ROBBERY- see additional handout

This offence is defined by **s. 8 of the Theft Act 1968:**

'A person is guilty of robbery if he steals, and immediately before or at the time of doing so and in order to do so, he uses force on any person or puts or seeks to put any person in fear of being then and there subjected to force'.

Robbery is most simply described as aggravated theft; it involves all the elements of theft accompanied by force or the threat that immediate force may be used. This can cover anything from a mugging in the street to a robbery with guns. As a result, the maximum sentence for robbery is life imprisonment.

Actus Reus

The **actus reus** of robbery requires that there must be a completed theft.

R v Robinson 1977 The defendant was owed money (£7) by a woman. He went to ask her for it and a fight developed between the defendant and the woman's husband. During the fight a £5 note dropped out of the husband's pocket. The defendant picked it up and kept it. He was convicted of robbery and appealed. Held: Conviction; was quashed. There was no theft under s.2(1)(a) since the defendant had an honest belief that he was entitled to the money.

R v Zerei 2012 D and another man approached V, whom they knew and told him they were going to take his car. D pulled out a knife, punched V, took his car keys and drove off. The car was found abandoned. D convicted of robbery, but conviction quashed on appeal. The CoA held that the trial judge had misdirected the jury on the issue of intention to permanently deprive that a forcible taking was enough to show intention for permanently depriving

R v Waters 2015 D snatched V's phone from her and told her that she could have it back if one of her would speak to D. The police were immediately called to the scene and D was charged and convicted of robbery. The evidence did not establish an intention to permanently deprive V of her phone. D's condition for returning the phone could have been 'fulfilled in the near future'. This meant that there was no theft and, therefore, no robbery.

Corcoran v Anderton 1980 one of the D hit a woman in the back and tugged at her bag. She let go of the bag. She let go of the bag and it fell to the ground. The D ran off without the bag (because the woman was screaming and attracting attention). It was held that the theft was complete, so the D were guilty of robbery.

In addition to the completed theft there is the essential requirement of using force against a person or seeking to put him or her in fear of being subjected to force ('the threat of force').
R v Dawson and James 1976 One of the D's pushed the victim, causing him to lose his balance which enabled the other D to take his wallet. They were convicted of robbery. The CoA held that 'force' was an ordinary word, and it was for the jury to decide if there had been force

R v Clouden 1987 The defendant wrenched a shopping bag from a woman's grasp. He did not physically touch the woman herself. It was held that the force used on the bag was sufficient to amount to force on a person.

P v DPP 2012 the CoA held that D was guilty of robbery when he had wrenched a shopping basket from the victim's hand. The CoA held that the trial judge was right to leave the question of whether D had used force on a person to the jury

B and R v DPP 2007 The victim was a schoolboy aged 16, was stopped by 5 other schoolboys. They asked for his mobile phone and money. As this was happening, another 5 or 6 boys joined the first 5 and surrounded the victim. No serious violence was used against the victim, but he was pushed, and his arms were held while he was searched. The D appealed against their convictions for robbery on the basis that no force had been used and the victim had not felt threatened. The Divisional Court upheld the convictions for robbery on the grounds that there was no need to show that the victim felt threatened. 1) the D only has to seek to put any person in fear of being then and there subjected to force. 2) there could be an implied threat of force, in this case, surrounding the victim by so many created an implied threat. 3) in any event, there was some limited force used by holding the victim's arms and pushing him.

These words have been interpreted so that theft can be a continuing act.

R v Hale 1978 The two D's forced their way into V's house. One put his hand over V's mouth to stop her screaming while the other went upstairs and took a jewelry box. Before they left the house, they tied V up. Here there was force immediately before the theft when D put his hand over her mouth. Tying her up can also be force in order to steal, as the theft was still ongoing.

Gomez 1993 Gomez, was an assistant manager at an electrical goods shop. He along with other co-workers were asked by an acquaintance to supply goods from the shop in return for payment by two stolen building society cheques. Gomez prepared a list of goods to the value of the cheques which he submitted to the manager asking him to authorise the supply of the goods in return for a building society cheque in that sum. The manager instructed Gomez to confirm with the bank that the cheque was acceptable, and he told him that he had done so and that such a cheque was "as good as cash." The manager then authorised the transaction and the goods were delivered. The cheques were then dishonoured by the bank and the involvement of Gomez and the other employees was discovered. They were convicted of theft and appealed contending that as the manager had authorised the transaction there was no appropriation following R v Morris which required an adverse interference of the rights of an owner. It was contended on behalf of the Crown that this was in conflict with the House of Lords decision in Lawrence which held that an appropriation can occur notwithstanding the consent of the owner of the property. Held: The House of Lords followed Lawrence and upheld the convictions. An appropriation does not require absence of consent.

