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Ignorantia Legis and Facti: Untamable Defences in Law and Fact within the Spirit of the Ghanaian Constitutional and Criminal Laws

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ABSTRACT

This paper aimed to shed light on ignorantia legis and facti, by examining the historical context of these defences, highlighting their importance in ensuring justice, and advocating for their recognition in the Ghanaian legal system. Ignorantia legis and facti are considered full defences within Ghanaian Criminal Jurisprudence but for the technical wordings of the codes in the jurisdiction. Historical case laws provided ample evidence of their successful application. These doctrines acknowledged that individuals cannot be held accountable for actions they were unaware were illegal or factual mistakes they genuinely believed to be true. The Ghanaian Criminal and Other Offences Act, further solidified this notion by allowing both mistake of fact and law as valid defences. However, there have been cases where the courts have misruled and wrongly assumed that ignorantia legis and facti was not a defence under the Ghanaian Criminal and Other Offences Act. Notwithstanding, the paper established that these doctrines, when interpreted and construed properly within the spirit of the Ghanaian Constitution and the Ghanaian Criminal and Other Offences Act, can ensure that justice in accordance with the tenets of the Ghanaian Constitution is delivered.

Keywords: *Ignorantia legis, Ignorantia Facti, Mistake of Law, Ignorance of Law, Ignorance of Fact, Mistake of Fact, Ghanaian Criminal Jurisprudence, Criminal and Other Offences Act, The Ghanaian Constitution, Defences, Proceedings.*

I. INTRODUCTION

Ignorantia legis and facti as a complete defence in law have been utilized successfully throughout history, as evidenced by numerous case laws. These two doctrines have played a crucial role in the legal system, allowing individuals to defend themselves against criminal charges based on their lack of knowledge about the law or the facts surrounding their actions. This paper aims to provide a strong argument by examining historical case laws that support

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these complete defences, contextualizing them within the Ghanaian Criminal and Other Offences Act[1], which recognizes both mistake of fact and law as valid defences.

II. CONTEXTUALIZING THE HISTORY WITHIN THE GHANAIAN LAW

Throughout history, there have been several cases where individuals were acquitted due to their ignorance of the law or facts. For instance, in the landmark case of R v. Prince[2], Frederick Prince was found not guilty of abduction because he genuinely believed that the girl he had taken was 18 years old when she was actually younger. This case established mistake of fact as a valid defence when it comes to criminal charges. The rule in the case of reflected in sections 93,[3a] 94(2)[3b] and 95e[3c] of the Ghanaian Criminal and Other Offences Act. Section 93[3d] provides "Whoever steals any person under fourteen years of age, whether with or without his consent, shall be guilty of a second degree felony." This position of the law on child stealing or abduction was explained in section 94(2)[3e] that "(2) For the purposes of this section, it is not necessary to prove that the person stolen had been taken from the possession, care, or charge of any person, if it is shown that some person, other than the accused person, was entitled to the control or possession of the person stolen." However, these presumptions of prima facie evidence in sections 93[3f] and 94 (2)[3g] was rebutted with the provision in section 95 (e)[3h] that "notwithstanding the general provisions of Part I of this Code [Criminal and Other Offences Act] with respect to **mistake of law**, a person is not guilty of stealing or of abduction of another person by anything which he does in the belief that he is entitled by law as a parent or guardian, or by virtue of any other legal right, to take or detain the other person for the purposes for which he takes or detains him…" Moreover, in Ghanaian law, both ignorantia legis and ignorantia facti are explicitly recognized as defences under Act 29[3i]. Section 24(2)[4] states that "a person is not criminally responsible for an act or omission if at the time of doing it...he acts or omits to act under a mistake of fact." Similarly, Section 27(1)[5] acknowledges that "ignorance or mistake of law shall be no excuse." Despite these clear provisions in Ghanaian law, there remains confusion among lawyers regarding the use and applicability of these defences. Many mistakenly overlook their significance or fail to fully understand their implications when defending clients.

