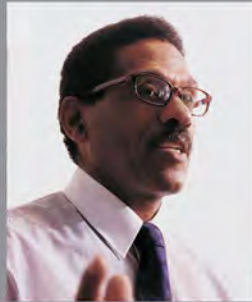




THE UNIVERSITY OF THE WEST INDIES
CAVE HILL CAMPUS, BARBADOS



The Faculty of Law

Graduate Information Guide 2009-2010



THE UNIVERSITY OF THE WEST INDIES

CAVE HILL CAMPUS



FACULTY OF LAW REGULATIONS & SYLLABUSES GRADUATE INFORMATION GUIDE 2009-2010

WWW.CAVEHILL.UWI.EDU/GRADSTUDIES

Every attempt has been made to ensure that the information in this booklet is accurate at the time of printing. Students should consult their programme coordinator where clarification is required.

It is intended for students entering programmes in academic year 2009 - 2010. Continuing students must refer to their programme coordinator for guidance.

Please note that any semester information given should be used as a guide as it is subject to change.

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MISSION STATEMENT

The enduring mission of The University of the West Indies is to propel the economic, social, political and cultural development of West Indian society through teaching, research, innovation, advisory and community services and intellectual leadership.

Dean's Message

Since 1970 the Faculty of Law has been an integral part of the regional development strategy. Its principal mission is to provide prospective West Indian lawyers with a rich, intellectually-based academic foundation in law, that teaches the skills of good writing and critical reason, and prepares the law graduate for the professional training which leads to the practice of law.

While its principal mission has been to train prospective lawyers, the Faculty has also always placed considerable emphasis on research and the provision of advanced legal education for its graduates and others who have an interest in law.

From its inception, it offered the LLM and PhD as research degrees. The demand for graduate legal training in the Caribbean has grown significantly in recent years, stimulated by plans for the introduction of the Caribbean Single Market and Economy and the Caribbean Court of Justice. The success of these institutions largely hinges on the availability of high quality and highly relevant legal training for persons in the region.

The Faculty of Law, UWI, has responded to the need for advanced legal training by adding taught Masters and Diploma Programmes in Corporate and Commercial Law, Public Law and Legislative Drafting to its research postgraduate offerings.

To date, several persons have successfully completed these courses and the Faculty is striving to ensure that the programmes continue to produce graduates at the cutting edge of contemporary scholarship, professional development and expertise. This is one of the main aims of the Strategic Plan of the University of the West Indies for 2007-2012.

Velma Newton (Sen. The Hon. Prof.)
Dean

DEAN AND STAFF OF THE FACULTY OF LAW

Faculty Office & Officers

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 SCM, BA., (Spec. Hons.); MA,
 LLB UWI, FLA; Leg. Ed. Cert.;
 Attorney-at-Law

DEPUTY DEAN **A. Gilbert Kodilinye**
 (Academic Affairs) BA, MA Oxon; LLM Lond;
 Barrister; Professor of Property Law

Professor of **Rose-Marie Antoine**
 Labour & LLB, UWI; LLM Cantab; Phil Oxon;
 Off-Shore Law Leg. Ed. Cert.; Attorney at Law

Professor of **Winston Anderson**
 International and LLB, UWI; PhD, Cantab; Barrister
 Environmental Law

Professor of Corporate **Andrew D. Burgess**
 and Commercial Law LLB, UWI; LLM, Osgoode;
 Leg. Ed. Cert.; Attorney at Law

Emeritus Professor **A. Ralph Carnegie**
 of Law BA Lond-UWI, MA Oxon; Barrister

Emeritus Professor **Albert K. Fiadjoe**
 of Law LLB, BL Ghana; LLM,
 PhD Lond., Barrister

Professor of **Alina Kaczorowska**
 European Law BCL, University of Poznan; DEA,
 PhD, University of Nice;
 Barrister (France)

Professor of
 Jurisprudence

Senior Lecturer

Senior Lecturer

Senior Lecturer

Senior Lecturer

Lecturer

Senior Lecturer

Senior Lecturer

Lecturer

Lecturer

Research Fellow

Simeon C.R. McIntosh
 BA York; JD Howard; LLM Columbia

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 LLB, UWI; Leg. Ed. Cert.;
 Attorney-at-Law

Rev. Clifford G. Hall
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 D.Jur Osgoode, Leg. Ed. Cert.;
 Attorney-at-Law

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 BA, Toronto; LLB, Br. Col; LLM,
 Queens; PhD Edin.; Barrister

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 and Solicitor

Lesley Walcott
 LLB, UWI; LLM, Lond;
 Leg. Ed. Cert; Attorney-at-Law

Roshene Betton
 BSc UWI; LLB UWI,
 Leg. Ed. Cert; Attorney-at-Law

FACULTY OFFICE

Administrative Assistant (Law)	Tamara Mayers BSc (Hons) UWI
Administrative Assistant (Projects)	Lorna Payne BSc (Hons) UWI, MSc UWI
Secretary	Ann St.Hill
Stenographer/Clerk	Marcia Bradshaw
Stenographer/Clerk	Alicia Graham
Stenographer/Clerk	Karen Primus
Stenographer/Clerk	Tamara Springer

STAFF AT THE MONA CAMPUS

Lecturer	Suzanne Folkes-Goldson BA York; LLB UWI; BCL Oxon; Leg. Ed. Cert.; Attorney-at-Law
Senior Lecturer	Derrick McKoy LLB, UWI; LLM, Lond; MBA, Barry; DBA, Nova Southeastern

STAFF AT THE ST. AUGUSTINE CAMPUS

Lecturer	Douglas Mendes LLB, UWI; Leg. Ed. Cert.; Attorney-at-Law
Senior Lecturer	*Mr. John Jeremie LLB, UWI; LLM, Lond.; Attorney-at-Law

* On leave

LAW LIBRARY

Law Librarian	TBA
Librarian II	Junior Browne BSc, UWI; MA USF
Senior Library Assistant	Waveney Webster BSc Econ.

CARIBBEAN LAW INSTITUTE CENTRE

Executive Director	Winston Anderson LLB, UWI; PhD, Cantab; Barrister
Administrative Assistant	Betty Goodman

ADDITIONAL LECTURERS in LLM Programmes

Shazeera A. Ali
LLB, UWI; LLM, Cantab; PhD Lond., Attorney-at-Law.
Tutor – Norman Manley Law School

Stephen Vascianne
BSc, UWI; MA, Oxon; LLM, Cantab; DPhil.,
Oxon.; Attorney-at-Law.
Principal – Norman Manley Law School

Dianne Daley
LLB (Hons.) UWI; LLM, McGill; Leg. Ed. Cert.,
NMLS; Attorney-at-Law.
Founding Partner – Foga, Daley & Co – Jamaica

Eulalie N. Greenaway
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TEP; Attorney-at-Law.
Tutor – Norman Manley Law School

Peter S. Goldson
LLB, UWI; BCL, Oxon; Leg. Ed. Cert.; Attorney-at-Law.
Partner – Myers, Fletcher and Gordon

Errol Chase
C.H.B. Dip., Legislative Drafting, Ottawa; LLM Ottawa.
Retired Justice of the Barbados Court of Appeal

The Honourable Mr. Justice Rolston Nelson
BA, Oxon; M.A., Oxon.; LLM, Lond.
Judge of the Caribbean Court of Justice

Allison Demas
LLB UWI; LLM Lond.; LLM Franklin Pierce
CEO – Copyright Organisation of Trinidad & Tobago

GENERAL REGULATIONS FOR GRADUATE STUDIES

Admission

1. An applicant for graduate study must go before the Board for Graduate Studies and Research, through the Faculty Sub-Committee.
2. An applicant may be:
 - (i) Admitted without a qualifying Examination,
 - (ii) Required to pass a qualifying Examination before being fully registered for graduate studies, or;
 - (iii) Refused admission.
3. The nature of the qualifying examination shall be determined by the Department to which the candidate is seeking admission but shall be subject to the approval of the Faculty Subcommittee on Graduate Studies. A candidate who fails a required qualifying examination will not normally be permitted to re-sit the examination.
4. All graduate students seeking a research degree are normally required to register first for the MPhil degree.
5. Later transfer to the PhD may be made if the student's supervisor and the departmental Graduate Supervision Committee recommend it, and if the recommendation is supported by the Faculty's Sub-Committee on Graduate Studies and approved by the Board for Graduate Studies and Research.
6. Students may be registered for full-time or part-time studies. No research student may be registered for full-time studies if he/she spends an average of twelve or more hours a week in paid employment.
7. Regulations concerning the length of periods of study for the award of postgraduate degrees to part-time students are given in the relevant sections below. In every other respect, e.g. qualifications for admission, attendance at seminars, conditions of award of the degree etc., part-time students are subject to the same regulations as full-time students.

