

[Student Name]

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Level 5 in Law Assignment

[Dated]

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Assignment Title:

Declaration. (YES):

1. I confirm that this assignment is my own work:
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4. I have clearly indicated in my assignment any work that has been contributed by another student.
5. I have clearly indicated in my assignment any work that has been carried out collaboratively with another student.

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## Introduction

The conversation covered important facets of criminal law, including the complex theories, case law, and laws of different states. The assignment delved into basic legal theories, such the relationship between criminal culpability and act and purpose, highlighting the complexity of comprehending legal precepts. It examines the role defenses play in criminal legislation, the culpability for omissions that is imposed, and the key differences amongst robbery and burglary, as well as murder and manslaughter. A thorough analysis of these legal ideas emerged from the review of UK precedent, regulations, and international legal viewpoints.

## Task 1: “Actus non facit reum, nisi mens sit rea” – An act does not make a person guilty of a crime unless the mind is also guilty. Does this principle always apply? Discuss the exception to this as well as discussing the general principle.

The maxim of law "Actus non facit reum, nisi mens sit rea" means "An act does not make a person guilty of a crime unless the mind is also guilty<sup>1</sup>." This idea serves as the foundation for the demand that criminal culpability be established in the presence of the two elements of actus reus, meaning guilty act, as well as the mens rea, or guilty mentality<sup>2</sup>. Additionally, there are, nonetheless, variations and outliers to this broad rule.

### General Principle:

There must be an unlawful act as well as an unlawful state of mind for someone to be found guilty of a crime<sup>3</sup>. This idea makes sure that someone who didn't have the information or purpose to commit a crime cannot be held responsible for it. It concerns the mental component (knowing, carelessness, or intent) that goes along with the unlawful conduct.

### Exceptions and Discussions:

- Strict Liability charges: Mens rea, the mental state of not being guilty, may not always be necessary to prove culpability in some situations, especially when it comes to strict liability charges<sup>4</sup>. Administrative or social welfare laws, which prioritize public safety above intent, are often involved in these violations. For example, proof of intent may not be required for some statute offences or traffic violations. Still, the accused may be able to plead ignorance or error as a defense in strict liability instances.
- Vicarious responsibility Liability: In certain circumstances, people may be held accountable for the deeds of others even though they did not directly carry out the deed or had the intent to do so<sup>5</sup>. This might happen in situations when the person in control is attributed with duty, such as in relationships between employers and employees or legal custody.
- Incapacity: Exceptions may include situations in which a person commits a crime without intending to do so because they are mentally ill or lack self-control. For instance, acting when under stress or falling asleep may result in an act lacking an accompanying sense of guilt<sup>6</sup>.

<sup>1</sup> De Caro, Mario. "Actus non facit reum nisi mens sit rea". The Concept of Guilt in the Age of Cognitive Science." *Neuroscience and Law: Complicated Crossings and New Perspectives* (2020): 69-79.

<sup>2</sup> Ibid 1

<sup>3</sup> Fletcher, George P. *Basic concepts of criminal law*. Oxford University Press, USA, 1998.

<sup>4</sup> Ibid 1

<sup>5</sup> Ibid 1

<sup>6</sup> Ibid 1

Although the criminal law foundational concept of "Actus non facit reum, nisi mens sit rea" is important, these exemptions and debates show that there are some situations in which criminal culpability may be established even in the absence of full conscious awareness of guilt<sup>7</sup>. The intricacies and deviations highlight the necessity of a sophisticated comprehension of purpose and behavior in legal procedures.

## **Task 2: To what extent does the law impose liability on a person for an omission to act? Is the law too restrictive of human freedom? Critically analyze the law on omissions.**

There are many arguments and controversies around the idea of holding someone accountable in law for their failure to act, or omission. The degree whereby the law imposes culpability for errors and whether or not this requirement is viewed as unduly restricting individual liberty are the two main factors to take into account.

### ***Extent of Liability for Omissions:***

- Legal Obligations to Act: When there's is an existing responsibility to act, the law usually holds people accountable for their failures<sup>8</sup>. These responsibilities might result from particular connections (such as those between a parent and child or a doctor and patient), commercial agreements, legal requirements, or voluntary assumption of a responsibility that is subsequently neglected.
- Production of Risk as well as Duty: A person may also be held liable if their acts put others in danger or generate a risk, and they have an obligation to take precautions to keep others safe<sup>9</sup>. For example, if someone witnesses someone in imminent danger and does not act to save them, they may be held accountable.