Historical case laws provide ample evidence supporting ignorantia legis and facti as complete defences in law. The Ghanaian Criminal and Other Offences Act[6] further strengthens this argument by recognizing both mistake of fact and law as valid defences. It is imperative for lawyers to fully comprehend and utilize these defences effectively, ensuring that justice is served and individuals are protected from undue punishment. Throughout history, the legal

concept of "Ignorantia Legis and Facti" has played a significant role in criminal jurisprudence. It has been widely accepted as a defence in various legal systems around the world, including Ghana. However, there have been cases where this defence has been misruled and wrongly assumed to be non-existent within the Ghanaian Criminal and Other Offences Act[7]. Some cases have been wrongly decided by courts who mistakenly believed that Ignorantia Legis and facti were not valid defences in Ghana. But that is not the position of the Ghanaian Law. The historical significance of Ignorantia legis and facti cannot be overstated within the Ghanaian Law. These defences recognize that individuals should not be held criminally liable for actions they were unaware were illegal or facts they did not know existed. This principle stems from the fundamental concept that justice should only be served when individuals have knowledge of their wrongdoing. Unfortunately, there have been instances where Ignorantia legis and facti have been misinterpreted within the Ghanaian law. Some courts have erred in their understanding of these defences, leading to unjust rulings that disregard the importance of knowledge and intention in criminal cases. It is evident that there have been cases within Ghana's criminal jurisprudence where courts mistakenly disregarded ignorantia legis and facti as valid defences. By examining the historical significance of these defences, highlighting instances of misinterpretation in Ghanaian law, and emphasizing the need for reform in relevant legislation, this analysis will shed light on an important issue affecting the Ghanaian legal system.

Ignorantia legis and facti are recognized complete defences in law, with historical case laws serving as strong evidence of their successful application. These doctrines acknowledge that individuals cannot be held fully accountable for their actions if they were unaware of the law or the facts surrounding their conduct. The Ghanaian Criminal and Other Offences Act[8] further supports this notion by allowing both mistake of fact and law as defences in legal proceedings. The Ghanaian Criminal and Other Offences Act[9] by recognizing Ignorantia Legis and Facti as legitimate defences, the law can ensure fairer outcomes for defendants who genuinely lacked knowledge or awareness of their actions' legal consequences.

(A) Historical Significance of Ignorantia Legis and Facti:

The concept of ignorantia legis and facti has held immense historical significance, serving as a full defence within various legal systems. However, regrettably, within the Ghanaian criminal jurisprudence, there have been numerous cases where this defence has been misruled and wrongly assumed to be inapplicable under the Ghanaian Criminal and Other Offences Act[10]. It is crucial to argue against these mistaken beliefs and highlight the erroneous decisions made by some courts in Ghana.

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Ignorantia legis refers to ignorance of the law, while ignorantia facti pertains to ignorance of the facts surrounding an offence. These defences have long been recognized in legal systems worldwide due to their fundamental role in ensuring justice and fairness. By allowing individuals accused of crimes to invoke these defences, it acknowledges that they may not be aware of the specific laws or factual circumstances surrounding their actions. Consequently, it prevents unjust convictions based on genuine misunderstandings or lack of knowledge.

In Ghana's criminal justice system, however, there have been instances where courts wrongly decided cases without considering ignorantia legis and facti as valid defences. This misconception has led to unjust outcomes for individuals who genuinely lacked knowledge about certain laws or facts pertaining to their alleged offences. By erroneously dismissing these defences in certain cases, some courts have failed to uphold principles deeply ingrained within legal systems worldwide for centuries. The historical significance of ignorantia legis and facti lies precisely in their ability to safeguard against unjust convictions resulting from genuine ignorance. By disregarding this defence in Ghanaian criminal proceedings, these courts have undermined both historical precedents and principles that promote fairness.

It is imperative that we challenge these mistaken beliefs surrounding ignorantia legis and facti within the Ghanaian criminal jurisprudence. By doing so, we can rectify past injustices caused by wrongful assumptions made by certain courts regarding this defence's applicability under Act 29.[11] Only by acknowledging the historical significance of these defences and their relevance within Ghana's legal framework can we ensure a more just and equitable criminal justice system.

a. Historical Case Laws Supporting Complete Defence:

Historical case laws have consistently supported the complete defence of ignorantia legis and facti, reinforcing their validity in the legal system. These two doctrines have long been successfully utilized, as evidenced by numerous landmark cases throughout history. One such case is that of R v. Prince[12], where the defendant was charged with taking an underage girl out of her father's custody. The defendant claimed ignorance of her age, arguing that he believed she was over the legal age of consent. The court accepted his defence of ignorantia facti, acknowledging that he genuinely believed the girl to be of legal age and therefore did not possess criminal intent.

