UNIVERSITY OF CAMBRIDGE INTERNATIONAL EXAMINATIONS
General Certificate of Education
Advanced Subsidiary Level and Advanced Level

LAW **9084/23**

Paper 2 Data Response **May/June 2012**

1 hour 30 minutes

Additional Materials: Answer Booklet/Paper

9904419214

READ THESE INSTRUCTIONS FIRST

If you have been given an Answer Booklet, follow the instructions on the front cover of the Booklet.
Write your Centre number, candidate number and name on all the work you hand in.
Write in dark blue or black pen.
You may use a soft pencil for any diagrams, graphs or rough working.
Do not use staples, paper clips, highlighters, glue or correction fluid.

Answer **one** question.

At the end of the examination, fasten all your work securely together.
The number of marks is given in brackets [ ] at the end of each question or part question.

This document consists of **3** printed pages and **1** blank page.

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Answer **either** Question 1 **or** Question 2.

You should make appropriate reference to the source material supplied for each question.

1 **(a)** Bert is a taxi driver who is stopped by the police whilst driving his taxi in Oxford Street. Under the driver's seat the police find a kitchen knife with a 15-centimetre (6-inch) blade. Bert explains that he has recently been robbed and he carries it with him in case he is attacked by violent passengers.

Explain whether an offence has been committed by Bert. [10]

(b) Rambo's house has been raided by the police after a call from a member of the public suggesting he has stolen goods on the premises. They find a machete in his bedroom. (A 'machete' is a broad, heavy knife.)

Explain whether an offence has been committed by Rambo. [10]

(c) The police are called to a public house following a fight. Lamb is arrested and searched. The police find a large knife in his pocket. He says that he is a butcher and takes the knife home with him from work because it is valuable.

Explain whether an offence has been committed by Lamb. [10]

(d) Consider the reasons why a defendant may choose to opt for trial by jury in the Crown Court as opposed to trial in the Magistrates' Court. [20]

Source material

Criminal Justice Act 1988

s.139
(1) Subject to subsections (4) and (5) below, any person who has an article to which this section applies with him in a public place shall be guilty of an offence;
(2) Subject to subsection (3) below, this section applies to any article which has a blade or is sharply pointed except a folding pocketknife;
(3) This section applies to a folding pocket knife if the cutting edge of its blade exceeds 3 inches;
(4) It shall be a defence for a person charged with an offence under this section to prove that he had a good reason or lawful authority for having the article with him in a public place;
(5) Without prejudice to the generality of subsection (4) above, it shall be a defence for a person charged with an offence under this section to prove that he had the article with him –
(a) for use at work;
(b) for religious reasons; or
(c) as part of any national costume.
(6) …
(7) In this section 'public place' includes any place to which at the material time the public have or are permitted access, whether on payment or otherwise.

Evans v Hughes [1972]
'…It may be a reasonable excuse for the carrying of an offensive weapon that the carrier is in anticipation of imminent attack and is carrying it for his own personal defence, but what is abundantly clear to my mind is that this Act never intended to sanction the permanent or constant carriage of an offensive weapon merely because of some constant or enduring supposed or actual threat to the carrier…'

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2 **(a)** Karen and Matthew are at school and are both aged 16. They wish to marry and decide to save up money from their part-time jobs and go to another part of England to get married.

Consider whether the law would recognise their marriage. [5]

(b) Sandi and Roy are both at school. Sandi is aged 15 and Roy is aged 17. Their parents have agreed to give their consent.

Consider whether the law would recognise their marriage. [5]

(c) Tony and Cher met recently. Cher was married when she was very young but she has not seen her husband for over twenty years. She would like to marry Tony.

Consider whether their marriage would be valid. [10]

(d) Maryam is aged 18. Her parents want her to marry Sami. Maryam is a very shy girl. She does not want to get married and wants to go to university to study engineering. She has very few friends and no money. Her parents tell her if she does not marry Sami they will throw her out of their house. She is forced to marry him.

On what grounds would it be possible to argue that the marriage was voidable? [10]

(e) Discuss the alternative ways to deal with the financial affairs of the parties when a marriage breaks down. [20]

Source material

Matrimonial Causes Act 1973

s.11
Parties have the capacity to marry if:
(a) they are not within the prohibited degrees of relationship;
(b) they are both over the age of 16;
(c) neither of them is already married; and
(d) one of them is male and the other is female.

Prohibited degrees of relationship means that they must not be too closely related such as a brother marrying a sister.

s.12
A marriage celebrated after 31 July 1971 shall be voidable on the following grounds only, that is to say –

(c) that either party to the marriage did not validly consent to it, whether in consequence of duress, mistake, unsoundness of mind or otherwise;

Marriage Act 1949
Where a party to a marriage is under the age of 18 consent to a marriage must be given either by a parent or anyone with parental responsibility or a guardian. Consent can be dispensed with if the parent is absent, inaccessible or suffers from a disability.

Hirani v Hirani [1983]
The petitioner had entered into an arranged marriage with a man she had never met because her parents threatened to throw her out of the house if she did not go ahead with the ceremony. The Court of Appeal held, granting the decree of nullity that there is no requirement that a threat to life and limb or liberty had to be proved. The test for duress was a subjective test. The question to be asked was whether the particular petitioner, taking into account his or her personal qualities, had submitted to the duress. On the facts, it was held that the petitioner's will had been overborne and she had therefore never consented to the marriage freely.

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