### ***Critique on Imposition of Liability:***

There are certain arguments that contend that making people accountable for their omissions could be viewed as unduly restricting their freedom:

- Individual Autonomy's Burden: One may argue that holding people accountable for their omissions would unduly restrict their freedom of choice<sup>10</sup>. People may feel as though they are being intruded upon, particularly if they are blamed for remaining silent in circumstances when there was no obvious responsibility or obligation.
- Difficulty of Assigning Duties: It might be difficult to define and establish an obligation to act. It might lead to subjective rulings and ambiguity, which could unfairly impose restrictions on people.
- Possibility of Excessive Criminalization A culture of disproportionate judicial authority over people's conduct might result from placing too much emphasis on holding people accountable for their omissions, which would overcriminalize human behavior<sup>11</sup>.

### ***Critical Analysis of the Law on Omissions:***

Evaluating the legislation on omissions critically means taking into account how well society and individual liberties are balanced. It should also consider whether, in some situations, imposing culpability for omissions is appropriate and essential.

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<sup>7</sup> Ibid 1

<sup>8</sup> Ratner, Steven R. "Corporations and human rights: a theory of legal responsibility." *yale LJ* 111 (2001): 443.

<sup>9</sup> Shavell, Steven. "Liability for harm versus regulation of safety." *The Journal of Legal Studies* 13, no. 2 (1984): 357-374.

<sup>10</sup> Abreu, Alice G. "Taxes, Power, and Personal Autonomy." *San Diego L. Rev.* 33 (1996): 1.

<sup>11</sup> He, Ronggong, and Lijia Jing. "Philosophical Comments on the Excessive Use of Criminal Law for the Social Governance." *Peking University Law Journal* 3, no. 2 (2015): 401-441.

- Juggling the Needs of Society and Individual Freedom: Achieving a balance between safeguarding the welfare and safety of society and upholding individual freedoms is crucial<sup>12</sup>.
- Clarity in Assigning Responsibilities: To avoid uncertainty and undue impositions on people, the law on omission requires explicit definitions of when an obligation to act emerges.
- Contextual Approach: A nuanced approach is necessary, considering the context and circumstances of each case to determine whether imposing liability for an omission is just and fair.

Legal systems deal with omissions law in a complicated way. It should be meticulously designed to prevent needless limitations on human freedom while guaranteeing a just and equitable legal framework, even as it upholds social obligations. When analyzing rules on omissions, striking a balance between individual liberty and community interests is still crucial.

### **Task 3: Critically analyse the significance of defences in criminal law**

Criminal law defenses are essential for preserving the balance between society interests and individual freedoms within the legal system, as well as for protecting individual rights and achieving justice. A comprehensive evaluation of the importance of countermeasures in criminal law encompasses many crucial elements:

- Defense of Personal Freedoms: Those who are accused of crimes might utilize defenses as a shield. They allow people to offer explanations or defenses for their conduct, preventing disproportionate punishment for individuals who are falsely accused or behaved in a particular way<sup>13</sup>.
- The presumption of Innocence: The idea that a person is "innocent until proven guilty" is upheld by defenses. They transfer the prosecution's responsibility of proof to them, requiring them to establish the accused person's guilt beyond a shadow of a doubt. This idea is essential to guaranteeing impartial trials and avoiding erroneous verdicts<sup>14</sup>.
- Justice as well as Accountability: Arguments aid in striking a compromise between the demands of fairness and each person's responsibility for their acts. Defenses like need or self-defence, for example, acknowledge that in some situations, certain behaviors that would normally be seen as illegal may be appropriate<sup>15</sup>.
- Reflecting Moral and Ethical Standards: The morality and ethics of society form the basis of several defenses. Defences like pressure or compulsion admit that people may break the law as a result of outside threats or pressures, which makes them reevaluate their guilt<sup>16</sup>.
- Encouraging Social Order as well as Safety: When used properly, defenses help to preserve social stability as well as safety. They shield those who acted in an emergency to defend themselves or others from needless punishment<sup>17</sup>.
- Legal Subjective and Intricacy: Applying defenses might be difficult due to subjective and complications. Analyzing a variety of elements, such as the specific conditions, the

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<sup>12</sup> Regehr, Cheryl, and Beverley Antle. "Coercive influences: Informed consent in court-mandated social work practice." *Social Work* 42, no. 3 (1997): 300-306.