8. Wherever possible each Department or appropriate unit within a Department shall have a Graduate Supervision committee.
9. The Graduate Supervision Committee shall propose to the Faculty Sub-Committee for Graduate Studies a Supervisor or Supervisors of experience appropriate to the proposed field of study of each candidate.
10. Research students are required to consult with their supervisor(s) in person, at intervals to be specified by the Supervisor(s) but normally not less than once a semester. However, a candidate not resident the same territory as his supervisor(s) may be permitted to report in writing, except that a candidate who does not already hold a degree from the University is required to reside in one of the territories for the first year of registration.
11. Dissertation and theses presented for a graduate degree in this Faculty must be written according to the stylistic conventions as set out in the University Thesis Guide.

Oral Examination

12. The oral examination of the candidate presenting a thesis will be chaired by the Chairman of the Faculty Sub-Committee for Graduate Studies, or nominee who will also be responsible for seeing that a report on the examination is drawn up. The report shall be signed by all the Examiners present and by the Chairman of the Examination and forwarded to the Board for Graduate Studies and Research.

Qualifying Candidates

13. Candidates for admission to the degree programmes may be required by the Board for Graduate Studies and Research (BGSR) to take qualifying courses and to write examinations in these courses. Such candidates shall be registered as qualifying students and not as candidates for the degree. The qualifying courses shall be recommended by the Institute's Entrance Committee for approval by the Campus Committee.
14. Students cannot proceed to register for a degree programme unless they have successfully completed the required qualifying courses at a prescribed level of performance.

THE DOCTOR OF PHILOSOPHY (PhD) DEGREE

1. The PhD Degree is a research degree and shall be awarded on the basis of a thesis.
2. It is normally open to students with at least an Upper Second Class honours degree who have completed appropriate Graduate qualification or who are on transfer from the MPhil research degree.
3. A candidate will be required to undertake a minimum of nine (9) credits of courses during the period of registration. He/she may be required to write examinations. Such requirements must be approved by the Faculty Sub-Committee at the time of registration of the student.
4. A candidate will be required to register for and present three (3) seminars during the period of registration.
5. A candidate registered for full-time studies will be required to present a thesis on an approved subject not less than 6 semesters, and not more than six calendar years after full registration.
6. Part-time candidates shall be required to present their thesis not less than 8 semesters and not more than eight calendar years after full registration.
7. The length of the thesis shall be in accordance with specifications laid down by the Departments of the Faculty in which the student is registered, but shall not exceed 80,000 words excluding footnotes and appendices. The Board for Graduate Studies and Research may in special circumstances give permission for its limit to be exceeded.
8. A thesis will not be deemed adequate unless:
 - (a) It is judged to be a new contribution to knowledge,
 - (b) It shows clear evidence of original research, and
 - (c) It is worthy of publication.
9. A candidate for the PhD will be required to take an oral examination on a general field of study and on the thesis submitted. Wherever possible, the External Examiner should be present at the oral examination. In his absence, his written report shall be made available to the examiners present.
10. A candidate, after consideration of his thesis by the Examiners and after oral examination may be:
 - (a) Recommended to Senate for the award of the degree,
 - (b) Required to re-submit the thesis within 18 months,
 - (c) Required to re-submit his thesis and repeat the oral examination on one subsequent occasion within eighteen (18) months from the decision of the Board for Graduate Studies and Research,
 - (d) Required to make corrections to thesis within six (6) months from the decision of the Board for Graduate Studies and Research, or
 - (e) Failed outright.

GENERAL FACULTY REGULATION

Requirement to withdraw

Candidates in any programme who fail two or more courses in any semester will normally be required to withdraw from that programme.

LLM and GRADUATE DIPLOMA CORPORATE AND COMMERCIAL LAW

Introduction

This programme is designed particularly for lawyers and other qualified persons in the corporate and financial services sector working in such areas as Corporate Law, Competition Law, Offshore Financial Law, Corporate Finance and Insolvency Law, International Trade Law, Intellectual Property Law, and Transnational Commercial Transactions Law. It is designed to better equip such persons to:

- Address issues and problems arising in these areas;
- Serve as policy advisors to corporate clients and governments;
- Undertake complex litigation on behalf of corporate clients and governments before international tribunals and regional courts, including the CCJ; and
- Contribute to the development of a Caribbean Jurisprudence in this area.

Entry Requirements

The following persons are eligible to apply for admission into this LL.M programme:

- Graduates of the University of the West Indies holding the LLB degree;
- Graduates of the University of the West Indies or of an approved University holding a degree which includes such law subjects as shall satisfy the Board for Graduate Studies and Research;
- Graduates of the University of the West Indies or of an approved University, who have obtained a professional legal qualification and are admitted to practise in any part of the Commonwealth and in any CARICOM country;
- Persons who having obtained a professional legal qualification, are admitted to practise in any part of the Commonwealth, and who have also been certified as being in practice for a minimum of five years;
- Graduates of the University of the West Indies or of an approved University, who satisfy the Board for Graduate Studies and Research of their capability to undertake the course of study leading to the award of the LLM degree.

A person who applies for admittance to the LLM programme and who does not satisfy the criteria for the LLM but who has satisfied the Board for Graduate Studies and Research of his or her

capability to undertake the course of study leading to the award of the Graduate Diploma in Corporate and Commercial Law may be admitted to read for the Graduate Diploma.

Qualifying Examination

Applicants may, at the discretion of the Board for Graduate Studies and Research, be required to take a qualifying examination.

The language of instruction is English and applicants whose native language is not English may be required to take an English Proficiency Test set on behalf of the Board for Graduate Studies and Research.

Time of Entry

Candidates may enter these programmes either in Semester I, which starts in September, or in Semester II, which begins in late January.

Cost

US\$10,000 (US\$2,500 per course)

These fees are exclusive of the applicable University Registration Fees, i.e. Amenities, Guild and ID Card. Students are required to pay these fees to the respective campus.

Course of Study

These programmes will be delivered at the Cave Hill, Mona and St. Augustine Campuses, in Belize and The Bahamas, and in the Eastern Caribbean, by way of a combination of week-night and week-end residential lectures, workshops, seminars and modern distance learning techniques, including the use of teleconferencing.

The coursework component of all programmes must be completed within four semesters of the commencement of the programme.

The research paper component of the LLM programme must be completed and submitted within six (6) months of completion of the required courses.

Method of Delivery

Courses are taught using at least one of the following methods – lectures; seminar type sessions; and the inductive method of learning may be utilized. In some courses manuals with relevant material are prepared to assist students. However, these manuals are not exhaustive and students are required to prepare the readings cited on the worksheets.

Leading Practitioners in the area of offshore financial law will serve as guest lecturers and will be an important aspect of course delivery. The use of the internet and the media is actively encouraged.

Method of Assessment

The courses will be assessed by means of one or more of the following:

- (a) Written final examination of three hours duration; and/or
- (b) Coursework; and/or
- (c) Take home examination; and/or
- (d) Research Paper

Award of Degree

To be awarded the LLM Degree in Corporate and Commercial Law candidates must complete a minimum of thirty-five (35) credit hours of which twenty (20) credit hours will be assigned to examination of four (4) courses and fifteen (15) credit hours will be assigned to the examination of a research paper. To be awarded the Graduate Diploma in Corporate and Commercial Law candidates must complete a minimum of twenty (20) credit hours of coursework.

Distinction

For the award of the LLM degree with distinction the candidate must pass all courses at first sitting and attain an average mark in all written courses of at least 70%. The candidate must also achieve a mark of 70% or over in the Research Paper.