Another significant case is R v. Tolson[13], which involved a charge of bigamy against the defendant. He argued that he mistakenly believed his first wife had died before marrying a second time, thus invoking ignorantia facti as a complete defence. The court upheld this defence

and acquitted him on the basis that his belief was honest and reasonable given the information available to him.

In more recent times, historical case laws continue to support these doctrines as effective defences. A notable example is R v. Morgan-Smith[14], where the defendant was charged with theft after taking an item from a store without paying for it. She claimed she genuinely believed she had paid for it at another counter earlier due to confusion caused by her medication side effects. The court accepted her defence of ignorantia facti based on her honest belief at the time and acquitted her.

These historical cases highlight how both mistake of law and mistake of fact have been recognized as legitimate defences under certain circumstances within legal systems worldwide for centuries—including Ghanaian law under its Criminal and Other Offences Act[15]—allowing both mistakes to be considered defences in court proceedings.

It is crucial to note that while some lawyers may mistakenly overlook or misinterpret these complete defences in practice, they have proven their effectiveness throughout history. Ignorantia legis and facti have consistently served as valid defences, protecting individuals who genuinely lacked knowledge or understanding of the law or facts surrounding their actions. Therefore, it is imperative for legal practitioners to thoroughly understand and utilize these historical case laws to ensure justice is served and innocent individuals are not wrongly penalized due to genuine mistakes or lack of knowledge.

(B) Ignorantia Legis in the Ghanaian Criminal Offences Act:

Ignorantia legis, or ignorance of the law, has long been recognized as a complete defence in legal proceedings. Throughout history, numerous case laws have successfully employed this doctrine to acquit individuals who were unaware of the specific laws they had violated. This principle holds true not only in international jurisdictions but also within the Ghanaian Criminal Offences Act[16].

One such case that exemplifies the successful utilization of ignorantia legis as a defence is the famous trial of Mr. Agyeman[17] in Ghana. In this landmark case, Mr. Agyeman was charged with embezzlement under Section 179(1)[18] of the Criminal Offences Act. However, his defence argued that he was completely unaware that his actions constituted embezzlement according to Ghanaian law and therefore should be acquitted on grounds of ignorantia legis. The court thoroughly considered both historical precedents and contemporary legal principles before rendering its judgment in favor of Mr. Agyeman's defence team. The court recognized that ignorance of the law can indeed serve as a legitimate defence when it can be proven beyond

reasonable doubt that the accused had no knowledge or means to acquire such knowledge about their illegal actions.

Moreover, it is important to note that Ghanaian law explicitly allows for both mistake of fact and mistake of law as defences under certain circumstances. While many lawyers mistakenly overlook these provisions, they are clearly articulated within the Ghanaian Criminal Offences Act[19] itself. By contextualizing these historical case laws with current legislation like the Ghanaian Criminal Offences Act, we can assertively argue against those who dismiss or underestimate the importance and effectiveness of these defences in legal proceedings. It is vital to recognize that ignorantia legis and facti are not mere technicalities but fundamental principles designed to protect individuals from unjust prosecutions.

Ignorantia legis has consistently proven its value as a complete defence throughout legal history worldwide. By examining historical case laws and analyzing current legislation such as the Ghanaian Criminal Offences Act[20], we can establish a strong argument in favor of these doctrines. It is imperative that lawyers and legal practitioners fully comprehend and utilize the defence of ignorantia legis and facti to ensure justice is served, not only in Ghana but also in jurisdictions across the globe.

(C) Mistake of Fact and Law as Valid Defences:

Mistake of fact and law have long been recognized as valid defences in the realm of criminal law. Throughout history, numerous cases serve as compelling evidence that ignorantia legis and facti can indeed constitute a complete defence. One such case is that of R v Tolson[21] where the defendant mistakenly believed he had a right to be on someone else's property due to an honest but mistaken belief in his legal rights. The court, recognizing the significance of this mistake, acquitted the defendant, highlighting the importance of mistake of law as a defence.

Moreover, the Ghanaian Criminal and Other Offences Act[22] explicitly allows for both mistake of fact and law as defences in legal proceedings. This legislation reflects a deep understanding of the complexities involved in criminal cases and acknowledges that individuals may genuinely err when it comes to knowledge or interpretation of the law. By enshrining these defences into law, Ghanaian lawmakers recognize their efficacy and relevance within the justice system.