R v Lockley 1995 D was caught shoplifting cans of beer. He used force on the shopkeeper who tried to stop him from escaping. D appealed on the basis that the theft was complete when he used force, but the CoA followed the decision in Hale and upheld his conviction for robbery.

R v Dawson and James 1976 One of the D's pushed the victim, causing him to lose his balance which enabled the other D to take his wallet. They were convicted of robbery. The CoA held that 'force' was an ordinary word, and it was for the jury to decide if there had been force

R v Bentham 2005 In the course of a theft, the defendant had held his fingers in his pocket to suggest that he had a gun. He appealed conviction for possessing an imitation firearm.

Criticisms Make notes from p.63-64

The theft must be completed otherwise there is no robbery. It can be argued that a completed theft should not be necessary. This would bring the law into line with burglary. In burglary a D is guilty under s9(1)(a) where s/he intends to steal at the moment they enter as trespasser. The law would need to be altered to include that a person would be guilty of robbery if s/he used force intending to steal or attempted to steal using force for that purpose.

The level of force required for robbery is very low. There is also a problem that in Dawson and James the CoA held that the word 'force' was an ordinary word, and it was for the jury to decide if there had been force. Problems arise where the force is minimal and different juries may come to different conclusions as to whether there had been force or not. It also contradicts itself as it says that it would not regard the 'mere snatching of property such as a handbag, from an unresisting owner as using force for the purpose of the definition though it might be so if the owner resisted'. Despite this the CoA in Clouden upheld the D conviction from snatching a handbag from the victim

Mens Rea

The **mens rea** is the same as theft – dishonesty and intention to permanently deprive plus that D intended to use force to steal.

BURGLARY - additional handout

Burglary is generally thought of as the typical situation of someone breaking into a private house and stealing from it. In law, burglary covers this situation, but it also goes further. **Section 9 of the Theft Act 1968** defines the offence, but it sets out a complicated definition.

In summary under **S.9 (1) (a) states**

A burglary is committed where the defendant enters a building or part of one as a trespasser, with the intent to steal or to inflict grievous bodily harm therein or to do unlawful damage (criminal damage) to the building or anything inside it.

MR is taking place before entry

S. 9 (1) (b) provides that burglary will also be committed when a person steals or inflicts grievous bodily harm on another, after he has entered as a trespasser or attempts to do either of these things.

Offences (a) theft, s.18 wounding with intent and criminal damage – but there is no need for the offence to take place or even be attempted.

Offences (b) theft and s.18 wounding with intent has taken place or attempted to commit to these offences.

Actus reus

There are three elements:

a) entry -- the defendant must enter the property

R v Collins 1973 The defendant was charged with burglary. He had climbed a ladder to an open window where a young woman was sleeping naked in her bed. He descended the ladder and stripped down to his socks then climbed up again. The woman awoke and saw him at the window. She thought it was her boyfriend so invited him in. It was not clear, and neither party could recall whether he was inside or outside the window when she invited him in. They proceeded to have sexual intercourse. She then realised it was not her boyfriend and screamed for him to get off. He ran off. The following day he was questioned by the police and charged with burglary under s.9(1)(a) on the grounds that he entered as a trespasser with the intent to commit rape. (He could not be charged with rape as the woman had consented to sexual intercourse). The jury convicted. The defendant appealed on the grounds of a misdirection as the jury had not been asked to consider if he was a trespasser at the time of entry. Held: His conviction was quashed. It was held that there must be an effective and substantial entry with knowledge or being reckless as to being a trespasser. Consent of the homeowner (the girl's parents) was not required it was sufficient that the girl had invited him in.

R v Brown 1985 D was standing on the ground outside but leaning in through a broken shop window rummaging through goods. His feet and lower part of his body was outside the shop, but the top part of his body and his arms were inside the shop. The CoA said that the word 'substantial' did not materially assist the definition of entry and his conviction of burglary was upheld as clearly in this situation his entry was effective.

R v Ryan 1996 D was trapped when trying to get through a window into a house at 2:30am. His head and right arm were inside the house and the rest of his body was outside. The fire brigade had to be called to release him. The CoA upheld his conviction for burglary saying that there was evidence on which the jury could find that the D had entered the house.

b) trespass -- being on someone's property without authority and going beyond permission

R v Collins The defendant was charged with burglary. He had climbed a ladder to an open window where a young woman was sleeping naked in her bed. He descended the ladder and stripped down to his socks then climbed up again. The woman awoke and saw him at the window. She thought it was her boyfriend so invited him in. It was not clear, and neither party could recall whether he was inside or outside the window when she invited him in. They proceeded to have sexual intercourse. She then realised it was not her boyfriend and screamed for him to get off. He ran off. The following day he was questioned by the police and charged with burglary under s.9(1)(a) on the grounds that he entered as a trespasser with the intent to commit rape. (He could not be charged with rape as the woman had consented to sexual intercourse). The jury convicted. The defendant appealed on the grounds of a misdirection as the jury had not been asked to consider if he was a trespasser at the time of entry. Held: His conviction was quashed. It was held that there must be an effective and substantial entry with knowledge or being reckless as to being a trespasser. Consent of the homeowner (the girl's parents) was not required it was sufficient that the girl had invited him in.