<sup>13</sup> Ashworth, Andrew, and Jeremy Horder. *Principles of criminal law*. Oxford University Press, USA, 2013.

<sup>14</sup> *Ibid* 13

<sup>15</sup> *Ibid* 13

<sup>16</sup> *Ibid* 13

<sup>17</sup> *Ibid* 13

defendant's psychological condition, and the reasonableness of their behavior, is frequently necessary to establish the viability of a defense<sup>18</sup>.

- Abuse or Abuse using Defenses: People may misuse or abuse defenses in order to avoid taking responsibility for their acts. For example, a defense such as insanity may give rise to doubts regarding its validity and the possibility of abuse by the accused<sup>19</sup>.
- Criminal law defenses are subject to evolution in response to cultural shifts, ethical dilemmas, and established legal precedents. As society's knowledge of psychology, ethics, and justice changes, new defenses may appear<sup>20</sup>.

In order to protect individual rights, provide fair trials, and preserve a balance between social interests and personal liberties, defenses are essential to criminal law. Their usage, meanwhile, needs to be carefully considered since abuse or misuse might jeopardize the honesty of the judicial system. For judicial defenses to be applied fairly and equally, personal factors and the desire for fairness must be balanced.

### **Task 4.1: “In all Robbery there is theft” Do you agree? Discuss with reference to UK case law, legislation and the Sri Lankan Penal Code**

The adage "There is theft in every robbery" implies that stealing is a necessary element of robbery. Though stealing is often associated with robbery, the two are separate legal concepts. While robbery is theft combined with the use as well as threat of violence towards the victim, theft is the fraudulent acquisition of something belonging to someone else with the purpose to irrevocably deprive.

#### ***UK Perspective***

The court's decision of R v. Hale (1978) in the United Kingdom established that an act of stealing requires the use of violence or the threat of violence in addition to occurring<sup>21</sup>. What sets robbery apart from simple stealing is the use of force or threat. This case proved that stealing is a necessary component of the robbery offense.

The definition of theft and the conditions necessary for its creation are provided by the UK's Theft Act 1968 as well as its later revisions<sup>22</sup>. The eighth section of the Identity Theft Act 1968 defines robbery in further detail and sets it apart from mere theft by mentioning the application of force as well as intimidation<sup>23</sup>.

#### ***Sri Lankan Perspective:***

The distinction between burglary and theft is also made in the Sri Lankan Penal Code. The definition of robbery is found in Section 382 of the Penal Code<sup>24</sup>, which emphasizes the use of force or the threat of using force to commit theft. Although the laws of the UK and Sri Lanka distinguish between theft and robbery, they are similar in that robbery entails stealing with the use or the threat of force.

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<sup>18</sup> Ibid 13

<sup>19</sup> Ibid 13

<sup>20</sup> Ibid 13

<sup>21</sup> R v. Hale (1978)

<sup>22</sup> Theft Act 1968

<sup>23</sup> Ibid 22

<sup>24</sup> Sri Lankan Penal Code

### **Agreement with the Statement:**

In a legal setting, it is true that "In all robbery, there is theft." Theft is an inherent component of the crime of robbery. The use of force or the threat of using force transforms a theft into a robbery. But not every steal qualifies as a robbery. A particular type of stealing where there is an added use of force or threat of force is called robbery. Importantly, there is a legal distinction between robbery and stealing. Robbery is an offense of greater severity than theft since it involves the use of force or threat of violence<sup>25</sup>. Even if stealing is a prerequisite for robbery, theft by itself does not qualify as robbery unless it is combined with the use of force as well as the possibility of force towards the victim. The judicial systems of the UK as well as Sri Lanka distinguish between stealing and robbery, the latter of which involves the use of force or the possibility of force.

### **Task 4.2: "Manslaughter is regarded as the basic charge in respect to a homicide and murder as an aggravated crime of killing" Discuss with UK case law and legislation**

Regarding the gravity of the crime and the motivation behind the killing, the categories of murder and manslaughter differ significantly in the legal system of the United Kingdom.