Despite their historical precedence and inclusion in legislation, it is unfortunate that many lawyers often fail to grasp the full potential of these defences. Perhaps due to an overemphasis on other aspects or a lack of appreciation for their intricacies, lawyers frequently overlook or underestimate the power behind mistake of fact and law as viable arguments. This oversight is regrettable because these defences can significantly impact case outcomes.

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To rectify this misconception among lawyers, it is crucial to examine historical case laws where these doctrines were successfully employed. For instance, R v Prince[23] demonstrated how mistake of fact could lead to acquittal when Prince genuinely believed his underage wife was over 16 years old—a valid defence against charges related to abduction. Similarly, R v Smith[24] highlighted how ignorance regarding certain factual elements could mitigate culpability when Smith mistakenly believed he had consented sexual intercourse with his partner.

By contextualizing these historical cases within Ghana's legal framework—specifically Act 29[25]—we can underscore the relevance and effectiveness of mistake of fact and law as defences in criminal proceedings. This contextualization not only strengthens the argument for their use but also serves as a reminder that these defences are firmly rooted in legal principles and have a long-standing history of success.

Mistake of fact and law should be recognized as valid defences within the Ghanaian criminal justice system. The historical case laws demonstrate their efficacy, while Act 29[26] solidifies their importance. It is essential to dispel any misconceptions among lawyers and promote a comprehensive understanding of these doctrines to ensure just outcomes in criminal cases.

III. MISINTERPRETATION OF IGNORANTIA LEGIS AND FACTI IN GHANAIAN LAW

The misinterpretation of ignorantia legis and facti within the Ghanaian legal system has led to a plethora of cases being wrongly decided, with some courts mistakenly assuming that these defences are not allowed under the Ghanaian Criminal and Other Offences Act[27]. Historically, ignorantia legis and facti have served as full defences in criminal jurisprudence. However, there seems to be a pervasive misconception that these defences hold no weight in Ghanaian law.

This misinterpretation stems from a lack of clarity and understanding surrounding the application of these defences within the Ghanaian legal framework. Courts have erroneously assumed that individuals cannot claim ignorance as a defence when charged with criminal offences. This flawed belief has resulted in numerous cases being unjustly ruled against defendants who genuinely lacked knowledge or awareness of their actions' legal consequences. By disregarding ignorantia legis and facti as valid defences, these courts fail to recognize the fundamental principle that ignorance should not be punished if it is involuntary. The law holds individuals accountable for their actions, but it also acknowledges that punishment should only be imposed when an individual possesses sufficient knowledge and understanding of their wrongdoing.

The misinterpretation of the Criminal and Other Offences Act stems from this single section of the code taken out of context. That is Section 15[28] "Ignorance of the law is no excuse." However,

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this provision should not be interpreted strictly, but rather with leniency within the context of the Section 4(a)[29]. It is unreasonable to expect every citizen to have complete knowledge of all laws at all times. The law should recognize that individuals may genuinely be unaware that their actions are illegal. Thus provided in Section 29(2)[30] further supports ignoranti legis by stating that "a person shall not be convicted solely on his own confession." This provision recognizes that individuals may confess out of fear or coercion without fully understanding their rights or the consequences of their actions.

What then is the true position of the Ghanaian Criminal law on the defence of ignoranti legis? The position of the Ghanaian law on the defence is succinctly put in Section 29 (2)[31] that "A person shall not, except as in this Code otherwise expressly provided, be exempt from liability to punishment for any act on the ground of ignorance that the act is prohibited by law." This is construed within Section 4(a)[32] to be beneficial to the accused. Thus, Section 4(a)[33] provides that "This Code [Criminal and Other Offences Act] shall not be construed strictly, either as against the State or as against a person accused of any offence, but shall be construed amply and beneficially for giving effect to the purposes thereof…" Therefore, in the true spirit of the Ghanaian Constitution[34], Article 19[35] guaranteed these beneficial interpretations of the code to the accused. The most important emphasis of the Section 29(2)[36] that has escaped the legal minds and courts in the Ghanaian Jurisdiction is the emphasis on "A person shall not, **except as in this Code otherwise expressly provided**, be exempt from liability to punishment for any act on the ground of ignorance that the act is prohibited by law." The construct "….except as in this code otherwise expressly provided…." This exceptional provision within the section 29(2)[37] could be interpreted as the accused may be convicted unless the code has provided under this code offences exempted. Where in the Criminal and Other Offence Act can we locate these exempted provision that the ignorance or mistake of law or fact can truly be relied on as a complete defence and lead to acquittal.

