**AQA A LEVEL LAW** **: YEAR 2 ½ term INDEPENDENT STUDY PROJECT**

**THE CONCEPT OF FAULT**

**in Paper 1 Crime & Paper 2 Tort**



 In Papers 1 & 2, you may be examined on the concept of Fault

 in Questions 9 & Q 11

 Q 9

 **Part A : *Examine the meaning & significance of “Fault” as a basis of liability in English Law*** 10 Marks

 **Part B:*Discuss the extent to which liability is based on fault XXX*** 5 marks

**Q 11**

***Assess the extent to which the rules you have discussed on XXX above are based on the concept of Fault***  *7 marks*

**TASK 1; Law and Fault – Concepts of Law: Using this guidance , the mark scheme included at the end & the powerpoint sent to you, draft a full answer to the “examine” element of this question. TO HAND IN first lesson after ½ term**

We have discussed already much of the substantive law in the context of fault, which does overlap with theory. Please read through & make your own notes on your TB pages 10 –12 together with pages 59-76 of Sally Russell concepts book " The Nature of Law". You will see evaluation of the concept of Fault on pages 73-76. This aspect of your essay can be pre-planned and AQA are looking for a wide-ranging discussion which shows fundamental understanding of this concept. Examine fault as a basis for liability by first defining what is meant by fault eg blameworthiness/ responsibility.

Then analyse the extent/ importance of fault generally in criminal/civil law- ie where fault may/may not be found- See the powerpoint on Godalming online for a comprehensive outline of issues that you may wish to include. Sort and select what examples you want to use & include as many of points as you are able within a word count of no more than 500 words & select your own case/statute examples to demonstrate your points.

**What does “Fault” mean?**

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Significance ie Importance/ extent of fault is present in ….. Choose some or all of these areas to make some points showing where we do see the criminal law being based on fault

* **AR**

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* **MR**

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* **Defences**

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* **Strict Liability**

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* **Now discuss areas where fault is less clear /inconsistent / reduced eg in ....**
* **MR**

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Finally a brief paragraph discussing whether or not criminal law should be based on the concept of fault

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 **Task 2**  Now draft your key points for the discuss element of this question as follows….

**& Discuss** (**5 marks**) note down the points you would include on the following suggested questions. Explain the relevant legal issue in the question briefly & then go onto discuss the specific area of fault focused on within the question as regards whether high/low level of fault is present . Don’t forget to **conclude** briefly based on the analysis and evaluation presented in your answer. For example “*It is apparent that fault is required for liability in many criminal offences but levels of fault may be high or low or reduced / removed by defences. As regards (see below - xxxxxxx link to specific question here).*

**\* Mark scheme: General Indicative Content: AO1**

* Identification of possible bases of fault in criminal law: *eg voluntariness of conduct and causation as fundamental bases; intention, recklessness and negligence as higher level; & defences.*
* Outline of the basic requirement of the AO1 issue(s) in the Q

# AO3

•**Analysis** of fault elements: *eg meaning of terms such as intention (purpose), recklessness (foresight of risk), negligence (reasonable foreseeability of injury/damage in acting or failing to act), and of translation into defences*.

* **Evaluation** of significance of fault as a marker of blame which imposes responsibility, and therefore justifies imposition of penalties or sanctions, or identifies the person who should compensate. Supports underlying assumption that conduct can be modified for the future.
* **Analysis** of relevant issue in Q & **Evaluation** of the extent of fault in the issue in Q
* **Conclusion(s**) based on the analysis and evaluation presented

# Suggested Questions

1. In the defence of Duress, voluntary association with criminals will prevent the Defendant from relying on it as a defence. Examine the meaning of Fault & discuss the extent to which the rules regarding Duress are based on fault

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1. Strict Liability enables criminal liability without proof of Mens Rea. Examine the meaning of Fault & discuss the extent to which the rules on strict liability are based on Fault

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1. Criminal Liability for S.20 OAPA 1861 is based on intent or recklessness as to some harm. Examine the meaning of Fault & discuss the extent to which criminal liability for S.20 OAPA is based on Fault.

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1. Criminal Liability for Gross negligence Manslaughter is based on an objective test for negligence. Examine the meaning of Fault & discuss the extent to which criminal liability for Gross Negligence Manslaughter is based on Fault.