LIST OF COURSES

Note that all courses are not offered every year.

Core

LAW 6900 Research Paper

Electives – Student selects any 4 courses

LAW 6130	Comparative Labour Law in a Corporate Environment
LAW 6310	Caribbean Business and Public International Law
LAW 6400	Company Law Theory in Modern Commerce
LAW 6402	Legal Aspects of Corporate Misconduct
LAW 6410	Advanced Insurance Law
LAW 6420	Law of Corporate Governance
LAW 6430	Advanced Corporate Finance
LAW 6450	Offshore Financial Law
LAW 6470	Advanced Intellectual Property Law
LAW 6490	Advanced Corporate Insolvency Law
LAW 6520	Advanced International Environmental Law

LLM and GRADUATE DIPLOMA LEGISLATIVE DRAFTING

Introduction

The Legislative Drafting Programme is designed to train lawyers and other suitably qualified persons in the skill of drafting legislation to cover every conceivable area of human affairs subject to regulation. Thus, in addition to instruction in the technical skill of drafting 'traditional' legislation, the Programme provides candidates with a basic understanding of Treaty Drafting, Constitution Writing, and the preparation of the Appellate Brief. The aim is to produce not only technically qualified draftspersons, but persons with the intellectual capacity to be effective policy advisors to their Governments and other clients. To this end, candidates in the Masters programme are required to undertake, in addition to the core course in Legislative Drafting, courses in Public Law I (Advanced Constitutional Law) and Public Law II (Advanced Administrative Law) and write a research paper.

The Legislative Drafting Programme in the Faculty of Law at UWI has trained the majority of persons in Drafting Offices across the Region.

Entry Requirements

The following persons are eligible to apply for admission into this LLM programme:

- Graduates of the University of the West Indies holding the LLB degree;
- Graduates of the University of the West Indies or of an approved University holding a degree which includes such law subjects as shall satisfy the Board for Graduate Studies and Research;
- Graduates of the University of the West Indies or of an approved University, who have obtained a professional legal qualification and are admitted to practise in any part of the Commonwealth and in any CARICOM country;
- Persons who having obtained a professional legal qualification, are admitted to practise in any part of the Commonwealth, and who have also been certified as being in practice for a minimum of five years;
- Graduates of the University of the West Indies or of an approved University, who satisfy the Board for Graduate Studies and Research of their capability to undertake the course of study leading to the award of the LLM degree.

A person who applies for admittance to the LLM programme and who does not satisfy the criteria for the LLM but who has satisfied the Board for Graduate Studies and Research of his or her capability to undertake the course of study leading to the award of the Graduate Diploma in Legislative Drafting may be admitted to read for the Graduate Diploma.

Qualifying Examination

Applicants may, at the discretion of the Board for Graduate Studies and Research, be required to take a qualifying examination.

The language of instruction is English and applicants whose native language is not English may be required to take an English Proficiency Test set on behalf of the Board for Graduate Studies and Research.

Time of Entry

The LLM Legislative Drafting begins in Semester 1, which starts in September.

Course of Study

These programmes are fully residential. Courses will be delivered at the Cave Hill Campus by way of a combination of weekly lectures and seminars.

The research paper component of the LLM programme must be completed and submitted within 6 months of completion of the required courses.

Method of Assessment

The courses will be assessed by means of one or more of the following:

- (a) Written final examination of three hours duration; and/or
- (b) Coursework; and/or
- (c) Take home examination; and/or
- (d) Research Paper

Award of Degree

Candidates registered for these programmes must complete the following:

- Core course in Legislative Drafting (20 credit hours)
- Public Law I -Advanced Constitutional Law (5 credit hours)
- Public Law II -Advanced Administrative Law (5 credit hours)

Candidates must also complete a Research Paper on a topic in Legislative Drafting, or on a topic in either Public Law I or Public Law II or on such other topic as the Faculty may permit. The Research Paper carries a credit rating of 15 credit hours.

Candidates registered for the Graduate Diploma in Legislative Drafting will be awarded the diploma on successful completion of all requirements of the core course in Legislative Drafting only.

Distinction

For the award of the LLM degree with distinction the candidate must pass all courses at first sitting and attain an average mark in all written courses of at least 70%. The candidate must also achieve a mark of 70% or over in the Research Paper.

Cost

BDS\$ 24,333 - For Citizens of Anguilla, Antigua & Barbuda, Belize, Bermuda, British Virgin Islands, Dominica, Grenada, Montserrat, St. Kitts/Nevis, St. Lucia, St Vincent & the Grenadines, The Bahamas and The Cayman Islands.

BDS\$ 53,693 - For Citizens of Barbados, Trinidad & Tobago, Jamaica, Guyana, International students and citizens of Caribbean countries not listed above.

LIST OF COURSES

All courses required

LAW 6720	Public Law I - Advanced Constitutional Law
LAW 6730	Public Law II – Advanced Administrative Law
LAW 6740	Legislative Drafting
LAW 6900	Research Paper

LLM and GRADUATE DIPLOMA PUBLIC LAW

Introduction

The area of Public Law is central to the practice of good democratic governance and to the success of both the Single Market and Economy and the CCJ.

The Public Law Programme therefore aims to provide legal practitioners, members of the Region's Magistracies, Senior Public Servants and other qualified persons in the private sector with advanced training in the areas of Constitutional Law, Administrative Law, Public International Law, International Human Rights Law, International Trade Law, Competition Law, to name a few. The programme is designed to provide candidates with a deeper understanding of the issues in the core subjects of Constitutional and Administrative Law, in addition to others, to enable them to:

- Provide more effective representation before international tribunals, the regional courts and the CCJ;
- Render more enlightened decisions in the discharge of their offices as Senior Managers of the Public Service;
- Give adequate and effective legal and policy advice to Governments and other clients; and
- Contribute to the development of a regional jurisprudence in the area of Public Law.

Entry Requirements

The following persons are eligible to apply for admission into this graduate programme:

- Graduates of the University of the West Indies holding the LLB degree;
- Graduates of the University of the West Indies or of an approved University holding a degree which includes such law subjects as shall satisfy the Board for Graduate Studies and Research;
- Graduates of the University of the West Indies or of an approved University, who have obtained a professional legal qualification and are admitted to practise in any part of the Commonwealth and in any CARICOM country;
- Persons who having obtained a professional legal qualification, are admitted to practise in any part of the Commonwealth, and who have also been certified as being in practice for a minimum of five years;
- Graduates of the University of the West Indies or of an approved University, who satisfy the Board for Graduate Studies and

Research of their capability to undertake the course of study leading to the award of the LLM degree.

A person who applies for admittance to the LLM programme and who does not satisfy the criteria for the LLM but who has satisfied the Board for Graduate Studies and Research of his or her capability to undertake the course of study leading to the award of the Graduate Diploma in Public Law may be admitted to read for the Graduate Diploma.

Qualifying Examination

Applicants may, at the discretion of the Board for Graduate Studies and Research, be required to take a qualifying examination.

The language of instruction is English and applicants whose native language is not English may be required to take an English Proficiency Test set on behalf of the Board for Graduate Studies and Research.

Time of Entry

Candidates may enter these programmes either in Semester I, which starts in September, or in Semester II, which begins in late January.

Cost

US\$10,000 (US\$2,500 per course)

These fees are exclusive of the applicable University Registration Fees, i.e. Amenities, Guild and ID Card. Students are required to pay these fees to the respective campus.

Course of Study

These programmes will be delivered at the Cave Hill, Mona and St. Augustine Campuses, in Belize and The Bahamas, and in the Eastern Caribbean, by way of a combination of week-night and week-end residential lectures, workshops, seminars and modern distance learning techniques, including the use of teleconferencing.

The coursework component of all programmes must be completed within four semesters of the commencement of the programme.

The research paper component of the LLM programme must be completed and submitted within 6 months of completion of the required courses.

Method of Delivery

Courses are taught using at least one of the following methods – lectures; seminar type sessions; and the inductive method of learning may be utilized. In some courses manuals with relevant

material are prepared to assist students. However, these manuals are not exhaustive and students are required to prepare the readings cited on the worksheets.

The use of the internet and the media is actively encouraged.