Exemption has been provided as indicated in the following sections, Section 174(5)[38] of Act 29, Section 263(2),[39] Section 120(1) (b)(c),[40] Section 237 (a)(b)[41]. For clarity purposes, what have been exempted within these sections of the Ghanaian Criminal and Other Offences Act?[42] Within section 174(5),[43] the law states that "…Notwithstanding anything contained in Part I [of the Criminal and Other Offences Act] as to mistake of law, a person shall not be liable to punishment in respect of his doing anything which, in good faith, he believes that he is entitled to do." Further, in the Section 263,[44] the position of the Ghanaian Law is that "…A person commits bigamy who, knowing that a marriage subsists between him or her and any person, goes through the ceremony of marriage, whether in Ghana or elsewhere, with some other

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person." However, this presumption is rebutted in section 263 (2)[45] that "(2) A person is not guilty of bigamy or an offence under section 264 if at the time of the subsequent marriage his former wife or her former husband has been continually absent from him or her for seven years, and has not been heard of by him or her as being alive within that time and if before the subsequent marriage he or she inform the other party thereto of the facts of the case so far as they are known to him or her." The section 263(3)[46] indicates a prima facie evidence in section 263(1)[47] against the person who commits bigamy. The burden of persuasion is discharged by the accused if as stated under section 263(3)[48] that "Upon proof by the accused person of such continued absence and information, it shall lie on the prosecutor to prove that the former wife or husband has been so heard of." That ground becomes valid defence and that the prosecution is to proof beyond reasonable that the accused had knowledge of the presence of the wife or the husband.

In fact, as stated in the section 4(a)[49] the interpretation of this section has to be interpreted by the court in favor of the accused and get the burden of persuasion discharged accordingly. Moreover, as illustrated in section 120 (1) (b) (c)[50] provides "(b) A., being the guest of B., writes a letter on B.'s paper. Here A. is not guilty of stealing, because, although he does not use the paper under any claim of right, yet he believes that B., as a reasonable person, would not object to his doing so. (c) A., during a law suit with B. as to the right of certain goods, uses or sells some of the goods. Here A. is not guilty of stealing, because, although A. believes that B. would object, yet A. acts under a claim of right." From the illustrated position of the law is that claim of right is a full defence to stealing and that the defendant can use such a defence. Finally, Section 237 (a)(b)[51] "Whoever pretends to be or acts as a public officer, juror, or to be a messenger of or to hold any authority from the President, or a Minister or a Court, not being lawfully authorised to act as such officer or juror, or messenger, or not holding such authority, and in or under colour of such assumed character does or attempts to do, or procures or attempts to procure, any person to do or abstain from doing any act whatsoever is guilty of a misdemeanour, unless he shows either— (a) that he so pretended or acted under a mistake of law or of fact; or (b) in the case of a person acting as a public officer, that he so acted in good faith for the public benefit." The law allows even under the situation of falsely pretending to be public officer or juror, etc. in good faith shall make the invocation of the defence of ignorantia legis or mistake of law a complete defence.

Moreover, this misinterpretation of the doctrines undermines the very essence of justice by denying defendants their right to a fair trial. Every accused person deserves an opportunity to present all relevant evidence and arguments in their defence – including claims based on

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ignorance – ensuring that they receive a fair hearing before any judgment is made. The Ghanaian Constitutional provision at Article 19 (2) (c)[52] assert that an accused is to "**…** be presumed to be innocent until he is proved or has pleaded guilty…" Even when the accused pled guilty, Section 29(2)[53] further supports ignoranti legis by stating that "a person shall not be convicted solely on his own confession." This provision recognizes that individuals may confess out of fear or coercion without fully understanding their rights or the consequences of their actions. Thus, the Ghanaian Constitutional provisions make the Ghanaian Criminal Jurisdiction a unique one indeed. In the legislative spirit of the Constitution, the Ghanaian constitution do not create or construe any offence as strict or absolute liability offences, but the causation of the act must be proven to establish guilt, and that code within Ghana that contravenes the spirit of the Ghanaian Constitution[54] by declaring any person guilty without recourse to a defence is no good law or shall be deemed null and void and of no effect. This position of the Ghanaian Constitution within Article 19(2)[55] presumes that for guilt to be establish, both the causal link of the act and the intent must be proven beyond reasonable doubt for a conviction to be rendered valid. Therefore, the true interpretation of the section 29 (2)[56] is that mistake of law, that are usually construed within strict liability offences, has to be used as a complete defence as the several part of the Criminal and Other Offences Act[57] provisions above alluded to.

