

## DEAN'S MESSAGE

The Faculty of Law at The University of the West Indies was established in 1970 and has among its graduates distinguished



members of the bar, the bench and the legal academic community. These include Chief Justices, Directors of Public Prosecution and Attorneys General who continue to excel regionally and internationally. In 2009 the University took the decision to expand the teaching of law at Mona and St. Augustine, and in 2011 Mona graduated its first graduates who had read for all years

of the LLB at the Mona Campus. Additionally, in 2012, the University re-introduced Part I of the LLB programme at the Western Jamaica Campus in Montego Bay, St. James.

Mona Law remains committed to continuing the tradition of excellence in legal education that was established in 1970. Our Faculty is made up of highly trained teachers and researchers from the region and overseas. Already, Mona Law has successfully launched a series of guest lectures by well-known scholars, introduced the Mona Law Series (seminars on issues of interest to the wider University Community), participated successfully in International Mooting exercises, has been engaged in the work of the Caribbean Court of Justice (CCJ), and its scholars have published several new books and many articles in scholarly journals.

It is, therefore, my pleasure to introduce our first Magazine; to acknowledge the excellent work of colleagues in the Faculty; and to extend the wish that our work and contribution would continue to inspire excellence in our student body.

Derrick McKoy  
Dean, Faculty of Law, Mona

## CONTENTS

- 2 PUBLIC LECTURES AND SEMINARS
- 10 FACULTY OF LAW RESEARCH
- 12 INTERNATIONAL MOOTING
- 14 TRACY ROBINSON VISITS PUERTO RICAN UNIVERSITIES
- 16 VISITORS TO THE FACULTY
- 19 MONA LAW WELCOMES NEW FACULTY MEMBERS
- 22 NEW BOOKS

Faculty of Law, 1 - 3 West Road, The University of the West Indies, Mona Campus, Kingston 7, Jamaica

Website: <http://myspot.mona.uwi.edu/law/>

Email: [monalaw@uwimona.edu.jm](mailto:monalaw@uwimona.edu.jm)

Tel.: (876) 927-1855, (876) 977-4860, (876) 702-4392

Fax: (876) 970-1242

# PUBLIC LECTURES AND SEMINARS

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## **PROFESSOR KEVIN DAVIS - JAMAICA'S BUSINESS CLIMATE BY NUMBERS: THE ROLE OF THE LEGAL SYSTEM**

ON JANUARY 21, 2013, the Jamaican born law professor, Kevin Davis, gave a lecture at the Faculty of Law, The UWI, Mona concerning indicators and governance and how this development plays out in the Jamaican context. His lecture entitled, "*Jamaica's Business Climate by Numbers: The Role of the Legal System*" considers the external assessments of countries' business climates in the form of quantitative indicators, which often focus heavily on the performance of legal institutions. During his lecture, he looked at how these types of indicators are constructed and the measures that might be taken to improve Jamaica's performance. His analysis is considered to be a timely one given the import of ongoing negotiations between one such development body, the International Monetary Fund, and Jamaica.

Professor Davis joined the NYU School of Law as a Professor of Law in 2004. He was formerly a tenured member of the University of Toronto's Faculty of Law. He teaches courses on Contracts, Law and Development and Secured Transactions, as well as seminars on Financing Development and Contract Theory. His current research is focused on contract law, the governance of financial transactions involving developing countries, and the general relationship between law and economic development.

The evening's proceedings was attended by both students and faculty members from

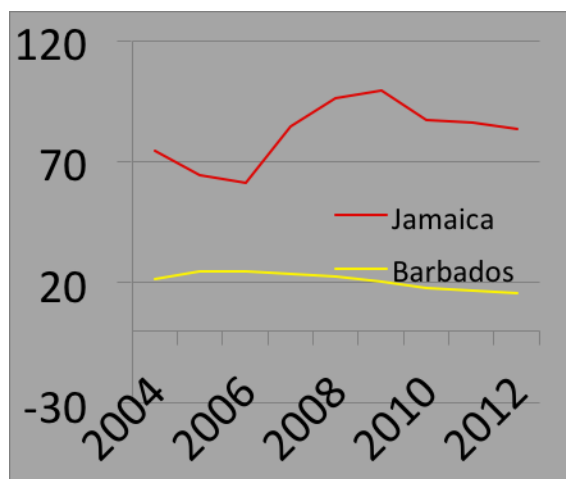
the Mona Faculty of Law along with students from the Norman Manley Law School. Also in attendance were members of the economic and financial sectors of Jamaica.