Method of Assessment

The courses will be assessed by means of one or more of the following:

- (a) Written final examination of three hours duration; and/or
- (b) Coursework; and/or
- (c) Take home examination; and/or
- (d) Research Paper

Award of Degree

To be awarded the LLM Degree in Public Law candidates must complete a minimum of thirty-five (35) credit hours of which twenty (20) credit hours will be assigned to examination of four (4) courses and fifteen (15) credit hours will be assigned to the examination of a research paper.

To be awarded the Graduate Diploma in Public Law candidates must complete a minimum of twenty (20) credit hours of coursework.

Distinction

For the award of the LLM degree with distinction the candidate must pass all courses at first sitting and attain an average mark in all written courses of at least 70%. The candidate must also achieve a mark of 70% or over in the Research Paper.

LIST OF COURSES

Note that all courses are not offered every year.

Core

LAW 6900 Research Paper

Electives – Student selects any 4 courses

LAW 6300	Advanced Public International Law
LAW 6330	Advanced Public International Trade Law
LAW 6460	Competition Law in a Global Economy
LAW 6520	Advanced International Environmental Law
LAW 6600	Advanced Caribbean Integration Law
LAW 6720	Public Law I – Advanced Constitutional Law
LAW 6730	Public Law II – Advanced Administrative Law
LAW 6750	Advanced International Human Rights Law

PhD LAW

Entry Requirements

The following are eligible to apply for admission to PhD Law programmes:

- Persons holding approved graduate degrees awarded primarily for research;
- Persons holding a taught Master's degree from the UWI or another approved University, provided that the Master's programme included a research component of at least 25% of the total credit rating and the applicant achieved at least a B+ average or its equivalent;
- Persons registered in MPhil degree programmes of the UWI who have met the requirements for upgrading of their registration, as stipulated by the Board for Graduate Studies and Research; or
- Persons possessing such other qualifications and experience as the Board for Graduate Studies and Research may approve.

Admission of applicants to PhD programmes without prior registration for the MPhil must be approved by the Board for Graduate Studies and Research.

Availability of Expertise and Resources

Admission is contingent upon whether candidates have a thesis proposal compatible with the expertise and resources available in the Faculty of Law.

Course of study

Students in the PhD Law degree programme are required to successfully:

1. Complete a minimum of nine (9) credits of coursework,
2. Present three seminars and
3. Submit a thesis.

Courses

Students in the PhD degree programme should discuss with their supervisor suitable courses which would satisfy the credit requirements. Courses should be completed in the first year.

Compulsory Seminar Presentations

For each seminar, candidates are required to write and present a paper to be photocopied and distributed before hand on a topic arising out of their research as well as to field questions put to them afterwards. Seminars should be completed within the first year of the programme.

Thesis

Candidates are required to present and defend a Thesis of acceptable scope and quality for the degree. The Thesis must follow the guidelines set out in the University's Thesis guide.

Conferment of the Degree

The successful completion of the compulsory coursework, Seminar presentations and the Thesis will lead to the award of the PhD degree.

LIST OF COURSES

All required

GRSM 8001	PhD Research Seminar 1
GRSM 8002	PhD Research Seminar 2
GRSM 8003	PhD Research Seminar 3
LAW 8000	PhD Law Thesis

COURSE DESCRIPTIONS

COURSES LISTED IN ALPHANUMERIC ORDER BY COURSE CODE

COURSE CODE: GRSM 8001 (common to all PhD students)
TITLE: PhD Research Seminar 1
TYPE: COMPULSORY for PhD students
CREDITS: 0

Description

This course is the first of three research seminars to be presented by the PhD student.

Assessment

Pass/Fail

COURSE CODE: GRSM 8002 (common to all PhD students)
TITLE: PhD Research Seminar 2
TYPE: COMPULSORY for PhD students
CREDITS: 0

Description

This is the second of three research seminars to be presented by the PhD student.

Assessment

Pass/Fail

COURSE CODE: GRSM 8003 (common to all PhD students)
TITLE: PhD Research Seminar 3
TYPE: COMPULSORY for PhD students
CREDITS: 0

Description

This is the last of three research seminars to be presented by the PhD student.

Assessment

Pass/Fail

COURSE CODE: LAW 6130

TITLE: Comparative Labour Law in a Corporate Environment

TYPE: ELECTIVE

CREDITS: 5

Description

The globalisation process, greatly assisted by technological advances, will present many challenges for labour law. As competition increases, companies will strive to reduce as much as possible the cost of doing business. The likely consequences of this are an increase in lay-offs and redundancies, the flexibilisation of labour and wages, the marginalisation of trade unions and increased pressure on the authorities to roll back the rights won by the workers over the years. In such a context, a clear understanding of the principles governing employment law is critical. Beyond this however, the philosophy and policies which underlie these principles must be thoroughly analysed if they are to be accorded their true status in the new globalised economy. The course is taught from a Commonwealth Caribbean perspective but draws on comparative sources and international labour standards.

Among the areas examined are:

- Introduction to Labour Law Models and Developments;
- Termination of Employment;
- Occupational Health and Safety;
- New Trends in Industrial Relations and Labour Law
- Negotiation and Workplace Models,
- Issues of Discrimination;
- Industrial Action - Compulsory and Voluntary Models;
- Successorship;
- Collective Bargaining - Compulsory and Voluntary Models; and
- Labour Law Ideologies and Philosophies.

Assessment

100% Final Examination

COURSE CODE: LAW 6300

TITLE: Advanced Public International Law

TYPE: ELECTIVE

CREDITS: 5

Description

This course examines three discrete aspects of Public International Law, namely, the law concerning the use of force in international relations, the law of the sea and the law of state responsibility,

including the treatment of foreign direct investment. The main concerns will be (1) to consider the ways in which legal principles and rules influence the decision-making process in international relations, and (2) to examine the extent to which different groups of states, and in particular, developing States, have sought to shape Public International Law to suit their national and group interests. Special emphasis will be placed on the manner in which states have used the United Nations and other multilateral agencies as important arenas for the formulation of treaty rules and for the elaboration of norms of customary international law. Particular attention will also be placed on issues relating to the use of law as an instrument of international development.

Assessment

This course will be assessed by means of one or more of the following:

- (a) A written final examination of three hours duration;
- (b) Coursework;
- (c) A take home examination.

COURSE CODE: LAW 6310

TITLE: Caribbean Business and Public International Law

TYPE: ELECTIVE

CREDITS: 5

Description

The purpose of this course is to expose for critical examination the relationship between Caribbean business and public international law.

Part I of the course deals with Public International Law which is the system of law which governs inter-state relations. Students will be introduced to the rules of international law that are recognised as being effectively binding obligations by sovereign states and other international persons in their mutual relationships. Topics include: the distinction between public and private international law and the relationship between international law and national law focusing on the Caribbean Case of *U.S. v. Bowe*.

Other areas include:-

1. Movement of persons across borders;
2. International Telecommunications law;
3. Law of the Air;
4. Law of Sea;
5. Human Rights Law; and
6. Environmental Law

Part II of the course looks specifically at the traditional international law areas of strong relevance to businesses. These include state responsibility and national treatment concepts discussed within the Caribbean context of the *Revere - OPIC* case.

The course also analyses and discusses the legal problems that may arise when considering foreign direct investment in the Caribbean in particular the case of Jamaica and ICSID.

Part III of the course surveys the international and regional trading system. The course addresses various trade regulation regimes affecting the conduct of international trade to and from the Caribbean with a particular focus on the World Trade Organisation (WTO), the General Agreement on Tariffs and Trade (GATT), Anti-dumping measures, TRIMS, TRIPS and Dispute settlement. The student while being exposed to the international trading system, will focus on Caribbean cases such as *The Bananas Case*, *Foreign Sales Corporation case*, *OECD Harmful Taxation Competition Initiative* and the role of the Caribbean Regional Negotiating Machinery. The course also discusses regional free trade areas such as Free Trade Area of the Americas and an in depth examination of the CARICOM Single Market and Economy and its constituent document - *The Treaty of Chaguramus*.

