Cambridge International AS & A Level

Cambridge International Examinations
Cambridge International Advanced Subsidiary and Advanced Level

LAW **9084/22**

Paper 2 Data Response **May/June 2016**

1 hour 30 minutes

No Additional Materials are required.



READ THESE INSTRUCTIONS FIRST

An answer booklet is provided inside this question paper. You should follow the instructions on the front cover of the answer booklet. If you need additional answer paper ask the invigilator for a continuation booklet.

Answer **one** question.

The number of marks is given in brackets [ ] at the end of each question or part question.

This document consists of **5** printed pages, **3** blank pages and **1** insert.

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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)** Saratu, aged 40, is unemployed and living in York. She makes money by stealing mobile phones from tourists. Saratu watches for tourists who are using their phones. She approaches an elderly female tourist from behind and knocks her off balance. As the tourist is regaining her balance, Saratu steals her phone. Saratu is arrested, pleads guilty and is subsequently convicted of robbery.

Explain how the Sentencing Council guidelines will apply to Saratu. [10]

(b) Yasmin, aged 25, is a regular customer at a local hair salon. One day, whilst having her hair cut, she sees the owner placing cash in a box under the counter. That night, Yasmin breaks in wearing a mask and carrying a hockey stick. Yasmin finds the box and is putting the cash into a bag when the salon owner, who was asleep upstairs, suddenly appears. Yasmin knocks the owner out with the hockey stick and escapes with £2000. Yasmin is arrested, pleads not guilty, but is subsequently convicted of robbery.

Explain how the Sentencing Council guidelines will apply to Yasmin. [10]

(c) Shane, aged 38, and his 17 year old son, Gary, are walking past a shop and they see the elderly owner alone inside. Shane tells Gary to wait outside and to shout if anyone comes along. Shane enters the shop and threatens the owner with a knife. As the owner hands over £500 Gary shouts that the police are coming.

Shane and Gary are arrested at the scene. They plead not guilty but are later convicted of robbery. At the trial, Gary says he has never been in trouble before, had no idea what was going to happen and is very sorry.

Explain how the Sentencing Council guidelines will apply to Gary. [10]

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

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Source Material for Question 1

Sentencing Council Guidelines for Robbery 2006

Types of robbery

1. Street robbery or “mugging”.
2. Robberies of small businesses.

Aggravating Factors

- More than one offender or gang.
- Substantial gain – intended or obtained.
- Injury caused to victim.
- Offence was pre-planned.
- Wearing a disguise.
- Offence committed at night.
- Vulnerable victim targeted.
- Targeting of large sums of money or valuable goods.
- Possession of a weapon that was not used.

Mitigating factors

- Unplanned / opportunistic.
- Peripheral involvement.
- Clear evidence of remorse.
- Ready co-operation with the police.

Offence includes the threat or use of minimal force and removal of property

Adult sentence starting point:	12 months detention
Adult sentencing range:	Up to 3 years detention
Youth sentence starting point:	Community Order
Youth sentencing range:	Community Order – 12 months detention and training order

Offence where a weapon is produced and used to threaten, and/or force is used which results in injury to the victim

Adult sentence starting point:	4 years detention
Adult sentencing range:	2–7 years detention
Youth sentence starting point:	3 years detention
Youth sentencing range:	1–6 years detention

Youth sentence starting point is based upon a first-time offender aged 17 years old who pleaded not guilty.

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2 **(a)** Yuri has borrowed £500 from Mikhail that he cannot pay back. Yuri asks for more time to pay but Mikhail says bad things will happen to Yuri's family if he does not repay the £500 plus £100 interest within a week. The day before the money is due Yuri is desperate as he knows that Mikhail has a violent reputation. Yuri breaks into a neighbour's house and steals £600 which he gives to Mikhail.

Explain how the defence of duress will apply to Yuri. [10]

(b) Qi, who is 21 years old and has just become a father, sees his friend Wang running out of a house carrying a big bag. The following day, Qi sees on the news that a burglary was carried out at the same house.

Wang is arrested and charged with burglary. The police call Qi as a prosecution witness. Before the trial, one of Wang's friends, Lee, says to Qi that if he tells the truth he will not see his child's first birthday. When Qi gives evidence, he sees Lee in court so Qi lies on oath and Wang is acquitted.

Explain how the defence of duress will apply to Qi if he is later charged with perjury. [10]

(c) Carol, aged 16, lives with her mother, Suki, and her father Frank. For many years Frank has been very violent towards Suki. After another violent attack, Suki and Carol leave home. Frank tells Suki he will always find her and that she is not safe as long as he is alive. Suki is still very upset and is constantly in fear.

Carol resolves to kill Frank and goes to his house with a knife. He is asleep when Carol quietly enters the house. Carol stabs Frank in the chest but he survives.

Explain how the defence of duress will apply to Carol. [10]

(d) Describe the elements of judicial precedent and critically analyse the ways judges can avoid it using case law to support your answer. [20]

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Source Material for Question 2

R v Hasan [2005]

The elements of the defence of duress by threats are:

A specified crime;
An immediate threat;
A threat of death or serious injury;
A threat of violence to the defendant or a person for whom he has responsibility;
A threat so great as to overbear the ordinary powers of human resistance.

R v Hudson & Taylor [1971]

H and T, aged 17 and 19, witnessed a fight in a pub. They were called to give evidence against one of those involved and had been threatened several times before the trial with violence if they gave evidence against the defendant. On the day of the trial the person making the threats was in the public gallery and stared menacingly at the appellants. The appellants lied in court and were later charged with perjury. The trial judge held that the defence of duress was not open to the jury – the threat was not of immediate violence as the threat was made in a court room and thus could not be carried out immediately. The jury convicted so H and T appealed. The appeal was allowed and the convictions were quashed.

R v Graham [1982]

1. The defendant must have a reasonable belief in the circumstances;
2. This belief must have led the defendant to have a good cause to fear death or serious injury would result if he did not comply; and
3. A sober person of reasonable firmness, sharing the characteristics of the defendant, might have acted as the defendant did.

R v Howe & Bannister [1987]

Howe & Bailey both aged 19 and Bannister aged 20, were acting under orders of Murray aged 35. The charges related to two murders and one conspiracy to murder. It was held that the defence of duress was not available for murder and the obiter dicta stated that the defence should not be available to one who attempts murder.

R v Cole [1994]

C borrowed some money from D, a money lender charging a very high rate of interest. D threatened C and his girlfriend with serious violence unless he repaid the money. C robbed several building societies in order to repay the money. He raised the defence of duress. The defence was unsuccessful and C's conviction was upheld. There was not a sufficient connection between the threat and the crime. D did not tell C to commit a crime to repay the money.

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