The feature address was then given by Professor Davis who began by explaining that his argument is premised on the conventional assumption that legal institutions are important determinants of development outcomes and therefore it is worthwhile for policymakers to search for opportunities to reform institutions that retard development. The World Bank and other international development agencies, global businesses and investors use indicators related to doing business, corruption and the rule of law in making decisions about Jamaica and other Caribbean countries.

Using the Jamaican context, Professor Davis explained that two sets of global indicators are particularly important. These are: the World Bank's Doing Business (DB) indicators and Transparency International's Corruption Perceptions Index (CPI). DB indicators are designed to measure business regulation while CPI measures perceived levels of public sector corruption. Professor Davis then went on to examine Jamaica's poor indicators over the years.

Professor Davis emphasized that global

indicators can be valuable analytical tools, primarily because they represent easy ways to communicate where a particular society stands in relation to either its history or to other societies. He argues that while global indicators are not helpful in guiding policy-makers to specific policy interventions, they can, however, be helpful in mobilising public interest in and support for reform.



Essentially, Professor Davis believes that global indicators should generally be regarded as the starting point rather than the endpoint of policy analysis. Therefore, poor scores on global indicators should be considered as an invitation for reflection and analysis of Jamaica's legal system and its relationship to development, taking into account the particularities of the Jamaican context.

Dr. Damien King, Head of the Department of Economics, UWI (Mona) and Co-Executive Director of the Caribbean Policy Research Institute (CaPRI) offered comments on Professor Davis' lecture. Dr. King's academic work has appeared in the Journal of Development Studies, World

Development, and Social and Economic Studies, and also in edited collections. Dr. King's work has also addressed Jamaica's debt, structural adjustment policies, income distribution and poverty.



***From L to R: Dr. Damien King (Head of the Department of Economics and Co-Executive Director of the Caribbean Policy Research Institute (CaPRI), Mrs. Suzanne Ffolkes-Goldson (Deputy Dean, Faculty of Law), Professor Kevin Davis, Senator the Honourable Mark Golding, Minister of Justice and Ms. Eleanor Brown (Associate Professor of Law and George Washington Institute of Public Policy (GWIPP) Fellow at George Washington University).***

Comments were also offered by Ms. Eleanor Brown, an Associate Professor of Law and George Washington Institute of Public Policy (GWIPP) Fellow at George Washington University. Immediately prior to this, she was the Reginald Lewis Fellow at Harvard Law School. Ms. Brown writes on issues of globalization and development, with a particular focus on remittances, property and contract rights in emerging markets. She has published in several leading academic and journalistic publications including the New York Times, the Los Angeles Times the Yale Law Journal and the University of Chicago Law Board.

## DR. EFRÉN RIVERA RAMOS ON “COLONIALISM AND THE CONSTITUTION”

ON APRIL 19, 2013, Dr. Efrén Rivera Ramos of the University of Puerto Rico, Faculty of Law, in his presentation, “Colonialism and the Constitution”, shared some thoughts on the relationship between colonialism and the constitution, arguing that this relationship is fraught with tensions and contradictions.



*From L to R: Sir Fitzroy (Roy) Augier, Professor Emeritus in History greets Dr. Rivera while Mrs. Suzanne Ffolkes-Goldson and Ms. Janeille Zorina Matthews look on.*

In his examination, Dr. Efrén Rivera Ramos looked at the relationship between Puerto Rico and the United States of America, drawing parallels as well as identifying differences with colonial experiences in the English-speaking Caribbean. His presentation focused on two salient issues.

Firstly, he analysed the deployment of constitutional doctrine to justify colonialism and the extent to which constitutional tradition of a metropolitan power, for example, the US, has shaped the legal and constitutional order of a particular colonial society, Puerto Rico. Secondly, he looked at the effects of colonialism on the construction of the internal constitutional order of colonial and post-colonial societies.

His presentation was followed by a lively question and answer session from the audience as well as observations by academic commentators.



*Lecturer, Ms. Janeille Zorina Matthews presents a token of appreciation to Dr. Rivera.*

## THE MONA LAW SERIES

THE FACULTY OF LAW at The University of the West Indies, Mona launched the Mona Law Series (MLS) on Thursday, November 29, 2012. The Series consists of seminars led by the UWI Mona Law faculty on issues of interest to the wider University community, the judiciary and the legal profession.

### **‘Caribbean Approaches to Legal Interpretation’**

The first seminar in the Series entitled *‘Caribbean Approaches to Legal Interpretation’*, was led by Dr. Leighton Jackson, Senior Lecturer and Deputy Dean, and Ms. Tracy Robinson, Senior Lecturer. Dr. Jackson presented on the topic, *“Statutory Interpretation: The Commonwealth Caribbean Coming of Age?”* He engaged in an examination of case law and how judges of the Caribbean are forsaking the literal interpretation for the policy-based (although not purposive) approach as a method by which our society’s values can play a greater role in the enacted laws.