Assessment

100% Final Examination

COURSE CODE: LAW 6330

TITLE: Advanced Public International Trade Law

TYPE: ELECTIVE

CREDITS: 5

Description

This course sets out to provide an understanding of the public international law dimension of international trade for the West Indian states who are participating, actually or in contemplation, in the World Trade Organisation (WTO) system, and of the interrelationship between that system and other relevant international trade obligations. The course is to that end subdivided into three parts.

In Part I, two fundamental issues belonging to the context of international trade are considered: the normal concentration of public international law on relations between states at the governmental level rather than among private commercial actors, and the relevance of international law in matters before national courts, the normal fora for business litigation.

In Part II, the traditional international law of investor protection, including its modern development through networks of bilateral agreements and the International Centre for Settlement of Investment Disputes (ICSID) system, is discussed in outline. This is an important complementary topic to WTO law, since WTO law has only limited application to investment. The investment regime aspects of the projected Free Trade Area of the Americas (FTAA) and of CARICOM Single Market and Economy (CSME) are addressed in Part IV, after the study of the WTO system.

Part III constitutes the central content of the course, an examination of the legal machinery and the basic legal concepts of WTO law of trade in goods and trade in services (excluding the intellectual property regime and the detailed customs disciplines). The concentration is on the current state of the law rather than on the issues which are the focus of current negotiations. That current state of the law is, of course, in great measure the product of past negotiations, so greater understanding of that current law nevertheless adds value in training for participation in current negotiations.

Part IV briefly considers the regional trade regimes, the proposed FTAA and the CSME, in their relationship with WTO law.

Specific areas of inquiry under each part include:

PART I: Background issues of international law

1. The distinction between public and private international law
2. The relationship between international law and national law

PART II: International law and investor protection

1. State responsibility and diplomatic protection
2. National treatment as the lowest standard
3. Investor protection agreements (bilaterals, ICSID Convention)

PART III: The World Trade Organization system

1. Structure of the Marrakesh agreement
2. The Dispute Settlement Understanding (DSU)
3. General Agreement on Tariffs and Trade (GATT) 1994 and the regime of trade in goods
4. Anti-dumping Agreement
5. Agreement on Subsidies and Countervailing Measures
6. Agreement on Safeguards
7. GATT 1994 and the Agreement on Agriculture
8. General Agreement on Trade in Services (GATS) and the regime of trade in services
9. General issues in WTO law
10. WTO and environmental law

PART IV: Regional trade agreements

1. GATT Article XXIV and GATS Articles V and V bis (FTAA, CSME, the “WTO-plus” dimension, conflicts of dispute settlement jurisdiction)

The heavy dependence on web-based sources of official documents and decided cases, which can be expected to continue to appear at frequent intervals, argues against the recommendation of a small number of texts for this course. Round the clock access to the internet will provide the basic source of information, with supplementary access to printed periodical materials and works of reference. Detailed reference to the texts of the Marrakesh Agreement, the most recent FTAA Draft Agreement and of the Revised Treaty of Chaguaramas will be required, and copies of those texts will be available for consultation while writing the examination.

Assessment

100% Final Examination

COURSE CODE: LAW 6400

TITLE: Company Law Theory in Modern Commerce

TYPE: ELECTIVE

CREDITS: 5

Description

This course is an examination of the corporate form of business associations - the company- and the legal, economic and regulatory framework within which the company operates.

It builds upon the fundamental principles of company law by a contextualised and critical examination of the principal problems which confront a company within the world of commerce.

The key issues examined are:- The Jurisprudential foundation of company law - Theory of separate legal personality; The pre-incorporation contract challenge to separate legal personality; Challenges to defining the legitimate use of the corporate form - criminal liability challenge and tortious liability challenge; The problem of corporate ownership and control problems posed by multi-national and transnational companies; The problem of the small incorporated firm vs. corporate groups; Reconciling shareholder remedies with separate legal personality; and Reconciling creditors rights on insolvency within separate legal personality.

Assessment

100% Final Examination

COURSE CODE: LAW 6402

TITLE: Legal Aspects of Corporate Misconduct

TYPE: ELECTIVE

CREDITS: 5

Description

This course is intended to provide an examination of those aspects of corporate misconduct that are rapidly developing and assuming increasing importance globally. The course places a special emphasis on the role of the financial services industry in maintaining stability and integrity in the financial markets.

Topics to be covered will include:

1. The concept of corporate misconduct within the context of the financial services industry;
2. The need to regulate financial intermediaries i.e. banks, insurance companies, investment advisors etc.;
3. The issues relating to underground and parallel financial systems;
4. Money laundering - civil and criminal liability for “those who handle other people’s money”;
5. Insider Dealing - civil and criminal liability; and
6. Liability under the specific regulations governing the financial services industry, including market manipulation.

Assessment

100% Final Examination

COURSE CODE: LAW 6410

TITLE: Advanced Insurance Law

TYPE: ELECTIVE

CREDITS: 5

Description

Insurance is an increasingly important tool for the management of risk by both private and public enterprises. This course, at an advanced level, is intended to provide students with theoretical and practical challenges that face the Insurance Companies or the business of insurance in the Commonwealth Caribbean.

The course traces the historical development of Insurance Law to current trends and challenges facing the Insurance Industry in general and in particular the Commonwealth Caribbean. The course also examines the practical difficulties of companies which engage in “insurance business” as a part of the enterprise but without registering under the relevant Insurance Act thereby escaping the rigours of Insurance legislations and obvious problem facing regulators.

The course also examines theoretically the problems encountered by insurance law such as:

1. The application of the basic principles of contract formation to Insurance Contracts; and
2. The issue of misrepresentation and non-disclosure.

The course also examines principles of insurance law in the context of specific types of insurance including life, indemnity and third party insurance.

Other topics covered are insurable interest, the status of the beneficiary, subrogation - double insurance and contribution, policy interpretation, the claims process and the role of the insurance broker.

Assessment

33% Research paper, 67% Final Examination

COURSE CODE: LAW 6420

TITLE: Corporate Governance

TYPE: ELECTIVE

CREDITS: 5

Description

Corporate Governance has emerged on the global agenda in pursuit of proper and efficient practice in the administration of the business entity. The objective is probity in business activity, compliance with law and regulation and the security of reputation and confidence towards the attraction of inward investment.

Corporate Governance focuses at an advanced level, on the principal legal and economic questions facing corporations in light of the recent scandals involving high profile corporations such as Enron, Baring, WorldCom, Arthur Anderson and Xerox.

Among the topics considered are:-

1. The theories of corporate governance and the justification for good governance against the background of recent financial scandals;
2. The allocation of powers within a company vis-a-vis the powers and duties of directors; Corporate Control;
3. Governance of corporate groups and small businesses;
4. The Company and its constituencies i.e. shareholders, creditors etc.; and
5. The role of auditors.

Assessment

100% Research Paper

COURSE CODE: LAW 6430

TITLE: Advanced Corporate Finance

TYPE: ELECTIVE

CREDITS: 5

Description

Corporate Finance practice concerns itself with the innovative techniques that business persons and lawyers employ to enable companies to maximize profit and to create wealth. Corporate Finance law consists of a body of disparate principles and rules relevant to company financing practice. It is best viewed as the embodiment of the response of the law to the needs and practices of corporate finance. The law must, of necessity constantly adapt itself to new business practices, and new instruments. It is this tension of accommodation required by rapidly developing practices, rules and usages which informs much of corporate finance law.

The course will examine corporate financing mechanisms with specific attention to problem-based strategies and related legal and regulatory frameworks.

Course materials represent in general terms the core elements of two of the three major components of the course: Debt Finance and Equity Finance. The third major component of the course relates to company financing from the public. The focus of the course will be primarily on the core concepts of contemporary financing techniques. The selections made for individual seminar topics will reflect this focus.

These include:

1. The concept of capital and financing of Companies;
2. Raising share capital and the capital maintenance doctrine;
3. Corporate self-dealings;
4. Corporate distribution;
5. Concept of equity financing;
6. Loan capital (in particular Debt Financing); and
7. The taxation of companies.

