UNIVERSITY OF LONDON

DIPLOMA IN LAW
DIPLOMA IN THE COMMON LAW
LLB

ALL SCHEMES AND ROUTES

BSc DEGREES WITH LAW

Common Law Reasoning and Institutions

Monday 13 May 2013: 10.00 – 13.15

Candidates will have fifteen minutes during which they may read the paper and make rough notes ONLY in their answer books. They then have the remaining THREE HOURS in which to answer the questions.

Candidates must answer the COMPULSORY question in Part A and THREE from the SEVEN questions in Part B.

NOTE: Candidates may detach The Crime and Community Security Act 2010 (a fictitious Act) on pages 5 and 6 of this question paper for ease of reference in answering Question 8.

Candidates should answer all parts of a question unless otherwise stated.
PART A

Candidates must answer this **COMPULSORY** question.

1. (a) Answer all questions.
   
i. On which freely available website can you discover the stage a bill has reached in its passage through Parliament?
   
ii. What is the name given to the type of citation given in this example: *R v James* [2006] EWCA Crim 14?
   
iii. What information will you find in the headnote of a case report?
   
iv. On which freely available website would you find Consultation Papers?
   
v. What does the abbreviation Q.B. stand for in this citation: *R v James* [2006] Q.B. 588?

   *(5 marks)*

(b) Answer all questions.
   
i. On which of the six topics was the essay which you submitted via the VLE? Why did you chose that question and what was your initial understanding of what you had to do to produce a good piece of work? How did you understanding of the process develop?
   
ii. Explain how you found source material and what problems you encountered. Rank your five most important sources in terms of their authority and ease of understanding.
   
iii. Outline your conclusions and explain the extent that they derive from specific sources you have identified.
   
iv. Offer a self-critique of your essay: what is the strongest aspect and what is the weakest?

   *(20 marks)*
PART B

2. ‘The genius of the doctrine of precedent is constrained flexibility. It allows the courts to respond to broader historical and institutional developments in and outside the legal system, as well as providing guidelines for judicial law making.’

Discuss

3. ‘Article 6 of the European Convention on Human Rights is revolutionary. It has completely redefined the way in which the common law approaches fairness in criminal and civil proceedings.’

Discuss.

4. ‘The basic premise of the democratic idea is the guarantee of the basic values of liberty and justice for all and respect for human rights and fundamental freedoms. This is enshrined in the Human Rights Act 1998... The guarantor of those rights is and can only be an active but independent, neutral, and impartial judiciary.’

Discuss.

5. ‘Court proceedings have processes and outcomes that cannot be met by alternative dispute resolution: a just and effective system will have both court proceedings and ADR in balance.’

Discuss.

6. EITHER

(a) ‘While defenders of the jury look to its symbolic role, those who wish it reformed look to efficiency; both arguments are partial. The jury is both symbolically important and effective.’

Discuss.

OR

(b) ‘We know the causes of miscarriages of justice in criminal trials but lack the political will to eradicate them fully from the system.’

Discuss.
7. ‘The present Government’s Legal Aid reforms are controversial, but necessary.’

Discuss.

8. Please read the Act on pages 5 and 6 and advise on these situations.

a) Superintendent Alan wants to issue a DVPN. Explain to him the matters he must take into account under s.24 of the Crime and Security Act 2010.

(5 marks)

b) Superintendent Beth is considering issuing a DVPN in the following circumstances. Guy was beaten up by his partner Butch six months ago. Butch has been released from prison and Guy – although he fears that he will be attacked again – has invited him back to live in the house they share. Guy’s social worker fears for his well being and physical safety if Butch returns. Butch has started to send Guy threatening text messages which threaten violence against him. Advise Beth whether a DVPN can be issued under s.25, and, if so, the terms of the DVPN.

(10 marks)

c) Superintendent Christine has been advised that Danny and Sandy are members of a group of youths who congregate in a shopping precinct in the centre of Fullchester. Superintendent Christine has evidence from the manager of the shopping precinct that the youths with whom Danny and Sandy associate shout abuse at passers by and prevent people from entering and leaving the shops. Danny and Sandy, as well as the other youths, wear distinctive jackets with the slogan “T-Birds” on the back. Advise Christine if she can apply for an injunction against Danny, Sandy and the others under s.26.

(10 marks)
The Crime and Community Security Act 2010 (a fictitious Act) includes the following provisions:

s.24

(1) A police superintendent ("the authorising officer") may issue a domestic violence protection notice ("a DVPN") under this section.

(2) A DVPN may be issued to a person ("P") aged 18 years or over if the authorising officer has reasonable grounds for believing that—

(a) P has been violent towards, or has threatened violence towards, an associated person, and

(b) the issue of the DVPN is necessary to protect that person from violence or a threat of violence by P.

(3) Before issuing a DVPN, the authorising officer must, in particular, consider—

(a) the welfare of any person under the age of 18 whose interests the officer considers relevant to the issuing of the DVPN.

(b) the opinion of the person for whose protection the DVPN would be issued as to the issuing of the DVPN.

s.25

(1) The authorising officer may issue a DVPN in circumstances where the person for whose protection it is issued does not consent to the issuing of the DVPN.

(2) Before issuing a DVPN under subsection (1) the authorising officer must consider the welfare of both the person who will be protected by the DVPN as well as the person who will be subject to the DVPN.

(3) A DVPN must contain a provision to prohibit P from molesting the person for whose protection it is issued.

(4) If P lives in premises which are also lived in by a person for whose protection the DVPN is issued, the DVPN may also contain a provision to prohibit P from coming within such distance of the premises as may be specified in the DVPN.

(5) Before issuing a DVPN under subsection (4), the authorising officer must consider the welfare of the person subject to the order.
(1) A court may grant an injunction upon application from a police superintend under this section if two conditions are met.

(2) The first condition is that the court is satisfied on the balance of probabilities that the respondent has engaged in, or has encouraged, gang-related violence.

(3) The second condition is that the court thinks it is necessary to grant the injunction for either or both of the following purposes—

(a) to prevent the respondent from engaging in, or encouraging, gang-related violence;

(b) to protect the respondent from gang-related violence.

(4) In this section “gang-related violence” means violence or a threat of violence which

(a) uses a name, emblem or colour or has any other characteristic that enables its members to be identified by others as a group, and

(b) is associated with a particular area.

END OF PAPER