Dr. Jackson, citing The Honourable Mr. Justice C. Dennis Morrison, highlighted that the literal approach fails Caribbean citizens, in that it does not allow for the constitution to be interpreted in light of changing circumstances. Also, by adapting such an approach, the court does not fulfill its proper role as guardians of the constitution

and abdicates its responsibility of ensuring that citizens have the full measure of protection of the law. Rather than a literal approach to constitutional interpretation, Caribbean courts are moving towards a policy-based approach to statutory interpretation, which can only be fully realised when the Caribbean’s final appellate court is itself a Caribbean court.



**From L to R: Dr. Leighton Jackson, Mrs. Suzanne Ffolkes-Goldson and Ms. Tracy Robinson.**

Ms. Robinson explored *“The Meanings of the Presumption of Constitutionality.”* In this presentation, she considered the different understandings of the presumption of constitutionality; that it serves as a canon of construction to save a law that would otherwise be unconstitutional by implying additional words to clarify meaning or, alternatively, that it tells us where the burden of proof lies in constitutional litigation involving a challenge to an Act of Parliament. In this paper, she engaged in a technical, traditional common law examination of



cases that enquire into the more significant issue of what is Caribbean constitutional law and the challenges to its development. Describing the development of over fifty years of a 'mass of discordant authorities' on the presumption of constitutionality, Ms. Robinson concluded that this challenge of determining what exactly is the law is not exclusive to the presumption of constitutionality, but is rather an issue faced by constitutional law on the whole.

### **'Recent Corporate Governance Developments in the Commonwealth Caribbean'**

As part of the UWI Mona Research Day Activities, on February 7, 2013, the Mona Law Faculty hosted its second seminar in the Series entitled '*Recent Corporate Governance Developments in the Commonwealth Caribbean*'. The seminar was led by Dr. Derrick McKoy, Dean and Mrs. Suzanne Ffolkes-Goldson, Deputy Dean.

Dr. McKoy's presentation entitled "*Blowing in the Wind: Whistleblower Legislation and the Anti-corruption Project in the Commonwealth Caribbean*", discussed the introduction of whistleblower legislation in Jamaica in light of the international movement towards a greater level of transparency in public management as an aspect of the general anti-corruption project. In his lecture, focusing on the Jamaica Protected Disclosures Act (2011), he

commented on the trend towards transparency in public management in the Commonwealth Caribbean. Dr. McKoy argued that the Jamaican legislation, which follows the approach of the UK Protected Disclosures Act, moves whistle blowing from the area of anti-corruption to that of employee protection. While not ignoring the critical importance of employee protection, McKoy posited that by employing this new approach, the anti-corruption project is depreciated.

After examining the statute with respect to who may make the disclosures, who is authorized to receive them, the protection given, and how that protection is enforced, Dr. McKoy concluded that the Protected Disclosures Act of Jamaica had not yet accomplished what many persons hoped it would. While it may have made great strides in an important area of workers' rights, it may not have significantly advanced the broad anti-corruption project. However, Dr. McKoy sees Jamaican legislation as the first important step in the right direction towards a corruption free society.



**From L to R: Senator the Hon. Mark Golding, Minister of Justice, Mrs. Suzanne Ffolkes-Goldson and Dr. Derrick McKoy.**

Mrs. Ffolkes-Goldson thereafter presented on the *“The Use and Misuse of the Corporate Oppression Remedy in the Commonwealth Caribbean”*. During her presentation, she engaged in an analysis of the corporate oppression remedy as a tool for corporate governance. She pointed out that since its relatively short inception, the remedy has been greatly employed in most Companies Acts in the Caribbean region seemingly intimating that the remedy is an essential resource for stakeholders or that access to the remedy may be too easy or too wide or both. While the creative use of the Canadian-born remedy by some of the region’s courts may promote the development of Commonwealth Caribbean jurisprudence, there is a scarcity of case law on this issue in Jamaica. This is, perhaps as a result of inter alia, the restrictive nature of the oppression remedy in the Jamaica Companies Act in comparison to its regional counterparts.

