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

LAW **9084/21**

Paper 2 Data Response **May/June 2013**

1 hour 30 minutes

Additional Materials: Answer Booklet/Paper

1277005476

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)** Consider the following situations and with reference to the source material consider whether an offence has been committed in each case.

(i) Alex enters a shop and says to the shop assistant Mr Syed: 'Give me £100 or I will burn your house down.' Mr Syed hands over the money and Alex leaves the shop. [10]

(ii) Bella and Cara enter Barchester Post Office and take £100 from the cash register. They then tie up the manager, Mr Asif, to prevent him from contacting the police and run away. [10]

(iii) Shortly afterwards Dee enters Barchester Post Office and finds Mr Asif tied to a chair. She takes his wallet from his pocket and leaves. [10]

(b) If any or all of the above are convicted of an offence, what rights of appeal would each of them have? Critically assess the rights of appeal available to those convicted of indictable offences. [20]

Source Material

Theft Act 1968

s.1 (1) A person is guilty of theft if he dishonestly appropriates property belonging to another with the intention of permanently depriving the other of it.

s.8 (1) A person is guilty of robbery if he steals, and immediately before or at the time of doing so, and in order to do so, he uses force on any person or puts or seeks to put any person in fear of being then and there subjected to force.
(2) A person guilty of robbery, or of an assault with intent to rob, shall on conviction on indictment be liable to imprisonment for life.

R v Harris The Times March 4th 1988

A defendant has not committed robbery if that person has taken advantage of a person who has already been rendered powerless by others, for instance having already been tied up by them, and the defendant has not been involved in these actions.

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2 Samuel is a multi-millionaire. He wants to avoid paying too much tax so he creates a trust. He transfers half his money to the 4 trustees Kiran, Leila, Mandeep and Nina to be held for his children, who are all under 18 years of age. He would now like to replace 2 of the trustees and he wishes to know if he can do so. Kiran left England to live in France a year ago but returned to England for a day during that period for a family wedding. Mandeep has been suffering difficulties in her business recently and was declared bankrupt last month.

(a) Advise Samuel on the following issues.

(i) Can Kiran be replaced as a trustee? Explain your reasons. [10]

(ii) Can Mandeep be replaced as a trustee? Assess any potential difficulties in doing so. [10]

(iii) If Kiran or Mandeep could be replaced, who would appoint the replacement trustees? Explain your reasons. [10]

(b) Assess the contribution made by Equity to the development of English law. [20]

Source Material

Trustee Act 1925

s.36 (1)
Where a trustee…whether appointed by a court or otherwise is dead, remains out of the United Kingdom for more than twelve months, or desires to be discharged from all or any of the trusts or powers reposed in or conferred on him, or refuses or is unfit to act therein, or is incapable of acting… then, subject to the restrictions imposed by this act on the number of trustees –

(a) The person or persons nominated for the purpose of appointing new trustees by the instrument, if any, creating the trust; or
(b) If there is no such person or no such person able and willing to act then the surviving or continuing trustees or trustee for the time being…

may, by writing, appoint one or more other persons…to be trustee.

Re Walker [1901]

There was no power to replace a trustee where a trustee had been out of the United Kingdom for more than twelve months but had returned to the United Kingdom for any time even where it was as short as a month.

Re Wheeler and De Rochow [1896]

It was held that bankruptcy made a trustee unfit to act but not incapable of acting. It was accepted that bankruptcy should not always make a trustee unfit particularly if no moral blame attaches to the bankrupt trustee.

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