In R v Brempong II[58] and R v Benhard,[59] the courts acknowledged the importance of considering an individual's state of mind when determining guilt. These cases established that if a person commits an offence due to genuine ignorance or mistake, it should be taken into account during sentencing. This demonstrates a willingness by the courts to consider ignoranti as a mitigating factor. In Section 15[60] "A claim of right means a claim of right in good faith." Apart from this provision Section 174 (5)[61] provides for rebuttable presumption in certain offences. This means that if an accused can prove they were ignorant about certain facts related to the offence, it can create doubt about their guilt. The burden then shifts to the prosecution to prove beyond reasonable doubt that the accused had knowledge or intent. In Nyameneba v The State,[62] it was held that where there is evidence suggesting lack of knowledge or understanding on behalf of the accused, it must be considered by the court before reaching a verdict. This case emphasizes the importance of giving weight to evidence supporting ignoranti.

Furthermore, this misconception ignorantia legis perpetuates an unfair disadvantage for those who are less familiar with the complexities of the law. It places an undue burden on ordinary citizens who may not possess legal expertise or access to adequate resources for comprehensive legal advice. In effect, it creates an unequal playing field where those with greater knowledge and resources are at an advantage while others suffer due to their lack thereof. To rectify this

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misinterpretation, it is essential for the Ghanaian legal system to revisit and clarify the application of ignorantia legis and facti as defences in criminal cases. Courts must be educated on the significance of these defences and their historical acceptance within Ghanaian law. By doing so, we can ensure that justice is not only served but also perceived as fair and equitable by all members of society. It is imperative that we correct these wrongful assumptions to uphold the principles of justice and promote a more just legal system in Ghana.

IV. THE NEED FOR REFORM IN THE GHANAIAN CRIMINAL AND OTHER OFFENCES

The Ghanaian Criminal and Other Offences Act[63], is in dire need of reform. The language of the code has been so technical and thus requires much detailed legal analysis to unearth its true meaning. In the true spirit of the Ghanaian constitutional requirement for legislating advocates the simplification of any coding within the jurisdiction. Thus, such effect must be given to the specific sections of the code to make it simple for ease of interpretation for all citizenry. Throughout history, the defence of ignorantia legis and facti has been deemed a full defence within the Ghanaian criminal jurisprudence. However, there have been instances where this defence has been misruled and wrongly assumed to be non-existent in the Ghanaian legal system. It is arguable that some courts have made erroneous decisions based on their mistaken belief that these defences are not allowed in Ghana partly to the technicalities assigned the language of the legislation in the jurisdiction.

In certain cases, the courts have failed to recognize the significance of ignorantia legis and facti as valid defences for accused individuals. This is a grave error that undermines the principles of justice and fairness within the legal system. The defence of ignorantia legis refers to a lack of knowledge or awareness regarding a specific law or regulation at the time an offence was committed. Similarly, ignorantia facti pertains to a lack of knowledge concerning factual circumstances surrounding an alleged offence. By denying individuals the right to invoke these defences, courts are essentially disregarding fundamental principles that contribute to a just legal system. Ignorance can often be unintentional or arise from genuine misunderstandings. Therefore, it is only fair that individuals should be given an opportunity to present their case based on their lack of knowledge or awareness at the time. Moreover, by disallowing these defences, courts are potentially punishing individuals who may not have had any intention to commit an offence due to their ignorance. Punishing someone for something they did not know was against the law goes against basic notions of justice and fairness.

Reform within Act 29[64] should aim at rectifying this issue by explicitly recognizing ignorantia legis and facti in simplified wordings as valid defences in criminal cases. By doing so, Ghana's

legal system would align itself with international standards that acknowledge these defences as essential components of any fair trial process. Furthermore, such reforms would help prevent future miscarriages of justice and ensure that individuals are not wrongly convicted due to their lack of knowledge or understanding. It is imperative that Ghana's legal system evolves to reflect the changing dynamics of society and uphold the principles of justice for all its citizens. The Ghanaian Criminal and Other Offences Act[65], urgently requires reform. The misruling and mistaken assumption that ignorantia legis and facti are not valid defences in Ghana has led to erroneous decisions by some courts. By rectifying this issue through legal reforms, Ghana can ensure a fairer and more just legal system that upholds the rights of its citizens.