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**Task 3** ; Filing and sorting your Workbooks into 3 different folders ready for revising for Paper 1, 2 and 3. If you have not done so yet – you need to have 3 different lever arch (large folders) W H Smiths’ have a good selection and are always on offer and you could be very organised and buy the same coloured folders as the workbooks.

Please ensure you sort all of your Workbooks are up to – it is advisable to label your folders, have file dividers for all of the topics/workbooks and have them in the order of WB’s for ease in finding for revision, also include in each divider/topic area any extra materials such as A Level law review articles/revision materials.

I attach a complete list of workbooks on the course – tick off those you have & note any which you think may be missing (obviously we haven’t covered all areas yet!). Note that this list is in your course handout also. We have split these into substantive law which will form 75% of each paper & then included the ELS/Nature of Law topics in each paper which will form the remaining 25%. I would strongly advise you to organise your files according to these lists and perhaps file this at the beginning of each folder.

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| **Paper 1 - Crime** | **Paper 2 - Tort** | **Paper 3 - Contract** |
| **Criminal (substantive law)** | **Tort (Substantive Law)** | **Contract (Substantive Law)** |
| Introduction to Criminal Law, Criminal Liability, Actus Reus, Fault, Mens Rea, Causation, Coincidence of AR and MR | Negligence | Nature of Contract Law and overview of Contract Law Topics covered for Paper 3 |
| Non-Fatal Offences, Assault, Battery, S.47 ABH and S.18+ S.20 GBH.) | Occupiers Liability | Formation of Contract;Offer, Acceptance, Intention to create legal relations and Consideration |
| Fatal offences against the person - Common law offence of murder: AND voluntary manslaughter: loss of control (s54 Coroners and Justice Act 2009) diminished responsibility  | Remedies/Damages | Privity of Contract |
| Fatal offences against the person - Common law offence of involuntary manslaughter: unlawful act manslaughter & gross negligence manslaughter.  | Nuisance and the escape of dangerous things - Private nuisance.The rule in Rylands v Fletcher | Contract Terms – General, Express, Implied, Consumer Rights Act 2015 and Exclusion Clauses. |
| Property offences Theft (s1 Theft Act 1968) AND Robbery (s8 Theft Act 1968).  | Vicarious liability - Nature and purpose of vicarious liability | Vitiating Factors – Misrepresentation and Duress |
| Preliminary offence Attempt (s1 Criminal Attempts Act 1981).  | FURTHER Remedies damages for physical injury to people, damage to property & economic loss; basic understanding of mitigation of loss. Injunctions.  | Discharge (ending) of Contract – Performance, breach and frustration. |
| Capacity defences; Insanity.Automatism AND Intoxication.  | Negligence – psychiatric injury. | Remedies – generally/ specific damages within Contract Law. |
| Necessity defences - Self-defence/prevention of crime.Duress AND Duress of circumstances.  | Negligence – Economic Loss |  |
| **Legal System and Sources of Law (non-substantive law)** | **Legal System and Sources of Law****(non-substantive law)** | **Legal System and Sources of Law****(non-substantive law)** |
| Nature of law – legal and other rules; criminal distinction; sources. | Nature of law – legal and other rules; civil distinction; sources. | Nature of law – legal and other rules; civil distinction; sources and the rule of law.) |
| The criminal process including the criminal courts; appeals, sentencing and court powers; the role of lay people within the criminal process.  | The judiciary: types of judge. Role of judges in civil courts. | Delegated legislation.  |
| Legal personnel – roles of barristers, solicitors and legal executives; regulation.  | Parliamentary law making.  | The European Union.  |
| The judiciary: types of judge. Role of judges in criminal courts.  | Law Commission (as an influence on Parliamentary law making).  | The judiciary: types of judge. Role of judges in civil courts and Independence of the judiciary. |
| Law reform including the Law Commission.  | The civil courts and other forms of dispute resolution including civil courts and the appeal system.  | Access to justice and funding in civil system.  |
| Judicial precedent.  | Access to justice and funding in civil system.  | Remedies/Damages  |
| Access to justice and funding in criminal system.  |  |  |
| Statutory interpretation. |  |  |
| **Law and society – fault.****Law and justice****Theory of Criminal Law** | **Law and society – fault.** **Law and morality.** **Theory of Tort Law**  | **Law and society – balancing conflicting interests.** **Law and justice.** **Law and morality.****Theory of Contract Law** |