Cambridge International AS & A Level

Cambridge International Examinations
Cambridge International Advanced Subsidiary and Advanced Level

LAW **9084/23**

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.
You may use a soft pencil for any diagrams, graphs or rough working.
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 **(a)** Oleg owes money to a local criminal who has threatened to hurt him if it is not repaid. Feeling desperate, Oleg goes to his local shop to steal some money. Just as he is about to go into the shop, a police car drives by. Oleg is so frightened that he goes home.

Consider whether attempted theft has been committed by Oleg. [10]

(b) Anna is very upset when she discovers that her husband, Ben, has been having a secret relationship with her neighbour, Carole. Anna bakes some cakes and puts a lot of poison in them. She gives the cakes to Carole, who eats one straight away. An hour later, Anna sees an ambulance at Carole's house. The next day, Anna finds out Carole is dangerously ill in hospital.

Consider whether attempted murder has been committed by Anna. [10]

(c) Francois is in a cafe when his brother, Pierre, offers to sell him the latest smartphone for £100. Francois asks Pierre why the phone is so cheap and Pierre says, 'Don't ask questions'. Francois knows such a phone normally costs £500 but he pays Pierre £100. The next day, feeling guilty, Francois takes the phone to a police station. The police say there is no record of the phone being stolen.

Consider whether attempted handling of stolen goods has been committed by Francois. [10]

(d) Critically discuss the role of distinguishing and the Practice Statement in the application of precedent. [20]

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Source Material

Criminal Attempts Act 1981

(1) If, with intent to commit an offence to which this section applies, a person does an act which is more than merely preparatory to the commission of the offence, he is guilty of attempting to commit the offence.

(2) A person may be guilty of attempting to commit an offence to which this section applies even though the facts are such that the commission of the offence is impossible.

(3) In any case where—
   (a) apart from this subsection a person's intention would not be regarded as having amounted to an intent to commit an offence; but
   (b) if the facts of the case had been as he believed them to be, his intention would be so regarded, then, for the purposes of subsection (1) above, he shall be regarded as having had an intent to commit that offence.

R v Gullefer (1990)

G had placed an £18 bet on a greyhound race. Seeing that his dog was losing, he climbed onto the track in front of the dogs, waving his arms and attempting to distract them, in an effort to get the stewards to declare 'no race', in which case he would get his stake back. G was unsuccessful in this endeavour but he was prosecuted for attempted theft and convicted. The Court of Appeal quashed his conviction. G's act was merely preparatory. In order to have 'embarked on the crime proper' the Court thought that G would have to go to the betting office and demand his money back.

R v Shivpuri (1987)

S was arrested by customs officers while in possession of a suitcase which he believed to contain prohibited drugs. After his arrest he told the officers that he was dealing in prohibited drugs. However, on analysis, the substance in the suitcase was found to be not drugs but harmless vegetable matter. S was charged under the Criminal Attempts Act 1981 with attempting to commit the offence of being knowingly concerned in dealing with and harbouring prohibited drugs. S was convicted of both offences and the convictions upheld by the House of Lords.

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2 **(a)** Kofi was 17 years old on 20 December 2003 when he killed his father during a fight to stop his father attacking his mother. Kofi's trial took place in December 2004 and he was convicted of murder when he was 18 years old.

Explain the sentence Kofi was likely to have received. [10]

(b) In June 2012 Sarah was 21 years old and was desperate for money as her learning difficulties meant that she could not keep a job. Sarah broke into a house where Florence, an 80 year old lady, was in the kitchen. Sarah tied Florence up and hit her on the head with a heavy pan several times. Florence died of her injuries and Sarah was convicted of her murder.

Explain the sentence Sarah was likely to have received. [10]

(c) In May 2010, when Udoka was 30 years old, he put a petrol bomb through the letter box of Amir's house in the middle of the night. Amir was not at home. The next day Udoka followed Amir and another man to the local park. Udoka stabbed and killed both men with a knife that he always carried. Unknown to Udoka, the man with Amir was an off-duty plain clothes police officer. Udoka was convicted of two counts of murder.

Explain the sentence Udoka was likely to have received. [10]

(d) Describe the sentences given to adult offenders **and** critically analyse the theories which lie behind those sentences. [20]

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Source Material

CPS guidelines based on Schedule 21 Criminal Justice Act 2003

This Schedule applies to murders committed on or after 18th December 2003.

Paragraph 4 – whole life order. Paragraph 4(2) lists these factors:

- two or more victims involving specified aggravating features
- murder of child involving abduction, sexual or sadistic motivation
- murder for political, religious or ideological cause
- previous conviction for murder

Paragraph 5 – minimum term of 30 years. Paragraph 5(2) lists these factors:

- murder of a police or prison officer in the course of duty
- involving use of a firearm or explosive
- for gain, such as robbery, burglary or for payment
- intended to obstruct or interfere with the course of justice
- involving sexual or sadistic conduct
- murder of two or more persons
- racially or religiously aggravated or aggravated by sexual orientation
- murder falling within paragraph 4(2) by an offender aged under 21

Paragraph 5A – minimum term of 25 years, if aged 18 or over, and bring knife or other weapon (not including firearm or explosive) to the scene intending to commit any offence or have it as a weapon and use that weapon to commit murder (does not apply to a sentence for a murder committed before 2 March 2010).

Paragraph 6 – otherwise, if aged 18 or over at date of offence, minimum term of 15 years

Paragraph 7 – if under 18 years at date of offence, minimum term of 12 years

Paragraph 10 – lists some additional aggravating factors:

- significant planning or premeditation
- victim particularly vulnerable due to age or disability
- mental or physical suffering inflicted on victim before death
- abuse of a position of trust
- duress or threats against another to facilitate commission of offence
- victim providing a public service or performing a public duty
- concealment, destruction or dismemberment of the body

Paragraph 11 – lists some mitigating factors:

- intention to cause serious bodily harm only
- lack of premeditation
- offender suffering from mental disorder or disability
- provocation not amounting to a defence of provocation
- offender acting to any extent in self-defence
- belief by the offender that the murder was an act of mercy
- offender's age

If the defendant is aged under 18 then the minimum term whether it falls within Paragraph 4 or 5 or not is 12 years.

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