Cambridge International AS & A Level

Cambridge International Examinations
Cambridge International Advanced Subsidiary and Advanced Level

LAW **9084/22**

Paper 2 Data Response **May/June 2015**

1 hour 30 minutes

Additional Materials: Answer Booklet/Paper



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.
Do not use staples, paper clips, 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 **5** printed pages and **3** blank pages.

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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 Fernando Grant is a famous movie star represented by Global Movie Agency (GMA). GMA earns considerable fees from his movie and advertising work.

Hassan and Maggie are two journalists who meet for lunch. They are discussing Fernando's new movie and Hassan tells Maggie he has heard that Fernando has had cosmetic surgery on his face. Maggie has known Hassan for many years and the information he has given her in the past has always been true. Maggie uses what Hassan has told her about Fernando in an article that she writes for 'Top Star', the celebrity magazine she edits.

Fernando loses a skincare advertising deal because the skincare company will not use someone who has had cosmetic surgery in their advertising campaigns. GMA loses 20% of its profits because Fernando now gets less work and GMA sues Blackbird Press, who own 'Top Star' magazine.

Fernando has not had cosmetic surgery.

(a) Explain how the Defamation Acts 1996 and 2013 will apply to Hassan. [10]

(b) Explain how the Defamation Acts 1996 and 2013 will apply to Maggie. [10]

(c) Explain how the Defamation Acts 1996 and 2013 will apply to Blackbird Press. [10]

(d) Explain why laws need to be reformed **and** critically assess the effectiveness of the role played by bodies other than Parliament and the judges who undertake law reform. [20]

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Source Material

Defamation Act 1996

Section 1 Responsibility for publication

(1) In defamation proceedings a person has a defence if he shows that—
  (a) he was not the author, editor or publisher of the statement complained of,
  (b) he took reasonable care in relation to its publication, and
  (c) he did not know, and had no reason to believe, that what he did caused or contributed to the publication of a defamatory statement.

(2) For this purpose "author", "editor" and "publisher" have the following meanings, which are further explained in subsection (3)—
  - "author" means the originator of the statement, but does not include a person who did not intend that his statement be published at all;
  - "editor" means a person having editorial or equivalent responsibility for the content of the statement or the decision to publish it; and
  - "publisher" means a commercial publisher, that is, a person whose business is issuing material to the public, or a section of the public, who issues material containing the statement in the course of that business.

Defamation Act 2013

Section 1 Serious harm

(1) A statement is not defamatory unless its publication has caused or is likely to cause serious harm to the reputation of the claimant.

(2) For the purposes of this section, harm to the reputation of a body that trades for profit is not "serious harm" unless it has caused or is likely to cause the body serious financial loss.

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2 **(a)** Carla owns a horse which she thinks will win a big race. Carla is in bed the night before the race when she hears noises. Looking out into the dark, Carla sees someone leading the horse out of its field. Carla runs out of the house, picking up a spade as she goes. As the person comes towards Carla, she hits them several times on the head with the spade. The person collapses and Carla can see that it is Fred, one of her employees, who is moving the horse ready to take it to the race.

Explain how the law of self-defence will apply to Carla. [10]

(b) Annabelle is holding a big party but she is anxious because her house was burgled last week. She drinks more than a bottle of wine and stumbles into the kitchen to get some water. Annabelle sees a man, Leroy, looking in a cupboard. As Leroy turns round, Annabelle grabs a knife and stabs him to death thinking he is going to attack her. In fact Leroy is a guest at the party looking for some coffee.

Explain how the law of self-defence will apply to Annabelle. [10]

(c) Boris is working late at his office. He hears a noise and goes into the next office where he finds Sergei taking documents from a safe by torchlight. Sergei runs at Boris. Boris punches Sergei to the ground. Boris sits on Sergei to stop him escaping and calls the police. Sergei struggles and two of his ribs are cracked from Boris sitting on him.

Explain how the law of self-defence will apply to Boris. [10]

(d) Describe the criminal justice process as it is applies to triable either way offences, including any appeals. Critically assess the effectiveness of the process. [20]

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Criminal Justice and Immigration Act 2008

Section 76 Reasonable force for purposes of self-defence

(3) The question whether the degree of force used by D* was reasonable in the circumstances is to be decided by reference to the circumstances as D believed them to be, and subsections (4) to (8) also apply in connection with deciding that question.

(4) If D claims to have held a particular belief as regards the existence of any circumstances—
  (a) the reasonableness or otherwise of that belief is relevant to the question whether D genuinely held it; but
  (b) if it is determined that D did genuinely hold it, D is entitled to rely on it for the purposes of subsection (3), whether or not—
    (i) it was mistaken, or
    (ii) (if it was mistaken) the mistake was a reasonable one to have made.

(5) But subsection (4)(b) does not enable D to rely on any mistaken belief attributable to intoxication that was voluntarily induced.

(6) The degree of force used by D is not to be regarded as having been reasonable in the circumstances as D believed them to be if it was disproportionate in those circumstances.

(7) In deciding the question mentioned in subsection (3) the following considerations are to be taken into account (so far as relevant in the circumstances of the case)—
  (a) that a person acting for a legitimate purpose may not be able to weigh to a nicety the exact measure of any necessary action; and
  (b) that evidence of a person's having only done what the person honestly and instinctively thought was necessary for a legitimate purpose constitutes strong evidence that only reasonable action was taken by that person for that purpose.

Crime and Courts Act 2013

Section 43 Use of force in self-defence at place of residence

(5A) In a householder case, the degree of force used by D is not to be regarded as having been reasonable in the circumstances as D believed them to be if it was grossly disproportionate in those circumstances.

(8A) For the purposes of this section "a householder case" is a case where—
  (b) the force concerned is force used by D while in or partly in a building, or part of a building, that is a dwelling …..,
  (c) D is not a trespasser at the time the force is used, and
  (d) at that time D believed V† to be in, or entering, the building or part as a trespasser.

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* the defendant
† the victim

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