

# English for Lawyers 3

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# Criminal Law



(cont.)


# Criminal Procedure in England

Watch the video:


The Crown Court

[https://www.youtube.com/watch?v=tZYvv\\_s5R-s](https://www.youtube.com/watch?v=tZYvv_s5R-s)

Listen to the introduction by the judge and note the differences between trial at the magistrates' court and the Crown Court!



# The Crown Court

1. The judge's introduction
  2. Prosecuting barrister
  3. Defence barrister
  4. The judge – after evidence
  5. The jury
  6. Defence – after the verdict
  7. The judge – sentencing
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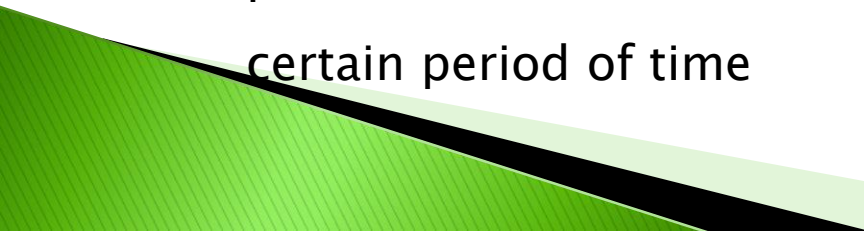
# Criminal procedure in England

- ▶ System of justice in common law systems is ADVERSARIAL
- ▶ civil law countries traditionally have the INQUISITORIAL system
- ▶ exercise 133/X
  - decide which system the features belong to

# Reaching a verdict

- ▶ Possible verdicts:
  - **conviction** (v. to convict)
    - finding the defendant guilty
  - **acquittal** (v. to acquit)
    - finding the defendant not guilty

# Available sentences

1. a discharge (conviction without punishment)
  2. a fine
  3. a community service order (doing unpaid work, receiving treatment for addictions, rehabilitation programmes, supervision)
  4. a custodial (prison) sentence
  5. a suspended prison sentence (probation) – prison sentence activated only if the convict reoffends within a certain period of time
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# Triable either way – pros

- ▶ Maximum prison sentence: 6 months for one offence, 12 months total
- ▶ Maximum fine: £5,000
- ▶ Juries find defendants not guilty more often than magistrates
- ▶ Harder to convince 10 jurors of guilt beyond reasonable doubt than 1–3 magistrates

Magistrate's court

Crown Court



# Practice

- ▶ Vocabulary exercises 131 /VII, VIII

# The Law of Torts




Unit 15

# The Law of Torts

- ▶ TORT – a civil wrong, often causing damage, unrelated to contractual obligations
- ▶ area of private law
- ▶ leads to private lawsuits filed by individuals
- ▶ POSSIBLE AIMS:
  - obtaining compensation for the damage,
  - discontinuing harmful behaviour
  - punishing the tortfeasor

# Torts v. crimes

- ▶ Consider what the differences between crimes and torts may be
  - ▶ Are there any similarities?
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# Torts v. crimes

- ▶ private claims
- ▶ compensation for the damage
- ▶ discontinuing tortious conduct

- ▶ matter of liability
- ▶ DAMAGES
- ▶ INJUNCTIONS

- ▶ prosecution
- ▶ punishment of offender
- ▶ fighting crime

- ▶ matter of guilt
- ▶ FINES
- ▶ IMPRISONMENT
- ▶ COMMUNITY SENTENCE

TORTS

CRIMES

# Torts vs. crimes

- ▶ some torts can also be prosecuted as crimes
- ▶ different standard of proof and different outcome of trial
  - a case may fail in a criminal court but be successful as a civil claim
  - the trial of O .J. Simpson

# Regulation of torts

- ▶ no single code regulating torts
- ▶ most torts found in case law
- ▶ a possible classification:
  - torts against land
  - torts against civil liberties
  - negligence
- ▶ some also single out 'business torts'

# Torts against land


- ▶ trespass to land
- ▶ nuisance



# Trespass to land

- ▶ unlawful invasion or direct interference with the land of another, whether intentional or negligent
- ▶ entry or stay without permission on someone's land or property built on the land


*Q: Think about some ways in which trespass may be committed!*



# Trespass to land

- ▶ may be committed by:
  - entering another's land or property without permission
  - placing objects on another's land
  - staying in another's property where there is a dispute as to title (right of ownership, lease)
  - remaining in a rented property after a lease has expired

# Trespass to land

- ▶ trespass is actionable per se – no damage done to the property is required for legal action to be taken
  - ▶ usual remedies:
    - DAMAGES – to compensate for the damage done or to punish the trespasser
    - INJUNCTION – to remove the trespasser from the land or property
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# Nuisance

- ▶ indirect interference with another's use and enjoyment of land
- ▶ a continuous disturbance, which results in damage
- ▶ usually comes from a neighbouring property
- ▶ neighbour's rights of use and enjoyment of land
- ▶ a balance of competing interests must be struck
- ▶ *Q: How can nuisance be committed? Is it always actionable?*

# Nuisance

- ▶ often caused by harmful emissions from a neighbouring:
  - *noise*
  - *light*
  - *vibrations*
  - *smells*

# Nuisance

- ▶ usual remedies:
    - DAMAGES – to compensate for the damage suffered
    - INJUNCTION – to discontinue the disturbance
  - ▶ nuisance is not actionable per se
  - ▶ proof of damage is required
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# Torts affecting civil liberties


- ▶ trespass to the person
  - battery
  - assault
  - false imprisonment
  
- ▶ defamation
  - libel
  - slander

# Battery and Assault


- ▶ battery
  - unlawful contact with the body of the claimant
- ▶ assault
  - intentional and direct causing of apprehension and anticipation of battery
- ▶ *Q: Think of ways in which battery and assault may be committed! Can you think of behaviours which may be similar to battery and assault but not actionable?*



# Battery and Assault

- ▶ assault – there must be active threatening behaviour
  - ▶ battery – any unlawful contact with the body, does not have to include force or violence (e.g. medical treatment to which a patient has not consented)
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# False Imprisonment

- ▶ unlawful deprivation of someone's freedom of movement
  - ▶ *Q: Think of ways false imprisonment may be committed!*
  - ▶ unlawful arrest
  - ▶ unlawful prevention of movement from or into an area
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# Trespass against the person

- ▶ usual remedy:
  - damages – to compensate for the physical/emotional pain and suffering

# Defamation

- ▶ making false statements about another person which may harm their reputation
- ▶ LIBEL
  - in a permanent form (print, broadcast, posting on the Internet, etc.)
- ▶ SLANDER
  - in a transitory form (spoken word)

# Defamation

- ▶ libel is actionable per se, while in slander there must be proof of damage
  - ▶ information contained within defamatory statements must be false
  - ▶ truth is a defence against defamation
  - ▶ context of the statement very important
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# Defamation

- ▶ possible remedies:
  - damages – to compensate for the pain and suffering
  - injunction – to prevent publication (rarely effective as claims are filed after publication), to withdraw a statement/publication

# Defamation

- ▶ exceptional damages:
  - nominal damages
    - no or hardly any actual damage was suffered so the amount is symbolic (GBP 1)
  - exemplary damages
    - awarded by juries to punish the tortfeasor and express their contempt for the defamatory act

# The Law of Torts

- ▶ Do exercise IV, V, VI and VII
- ▶ DISCUSSION
  - analyze the cases in exercise VIII with a partner
  - discuss in class



**Thank you for your attention!**