Assessment

100% Research Paper

COURSE CODE: LAW 6450

TITLE: Offshore Financial Law

TYPE: ELECTIVE

CREDITS: 5

Description

The offshore financial centre has become a significant revenue earner in the Commonwealth Caribbean and being inherently transnational, engages routinely the attention of capital producing nations outside of the region as well as leading international institutions. A unique and dynamic jurisprudence has developed alongside the offshore financial centre. It involves the straddling of several legal disciplines such as the law on trusts, banking, insurance, company law, revenue law, mutual legal assistance and law enforcement. This course addresses several of the complex issues raised in offshore financial law.

Specific areas of inquiry include:

1. An understanding and rationalisation of fundamental legal precepts and characteristics of offshore financial centres;
2. An analysis of the international business company (IBC) and its comparability with traditional company structures;
3. Issues of privacy, particularly in relation to regulating offshore financial centres;
4. Vehicles for mutual legal assistance;
5. An examination of the offshore trust as a hybrid legal concept and the legal challenges facing the offshore trust; Selected conflict of laws issues in offshore financial law;
6. Issues relating to law enforcement and disclosure efforts; and
7. Challenges to the tax function of offshore financial centres.

Assessment

100% Final Examination

COURSE CODE: LAW 6460

TITLE: Competition Law in the Global Economy

TYPE: ELECTIVE

CREDITS: 5

Description

The need to regulate business competition on a global scale has become obvious in the context of the globalised economy, on the one hand, and national or regional approaches to competition matters, on the other. The course will analyse the most important aspects of the competition law and policy of the United States of America, the European Community (EC), and the CARICOM

Single Market and Economy (CSME) with a view to identifying internationally acceptable and effective means of ensuring that competition in the globalised economy is free of cartels and free of abuses imposed by dominant firms. The antitrust treatment of mergers and acquisitions will also be examined.

Topics to be covered are:

1. Globalisation and the International Aspects of Antitrust Regulations:
 - a. The Rationale of Trade Liberalisation and of Antitrust Laws;
 - b. Development and the WTO Antitrust Regime; Democracy;
 - c. Accountability and Antitrust Laws
2. International Cartels:
 - a. Antitrust Enforcement against International Cartels: Trends and Practical Considerations;
 - b. The Fight against Secret Horizontal Agreements in EC Competition Law;
 - c. An Overview of the US Antitrust Enforcement Practices in respect of Cartels;
 - d. Leniency Programmes and the Criminalisation of Cartels Law;
3. Dominant Behaviour
 - a. Monopolisation and the Abuse of a Dominant Position from the Economic Viewpoint;
 - b. Dominant Behaviour under National or Regional Competition Laws;
4. Mergers and Takeovers in the Multi-Jurisdictional Context; and
5. International Co-operation in the Enforcement of Competition Law
 - a. Co-operation between Developed and Developing Countries and Co-operation between Developed Countries

This course aims to:

Give students the opportunity of examining a wide range of topics which are of great relevance to the development and advancement of fair competition in the globalised economy but which are so controversial, complex and politically sensitive that the international community has not yet been able to achieve any consensus; and Ensure that from the commencement of the LLM programme, students become familiar with conducting, recording, rationalising, compiling and presenting their own independent research.

On successful completion of this course, students should be able to:

1. Explain and critically evaluate the most controversial topics in antitrust law;
2. Analyse the legal, political and economic content of the topics under consideration;
3. Demonstrate a capacity for thorough research;
4. Utilize a systematic approach to using the multitude of computerized research sources in order to effectively research a legal problem;
5. Assimilate information from a range of sources;
6. Respond to factual and theoretical problems by assessing their legal implications in the context of competition law; and
7. Suggest, argue, report and critically evaluate alternative approaches to such problems.

Assessment

This course will be assessed by means of one or more of the following:

- (a) A written final examination of three hours duration;
- (b) Coursework;
- (c) A take home examination.

COURSE CODE: LAW 6470

TITLE: Advanced Intellectual Property Law

TYPE: ELECTIVE

CREDITS: 5

Description

This course aims to challenge students to apply the basic principles and understanding of intellectual property to issues and challenges in this globalised world. This multifaceted and dynamic concept, intellectual property covers areas such as:

1. Copyright;
2. Trademarks;
3. Patents;
4. Industrial designs; and
5. Geographical Indications

Part I of the course summarises the nature and basic principles underlying the main branches of Intellectual Property.

Trademarks: The theory and practice of private remedies for the protection of “trade identity” and related intangibles of commercial value: the focus on legislations and conventions governing trademark and its impact on private rights to regulate

the use of trademark, trade names and unfair competition practices. Topics examined are the common law action of passing off, distinctiveness, use of the criterion for trademark registration and the procedure for opposing a grant of registration.

Copyright: The fundamentals of copyright in music, literature and the arts. Among the areas covered are the manner and scope of protection of dramatic, musical, artistic and literary works, the concepts of authorship and ownership, originality, the idea/expression dichotomy and the fair dealing defence and thorough analysis of copyright acts, international conventions and case law. The course attempts to assess the copyright regimes in terms of its justification and its public policy objectives, exposing students to theoretical discussions surrounding copyright protection in the information and Internet era.

Patents: Patents provide limited term monopoly-like property right in inventions- “product of the mind”. The purported purposes of patent law are encouragement of innovation and product for social benefit. The course examines the statutory basis of patent law in an international context and covers the doctrinal development in case law for patents and trade secrets. The course also explores contemporary controversies over the expansion of patent rights in biotechnology and the shift from copyright protection for computer programmes.

Trade Secrets: arise from the combination of contracts, equity and property law.

Building on the introductory part on Intellectual Property, Part II of the course goes on to examine:

Some of the issues and problems that the law must confront in the age of information and technological innovation. The Digital Age and the question of the extensive use of the Internet as a tool in modern commerce, domain names and non-original databases.

How these well-established principles interface with business development and developing countries concerns. The challenges faced by Commonwealth Caribbean countries which operate within the strictures of WTO and the Free Trade Areas of the Americas (FTAA).

It is therefore imperative that trade negotiators understand the world trading system and the unprecedented linkage between intellectual property and trade which must inform Caribbean trade negotiations.

This brings into sharp focus the role of the Caribbean Regional Negotiating Machinery and its trade negotiators who need to appreciate the value and importance of intellectual property. They

must find creative and innovative negotiating techniques that would buy leverage and create positive prospects for Caribbean businesses, operating within the context of CSME and the wider global economy.

Assessment

25% Take-home written assignment; 75% Final Examination

COURSE CODE: LAW 6490

TITLE: Advanced Corporate Insolvency

TYPE: ELECTIVE

CREDITS: 5

Description

Insolvency law has become part of the mainstream commercial law and plays a significant economic and social role in contemporary credit economies, the Commonwealth Caribbean being no exception. The insolvent company raises complex issues of law and policy that impact on rights and obligations. This has fueled a greater focus on the existing legal regulatory framework and its ability to cope with the consequences of business failure.

Undoubtedly, amongst the many challenges that globalisation presents for businesses in the Commonwealth Caribbean the issue of the sustainability of companies in this new globalised dispensation will loom large. Thus the philosophy and policies which inform business operations and strategies in the Commonwealth Caribbean must be thoroughly analysed in the context of the legal and regulatory framework within which companies operate.

It is therefore important that lawyers and insolvency practitioners in general understand recent developments in insolvency law and increase their awareness of developments internationally, with a view to improving procedures and practices to deal with both existing and new problems.

In this context, the course will consider the fundamentals of business insolvency from a Commonwealth Caribbean perspective while examining the comparative bankruptcy and insolvency regimes.

This course combines an analysis of relevant statutory material, concepts and procedures with an understanding of the policy choices in Corporate Insolvency and the different rules which an insolvency regime may play in the contemporary Commonwealth Caribbean society.

Assessment

100% Research Paper

COURSE CODE: LAW 6520

TITLE: Advanced International Environmental Law

TYPE: ELECTIVE

CREDITS: 5

Description

This course examines the principles, rules, policies, politics, conventions and institutions of international and transnational environmental law:

1. The basic principles and philosophies that have shaped the emergence of international environmental law.
2. The political economy of international environmental law particularly the relations between developing and developed countries.
3. The broader international law context within which the subject is largely nested.

The majority of the course is then devoted to specific topics. These include: sustainable development policy; trade and the environment, jurisdiction over conservation of maritime living resources; marine pollution, territorial biodiversity and trans-boundary pollution. These issues and the legal and institutional responses to them are examined through a variety of conceptual frameworks.