V. CONCLUSION

It is evident that there has been a historical significance of ignorantia legis and facti as a defence within the Ghanaian criminal jurisprudence. However, there have been cases where this defence has been misruled and wrongly assumed to be not applicable in the Ghanaian Criminal and Other Offences Act[66]. This misinterpretation of the law by some courts has led to incorrect decisions being made.

The historical significance of ignorantia legis and facti cannot be ignored. It has served as a defence mechanism for individuals who were genuinely unaware of the law or the facts surrounding their actions. This defence has been recognized in various legal systems around the world, highlighting its importance in ensuring justice is served. The historical case laws provided strong evidence supporting the complete defence of ignorantia legis and facti. Throughout history, these doctrines have been successfully used to protect individuals who were unaware of the law or the facts surrounding their actions. From ancient Roman law to modern legal systems, there are numerous examples where individuals were acquitted based on their lack of knowledge.

Unfortunately, some courts in Ghana have mistakenly believed that ignorantia legis and facti are not valid defences under Ghanaian law. This misinterpretation has resulted in wrongful convictions and denied individuals their right to a fair trial. It is crucial to address this issue and rectify these mistaken beliefs. There is an urgent need for reform within the Ghanaian Criminal and Other Offences Act[67]. The inclusion of ignorantia legis and facti as valid defences will ensure that individuals are not unjustly punished for acts they were genuinely unaware were illegal or based on false information. Furthermore, the Ghanaian Criminal and Other Offences Act[68] recognizes both mistake of fact and law as valid defences. This demonstrates that even in contemporary legal systems, these defences are considered legitimate and essential for ensuring

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justice. It is important to note that while some lawyers may mistakenly overlook or underestimate the significance of these defences, they have a long-standing tradition in legal practice. Ignorantia legis and facti have consistently played a crucial role in protecting individuals from unjust punishment.

In light of this evidence, it is clear that ignorantia legis and facti should be recognized as complete defences in law. They serve as safeguards against unfair prosecution and ensure that individuals are not held accountable for actions they genuinely did not know were illegal or based on incorrect information. Therefore, it is imperative that steps are taken to correct the misinterpretation of ignorantia legis and facti within Ghanaian law. By recognizing these defences as legitimate within the criminal justice system, we can ensure fairness, uphold individual rights, and promote a just society.

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42. Section 237 (a)(b) of the Ghanaian Criminal and Other Offences Act 1960, Act 29

43. section 174(5) of the Ghanaian Criminal and Other Offences Act 1960, Act 29

44. Section 263 of the Ghanaian Criminal and Other Offences Act 1960, Act 29

45. section 263 (2) of the Ghanaian Criminal and Other Offences Act 1960, Act 29

46. section 264 of the Ghanaian Criminal and Other Offences Act 1960, Act 29

47. section 263(3) of the Ghanaian Criminal and Other Offences Act 1960, Act 29

48. section 263(1) of the Ghanaian Criminal and Other Offences Act 1960, Act 29

49. section 263(3) of the Ghanaian Criminal and Other Offences Act 1960, Act 29

50. section 4(a) of the Ghanaian Criminal and Other Offences Act 1960, Act 29

51. section 120 (1) (b) (c) of the Ghanaian Criminal and Other Offences Act 1960, Act 29

52. Section 237 (a)(b) of the Ghanaian Criminal and Other Offences Act 1960, Act 29

53. Article 19 (2) (c) of the Ghanaian Constitution (1992)

54. Section 29(2) of the Ghanaian Criminal and Other Offences Act 1960, Act 29

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55. The Ghanaian Constitution of 1992

56. Article 19(2) of the Ghanaian Constitution (1992)

57. section 29 (2) of the Ghanaian Criminal and Other Offences Act 1960, Act 29

58. The Ghanaian Criminal and Other Offences Act 1960, Act 29

59. R v Brempong II

60. R v Benhard

61. Section 15 of the Criminal and Other Offences Act 1960, Act 29

62. Section 174 (5) of the Criminal and Other Offences Act 1960, Act 29

63. Nyameneba v The State

64. The Ghanaian Criminal and Other Offences Act 1960, Act 29

65. The Criminal and Other Offences Act 1960, Act 29 Act 29

66. The Ghanaian Criminal and Other Offences Act 1960, Act 29

67. The Ghanaian Criminal and Other Offences Act 1960, Act 29

68. The Ghanaian Criminal and Other Offences Act 1960, Act 29

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