолго до того, как европейцы поселились на Американском континенте, во многих племенах порядок поддерживался системой традиционных неписаных законов.
7. Взаимоотношения между отдельными людьми и группами людей регулируются гражданским правом.
8. Британскую Конституцию часто называют неписаной, так как она никогда не была записана в одном документе.
9. Термин “неписаный закон” употребляется для обозначения закона, который не принимался парламентом; “писаный закон” означает закон, который был принят парламентом.
10. Закон об уголовном праве 1967 г. считается одним из важнейших законов Великобритании. В этом законе дана новая классификация уголовных преступлений и отменено традиционное деление их на фелонии и мисдиминоры.