The course concludes with a look at Caribbean International Environmental Law.

Assessment

This course will be assessed by means of one or more of the following:

- (a) A written final examination of three hours duration;
- (b) Coursework;
- (c) A take home examination.

COURSE CODE: LAW 6600

TITLE: Advanced Caribbean Integration Law

TYPE: ELECTIVE

CREDITS: 5

Description

This course seeks to introduce candidates to the issues of public international law which are engaged by the process of deepening of integration among the West Indian countries, with special reference to the landmarks of the implementation of the CARICOM Single Market and Economy (CSME) and of the projected establishment of an OECS Economic Union.

Topics to be covered are:

1. The International Law Context of Caribbean Integration: the Law of International Organizations
 - a. The state in international law,
 - b. The international organization in international law,
 - c. Supra-state entities in international law: the case of the European Union,
 - d. Supra-state entities in international law: the case of the Commonwealth; and
 - e. Regional customary international law.
2. Caribbean Integration: Nesting and Intersection
 - a. Legal issues of the nesting or intersecting relationship of CARICOM and OECS with (in particular) OAS and the Inter-American System, ACS, SICA, ACP Group, AOSIS, CBI, CARIBCAN, CARIFORUM;
3. Caribbean Integration: CARICOM and OECS as political institutions
 - a. Decision-making in CARICOM and OECS, CARICOM institutional reform, proposals for an OECS Economic Union, supranationality;
4. Caribbean Economic Integration, CSME and OECS Economic Union
 - a. The most favoured nation treatment principle,
 - b. The national treatment principle,
 - c. Right of establishment,
 - d. Movement of natural persons,
 - e. LDCs,
 - f. Safeguards,
 - g. The competition régime, and
 - h. Subsidies
5. Dispute Settlement in Caribbean Regional Integration
 - a. The original jurisdiction of the Caribbean Court of Justice;
 - b. Other dispute settlement mechanisms; and Conflicts between dispute settlement mechanisms
6. Caribbean Integration: Functional Co-operation
 - a. CDB, ECCB, the Appellate Jurisdiction of the Caribbean Court of Justice, the Eastern Caribbean Supreme Court, UWI and other instruments of West Indian functional regional cooperation

Candidates who undertake this course successfully should be capable of:

1. Explaining the basic implications in general international law of new developments in Caribbean legal integration,
2. Identifying the limits on freedom of political decision and economic management to which states have legally committed themselves in the process of integration;
3. Advising policymakers from a legal perspective what would be the policy implications of proposals to deepen and extend the integration process;
4. Participating effectively in discussion of the technical trade concepts which are employed in the design of the CSME and evaluating the compatibility of the CSME regime with other trade arrangements in place or under consideration;
5. Continuing their self0-education in the issues canvassed in the course by making effective use of information technology; and
6. Researching and writing on such issues.

Reading

The heavy dependence on web-based sources of official documents and decided cases, which can be expected to continue to appear at frequent intervals, will dictate the reading assignments for this course. Round the clock access to the internet will provide the basic source of information, with supplementary access to printed periodical materials and works of reference. Detailed reference to the texts of the Revised Treaty of Chaguaramas and of the Treaty of Basseterre and the East Caribbean Common Market Agreement as revised or replaced, if appropriate, will be required, and copies of those texts will be available for consultation while writing the examination.

This course will be delivered by a combination of distance learning and periodic residential workshops and seminars on all three campuses.

Assessment

This course will be assessed by means of one or more of the following:

- (a) A written final examination of three hours duration;
- (b) Coursework;
- (c) A take home examination.

COURSE CODE: LAW 6720

TITLE: Public Law I (Advanced Constitutional Law)

TYPE: CORE FOR LEGISLATIVE DRAFTING/ELECTIVE FOR OTHER PROGRAMMES

CREDITS: 5

Description

This course in Advanced Constitutional Law takes a distinctly comparative and philosophical approach to the study of constitutional law. The idea is to give students a better appreciation of the theoretical issues embedded in the whole area of constitutional law. The comparative perspective helps students appreciate similarities and differences between Commonwealth Caribbean Constitutional Law and the constitutional law of other countries, in particular, the United States, the United Kingdom, Canada and South Africa.

The course proceeds on the central premise that constitutional law is foundational: it is that area of law that establishes the legal foundation of the State and the allocation of its sovereign powers among the central institutions of the State, and lays down the ground rules for the exercise of political authority in the society. And, above all else, constitutional law is that area of law that addresses itself to defining the relationship between the individual citizen and the State.

The course begins by addressing the question of Constitutional Fundamentals: questions about the nature of a constitution - its legal and moral validity; in other words, questions regarding the obligation of the citizen to obey the constitution; questions as to what makes a constitution valid law. These are questions that cannot be answered according to law, but are rather questions for political theory and moral philosophy.

In order to address some of these philosophical questions, we begin with the question of constitutional founding, using the U.S. Founding as representing the closest approximation in modern history of the ideal of constitutional founding. Much time is spent discussing Richard Kay's elegant essay: 'Comparative Constitutional Fundamentals', 6 Connecticut Journal of International Law 445 (1991), and the classic cases of *Marbury v. Madison* (1803) and *McCulloch v. Maryland* (1819).

The course then considers the issue of constitutional fundamentals in respect of Britain and Canada before focusing on the Commonwealth Caribbean. In each case, the idea is to take a sampling of certain cases thought to address issues of constitutional fundamentals. In the case of Canada, the *Secession Case* (1998)

might well be ideal; whereas, in the case of the West Indies, the case of *Ophelia King v. the Attorney General* (Barbados) will suffice.

Part II

The second part of the course focuses in more detail on the Constitutional Structure of the State. It explores the question of the centrality of the principle of Separation of Powers, as a structural and normative principle, in the design of the just State and to the practice of judicial review. The course therefore revisits *Marbury v. Madison* to explore Chief Justice Marshall's argument for judicial review.

Part III

The third part of the course focuses on Fundamental Rights. This is the most intensely philosophical aspect of the course and begins by considering the central question of the nature of fundamental rights: What makes a right fundamental. Answers to this question may be gleaned from reading Alan Gewirth's essay, 'The Epistemology of Human Rights,' John Finnis's major work: *Natural Law and Natural Rights* (1981); and John Rawls's *A Theory of Justice* (1970), *Political Liberalism* (1993).

The remainder of the course is taken up with extensive treatment being given to each fundamental right. That begins with Freedom of Speech and the Press - the premier democratic right - considering its centrality to public discourse and democratic governance. This is followed by Freedom of Religion, having regard to the importance of religion and religious beliefs in human life. The critical task is to construct a principle of freedom of religion for a pluralist society such as Trinidad.

Next, the course studies Property as a fundamental right. Here, we explore the moral basis of property rights; that is to say, starting with Locke's Labour Theory, the course attempts to articulate a philosophical justification for the recognition of property rights as fundamental rights and draw the connections between rights to liberty and rights to property.

But property is a special kind of social institution, or 'defining who, in a society, may control various classes of valuable objects for a variety of present and future purposes and the conditions under which this power may be exercised.' On this view, property rights are understood to be an integral part of the economic organization of any society. It also means there are limitations on the exercise and enjoyment of the 'right.' For example, the State, through its police, tax and eminent domain powers, may impose limitations on property for the purpose of the economic and social development of the country and to achieve a more

equitable distribution of wealth in the society. This affords us a splendid opportunity to explore the theories of justice put forth by Rawls and Nozick in *A Theory of Justice* and *Anarchy, State and Utopia*, respectively, in the context of an island society where land is arguably the most valuable natural resource. The 'Chattle House Case' and the Barbados Tenantries Freehold Purchase Act make for very interesting discussion.

This is followed by Due Process and the Right against Cruel, Inhuman and Degrading Punishment or Treatment. This covers the whole range of death penalty cases in the Commonwealth Caribbean.

This course will be delivered by a combination of distance learning and periodic residential workshops and seminars on all three campuses.

Assessment

This course will be assessed by means of one or more of the following:

- (a) A written final examination of three hours duration;
- (b) Coursework;
- (c) A take home examination.