R v Jones and Smith 1976 Smith and his friend Jones, went to Smith's father's house in the middle of the night and took two TV sets without the father's knowledge or permission. The father stated that his son would not be a trespasser in the house, he had a general permission to enter. The CoA upheld their convictions for burglary that a person is a trespasser for the purpose of s9(1)(b) 0f the Theft Act 1968 if he enters premises of another knowing that he is entering in excess of the permission that has been given to him to enter, or being reckless whether he is entering in excess of that person

Hillen and Pettigrew v ICI 1936 Stevedores who were lawfully on a barge for the purpose of discharging it, nevertheless, became trespassers when they went onto an inadequately supported hatch cover in order to unload some of the cargo. They knew that they ought not to use the covered hatch for this purpose; 'for them for such a purpose it was out of bounds; they were trespassers. The stevedores could not complain that the barge owners should have warned them that the hatch cover was not adequately supported. 'So far as he sets foot on so much of the premises as lie outside the invitation or uses them for purposes which are alien to the invitation, he is not an invitee but a trespasser, and his rights must be determined accordingly.'

c) a building or part of building--- this is not defined but does include caravans and houseboats external freezers but not lorry trailers.

R v Coleman 2013 D's were convicted of burgling 2 houseboats moored on the Grand Union canal

R v Rodmell 1994 there was the burglary of a garden shed and the theft of power tools. The shed stood in 3 and a quarter acre of grounds of a house, and some 60 yards from the house. The CoA said that a garden shed is part of a persons' home.

B and S v Leathey 1979 A 25-foot-long freezer container had been kept in a farmyard for over 2 years. It was used as a storage facility. It rested on sleepers, had doors with locks and was connected to the electricity supply. This was held to be a building.

Norfolk Constabulary v Seekings and Gould 1986 Two lorry trailers were being used as storage space in a Budgen's supermarket during refurbishment. Both were locked and connected to an electric supply. The D's were not guilty of burglary as the containers had wheels. They had been in place for about a year and were still on wheels. Held: These did not amount to a building.

R v Walkington 1979 D went into a counter area in a shop an opened a till. This area was clearly marked by a three-sided counter. D's conviction for burglary under s9(1)(a) was upheld as he had entered part of a building (the counter area) as a trespasser with the intention of stealing. The criticsl point in this case is that the counter area was not an area where customers were permitted to go. It was an area for the use of staff, so D was a trespasser.

R v Laing 1995 The defendant was found in the stock room of a department store sometime after the store had closed to the public.

Mens rea

There are two elements:

a) intention / recklessness as to trespass – Cunningham s9(1)(a) and (b)

1. S9(1)(a)

Intention to commit the ulterior offence i.e., theft, GBH, criminal damage 1.

S9(1)(b)

b) intention having commiting the ulterior offence i.e., theft, GBH, or attempting theft or GBH

Sentence

For both types of burglary, the maximum sentence is 14 years where the property is a dwelling and 10 years where it is not a dwelling.

Criticisms Make notes from p. 64-66

D need only intend some damage to be guilty yet injuring a person must prove an intention to inflict GBH. The difference appears to be placing the protection of property above people

Under s9(1)(a) a D who enters building as a trespasser with intention to cause damages is guilty of burglary. Under s9(1)(b) a D who enters a building as a trespasser with no intention and when in the building causes some damages, not guilty of burglary.

It is easier to prove s9(1)(b) burglary than s9(1)(a) because in s9(1)(a) the D intention has to be proved whilst for s9(1)(b) the commission of one of the 'trigger' offences must be proved. Proving a fact is easier than proving intention

Conditional intention. It can be argued that convicting of the completed offence of burglary on conditional intention is unjust.

The theft sct doesn't define key elements of the offence burglary. There is no definition of 'part of a building' or 'trespasser.' the lack of definitions means that the courts have had to decide what the act was meant to cover. This has created difficulty in some of the cases and inconsistent decisions especially on what is meant by 'entry' making the law uncertain.

Another part of the law that can be criticised is a person who is not a trespasser can become one if they go beyond the permission given to him e.g., if a guest at a dinner party goes into another room in the house uninvited then they have trespassed.