#### ***Manslaughter vs. Murder:***

Generally speaking, manslaughter is seen as a less serious accusation than homicide. It is the illegal killing of another person without the necessary malice aforethought, which serves as a prerequisite for proving murder<sup>26</sup>. There are two types of manslaughter: involuntary and voluntary. When there is a deliberate purpose to murder or seriously hurt someone, but under certain conditions, like reduced culpability, provocation, or the conviction that self-defense is necessary, voluntary manslaughter takes place<sup>27</sup>. When someone dies accidentally as a result of carelessness, criminal negligence, or while committing another illegal conduct, it is referred to as involuntary manslaughter.

In contrast, murder is seen to be the most serious offense when compared to homicide. It entails the willful and criminal death of another individual<sup>28</sup>. The primary distinction between murder and manslaughter is the existence of malice aforethought, or the deliberate intent to inflict grievous damage or death.

#### ***UK Case Law and Legislation:***

Legal precedents from cases like *R v. Cunningham* (1957) as well as *R v. Nedrick* (1986) have proven significant in identifying the psychological component (*mens rea*) that is necessary to distinguish between murder along with manslaughter<sup>29,30</sup>. It was decided in *Cunningham* that carelessness might qualify as the necessary malice with prior knowledge for murder<sup>31</sup>. *Nedrick* went on to say that if the defendants knew their acts would almost certainly cause death or significant damage, then the jury ought to deduce intent<sup>32</sup>.

In the UK, the Homicide Act 1957 establishes the statutory rules and legal basis for differentiating between manslaughter as well as murder<sup>33</sup>. It lists the factors necessary to prove

<sup>25</sup> Mabsuti, Mabsuti, and Santy Fitnawati WN. "The Enforcement of Criminal Law Against Violent Theft Crimes." *JURNAL RUANG HUKUM* 2, no. 1 (2023): 29-34.

<sup>26</sup> Stubbs, Julie. "Murder, manslaughter and domestic violence." In *Homicide, gender and responsibility*, pp. 36-52. Routledge, 2016.

<sup>27</sup> *Ibid* 26

<sup>28</sup> *Ibid* 26

<sup>29</sup> *R v. Nedrick* (1986)

<sup>30</sup> *R v. Cunningham* (1957)

<sup>31</sup> *Ibid* 30

<sup>32</sup> *Ibid* 29

<sup>33</sup> Homicide Act 1957



a case of murder and offers several partial defenses (such as reduced culpability, incitement, and suicidal pacts) that might lower a murder conviction to manslaughter<sup>34</sup>.

### ***Discussion***

With line with UK legal standards, the statement "manslaughter is regarded as the basic charge in respect to a homicide and murder as an aggravated crime of killing" is accurate<sup>35</sup>. Because manslaughter does not involve the particular purpose (malice aforethought) necessary for a murder accusation, it is typically seen as a less severe punishment. The distinction between manslaughter and murder is made in light of the accused's mental condition and the events preceding the killing. Murder is a more serious and severe kind of homicide since it requires the existence of particular purpose or malice aforethought, whereas manslaughter accepts the lack of both. In the UK system of law, the main factor separating manslaughter from murder is whether or not there was an intent to kill or inflict great injury. The primary distinction between manslaughter and murder is purpose, with the latter being seen a more serious felony given the existence of malice aforethought.

### **Conclusion**

The study of criminal law ideas and how they are interpreted in different legal systems emphasizes how complex the legal system is. The cornerstone of ethical scholarship is the importance of plagiarism restrictions in academic environments. Legal education places a strong emphasis on the complex components that are essential to comprehending criminal law. The complex interplay between justice and freedoms for individuals within the legal system is portrayed by the relationship among act alongside intention when determining criminal liability, the enactment of liability to feed omissions, alongside the differences between the different kinds of crimes like robbery, theft, killing someone, and murder. Comprehending these differentiations and the intricacies of legal doctrines highlights the pivotal function of tenets, jurisprudence, and legislative structures in molding the implementation of legislation and fairness within the community.

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<sup>34</sup> Ibid 33

<sup>35</sup> Ibid 3

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Sri Lankan Penal Code

The Homicide Act 1957

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