COURSE CODE: LAW 6730

TITLE: Public Law II (Advanced Administrative Law)

TYPE: CORE FOR LEGISLATIVE DRAFTING/ELECTIVE FOR OTHER PROGRAMMES

CREDITS: 5

Description

This course in Advanced Administrative Law is designed principally to satisfy the continuing need for legislative draftspersons to remain topical and appreciative of the radical changes taking place in a dynamic discipline.

The philosophy behind the syllabus is to provide students with a firm theoretical grasp of Administrative Law principles as well as appreciation of the directions in which Administrative Law is moving. While focus is on the Commonwealth Caribbean we shall inexorably be adopting a comparative approach to our seminars, drawing on precedents from the wider Commonwealth as well as the respective jurisdictions from which our students are drawn.

The course proceeds on the central premise that we live in regulated societies, those regulations being measured against the constitutional backdrop. Furthermore, it is a tenet of modern-day reality that increasingly litigation as between citizens has given place to litigation between citizens and the state.

Accordingly, the course focuses on those areas of the law that draftspersons ought to be constantly aware of, as they draft laws and offer policy advice to governments.

The course begins by addressing the question of Administrative Law fundamentals. Through an examination of select case law, trends and movements are identified with respect to new directions in Judicial Review.

Has Judicial Review run amok? Is Judicial Review simply an excuse by the Judiciary to interfere with policy? Is it realistic to attempt a separation between politics and law? What do these cases tell us about the status of Administrative Law in the legal firmament? Is the movement in this direction good for the legal system? How do we achieve administrative justice?

These and more, are the issues addressed in the course.

Ouster Clauses

Students will be called upon to reflect on the conflict between two fundamental principles.

The right of access to the courts by citizens who have a genuine grievance versus the right of Parliament to decide on what legislation is appropriate for the good governance of the polity.

A critical examination of the role of the courts will be undertaken. The fundamental question to debate is whether, having regard to the overwhelming attitude of the courts toward ouster clauses, the valiant attempts to legal draftspersons to exclude judicial review are exercises in futility.

The Boundaries of Administrative Justice

Using the Administrative Justice Act of Barbados, as a model, students will be required to examine both procedural and substantive aspects of administrative justice. A detailed and reasoned critique of the Administrative Justice Act will be given to the students to offer their version of a redraft of the Act in the light of its evolution and the decided cases.

Natural Justice

For the Caribbean region, natural justice is not simply a common law doctrine designed to offer procedural protections to citizens across the board. Natural Justice is firmly embedded in the bowels of Caribbean constitutions. Seminal cases on the subject will be critically examined and analysed.

Has Natural Justice now been subsumed by the doctrine of “fairness”? Is Natural Justice now past the age of child-bearing? How have the courts handled the principles of bias in the face of small island communities? Is Judicial Activism preferable to judicial conservatism in the situation of small island states?

Doctrine of Legitimate Expectation

A new and evolving doctrine, there is legitimate scope for argument and discussion as to how far its boundaries should extend.

An opportunity will be provided, once again, to pit the Caribbean case law against those of other jurisdictions, notably the UK, Australia, Canada and South Africa.

Remedies

From the prerogative writs, to orders and now to the inclusion of some important Private law remedies, the field is now chocked. By what principle can we rationalise these remedies? Should there be a single set of remedies or not? Should the courts be permitted to offer advisory opinions by way of aiding good administration? Should the courts play a part in developing a code of good administration?

This course will be delivered by a combination of distance learning and periodic residential workshops and seminars on all three campuses.

Assessment

This course will be assessed by means of one or more of the following:

- (a) A written final examination of three hours duration;
- (b) Coursework;
- (c) A take home examination.

COURSE CODE: LAW 6740

TITLE: Legislative Drafting

TYPE: CORE FOR LEGISLATIVE DRAFTING

CREDITS: 20

Descriptions

The objective of this course is to instruct in the techniques of writing legislation. The instruction is given by exercises devised to simulate on-the-job training in a government drafting service through the assignment and revision of drafting projects.

Emphasis will be on the composition of legislation. Other topics are complementary and are devised to give the student a greater awareness of the place and role of legislative drafting in the legislative process, and to enable the student to make comparisons with and understand the legislation of drafting services elsewhere.

The course will be delivered under the following headings:

A. Introduction

1. **Preliminary and General:-** Legislative Institutions; Classes of Legislatures; Instruments of the Written Law; and History of Parliamentary Drafting
2. **Drafting Environment:-** Drafting Services in the English speaking societies; Comparing Drafting Services-Strengths and Weaknesses; and Law Officers of the Crown Complex
3. **Common Law Drafting:-** Classifying the Methods; Structure of Bills; and Structure of Statutory Instrument

B. Composition of Legislation

1. The Legislative Sentence:- English Tradition; Colonial Tradition; American Tradition; Coode's legislative sentence; and "Modern" legislative sentence
2. The Grammatical Sentence in Legislation:- Achieving a simpler form; "Plain English" Functional Clarity; New and old styles; and Communication difficulties
3. Elements of the Legislative Provision:- Code's Legislative sentence; and Grammatical Sentence examined
4. Exercises in Writing Legislative Provisions
5. Preparing the Draft Legislation:- Legislative Policy and Role of Drafters; Analyses; research, syntheses; Legislative Plan; Revision and Editing and Checking; Environment
6. Standing Orders; and Constitution Interpretation Acts, etc.
7. Relations of the Drafter to Ancillary Processes:- House Committees – Second Reading; Responsibility to sponsoring Minister, Chief Law Officer, Clerks of Parliament, Cabinet, and Printing Office

C. Statutes

1. Public Bills:- Government Bills; Private Members Bills; Private Bills; and Hybrid Bills
2. Acts:- Public Acts; Local and Personal Acts; Private Acts; Omnibus Acts; Amending Acts; Consolidating Acts; Codifying Acts; and Repealing Acts
3. Statutes:- Accessibility of Legislation; Tables and Indices; Text Processing, Storage and Retrieval; and Responsibility of Drafting Services

4. Revision of Statutes:- Consolidation and Revision; Classes of Revision; Types of Revisors; Publication Methods; Recording of Sources; and Text Processing Methods

D. Management and Operation of the Drafting Office

1. Classification of Drafting Services:- Autonomous office; Dependent office; Hybrid office; and Other offices
2. Relationship to Parliamentary Process:- United Kingdom; Barbados; United States - Federal and State; Canada - Federal and Province; and Comparison of Advantages and Disadvantages
3. Ancillary or Related Services:- Construing Statutes; and The Drafter's Perspective

Assessment

100% Final Examination

COURSE CODE: LAW 6750

TITLE: Advanced International Human Rights Law

TYPE: ELECTIVE

CREDITS: 5

Description

This course considers international human rights law as this field has developed since the end of the Second World War. Emphasis will be placed on the so-called "three generations of human rights", namely: (a) civil and political rights, (b) economic, social and cultural rights, and (c) group rights, such as the right to development. The nature and content of various rights will be examined, and although these rights will be considered mainly from a legal standpoint, reference will be made to the political and economic considerations that help to explain modern conceptions of human rights. The course will also consider developments with respect to the International Criminal Court and the law pertaining to the status of refugees. Considerable attention will be paid to the application of international human rights norms to Caribbean circumstances, as well as to the relevance of human rights norms in the context of modern terrorism.

Assessment

This course will be assessed by means of one or more of the following:

- (a) A written final examination of three hours duration;
- (b) Coursework;
- (c) A take home examination.

COURSE CODE: LAW 6900

TITLE: Research Paper

TYPE: CORE for LLM students

CREDITS: 15

PRE-REQUISITES: Completion of all courses

Description

Candidates are required to complete research paper of a maximum length of 15,000 words on a topic in Commercial or Corporate Law/Public Law/Legislative Drafting according to the programme in which the student is enrolled.

The paper is due within six (6) months of completion of the coursework requirement of the LLM

Assessment

100% Research Paper

COURSE CODE: LAW 8000

TITLE: PhD Law Thesis

TYPE: COMPULSORY for PhD students

CREDITS: 0

Description

Students produce a thesis of approximately 80,000 words under the supervision of a member of Faculty.

Assessment

Pass/Fail



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BARBADOS