Mrs. Ffolkes-Goldson identified several problems inherent within the legislation including uncertainty regarding conduct which amounts to oppressive conduct, the scope of directors’ duties and responsibilities to stakeholders, the lack of correspondence between the complainant class and the victim class and the omission of “unfair disregard” as oppressive conduct in the Jamaica Companies Act. Mrs. Goldson concluded that the Corporate Oppression Remedy, as it currently exists in the Commonwealth Caribbean, is open to misuse, considering the initial intention behind its enactment. In order to bring

some remedy for the aforementioned issues, she recommended that a uniformed approach be taken throughout the Commonwealth Caribbean regarding the duties of directors and officers in view of being good corporate citizens by having the legislations require that directors and officers take into consideration, the interests of shareholders, employees and the community in which the company operates. The legislations should also include the “community in which the company operates” as a stakeholder. To end the presentation, Mrs. Ffolkes-Goldson pointed out that the adoption of Canada’s Oppression Remedy clearly demonstrates the risks involved in adopting legislation from other states. Furthermore, it makes us consider the unresolved issues of whether the Commonwealth Caribbean have decided on a uniformed path to the development of a jurisprudence and whether a Commonwealth Caribbean jurisprudence even exists.

### **‘Financial Transactions and the Duties of the Legal Profession, Financial Intermediaries and Financial Regulators’**

On April 11, 2013, the Faculty of Law hosted its final Mona Law Series seminar for the 2012/2013 academic year, entitled *‘Financial Transactions and the Duties of the Legal Profession, Financial Intermediaries and Financial Regulators’*. Dr. Shazeeda Ali presented on *‘Civil Recovery of the Proceeds of Crime’* and Dr.

Celia Blake, made her presentation on *'Judicial Oversight of Financial Regulatory Action in the Commonwealth Caribbean'*.

The first section of Dr. Ali's presentation involved an examination of the Proceeds of Crime Act (POCA) that invokes civil machinery in order to recover criminally acquired wealth. In this aspect of her presentation, she placed emphasis on the ability of the Asset Recovery Agency to trace and recover property that was obtained by illicit means despite the absence of a criminal conviction. After providing a brief review of the main provisions of POCA, Dr. Ali analysed the recent cases concerning the subject matter in Jamaica and in the United Kingdom which possesses a similar legislative regime. She ended this section by examining the legislative framework for providing a remedy to a victim of such crime.



**Dr. Shazeeda Ali (Senior Lecturer).**

The second section of Dr. Ali's presentation provided an exploration of developments of law in restitution and constructive trusts which may impact lawyers and financial intermediaries engaged in illicit funds transactions. In light of this, Dr. Ali engaged

in an in-depth analysis of the evolution of the law relating to "intermeddler liability" which involves knowing receipt and dishonest assistance. In this section of her presentation, Dr. Ali made clear the significance of these developments in providing a victim of financial crime with a remedy where the illegal activity entails a breach of trust or other fiduciary relationship. Dr. Ali ended her presentation with an engaging question and answer session with the seminar's attendees.



**Dr. Celia Blake (Senior Lecturer).**

Dr. Celia Blake then made her presentation on *'Judicial Oversight of Financial Regulatory Action in the Commonwealth Caribbean'*. She examined a wide range of regulatory and enforcement powers given to financial regulators. Additionally, using relevant judgments of selected Commonwealth Caribbean jurisdictions, namely Jamaica, Trinidad & Tobago and to a lesser extent, the Bahamas and Barbados, she identified the principles applied in and the considerations informing the adjudication process to provide an assessment of the courts' response to actions pursued by financial regulators and the implications for the quality of regulation



and supervision of Caribbean financial markets.

During her discussion, Dr. Blake pointed out that while Commonwealth Caribbean courts do show support for regulatory action, this cannot be said to be done in a blind and indiscriminate fashion. She argued that, based on the evidence, the region's judges are guided by principles and objectives that underpin financial regulation. As such, their adjudication is in favour of reinforcing the framework for regulation and supervision, rather than simply supporting the actions of regulators. In her final analysis, Dr. Blake pointed out that, although the adversarial tradition of the common law court room is arguably unsuited for an approach that seemingly requires consideration, not just for the interests of the concerned parties, but also for financial regulatory objectives. Commonwealth Caribbean courts seem to be making the necessary adjustments and have shown their intention to play a chief role in strengthening the financial regulatory system.



**Senator the Hon. Mark Golding, Minister of Justice addressing the audience at the final Mona Law Series for the academic year 2012/2013.**

## OFFICIAL OPENING OF THE NEW MONA LAW BUILDING



**From L to R (foreground): Mr. Delroy Chuck (Former Minister of Justice), Prof. E. Nigel Harris (Vice Chancellor, UWI), Prof. Gordon Shirley (Former Principal, UWI Mona Campus), Prof. George Alleyne (UWI Chancellor).**

**From L to R (background): Dr. Camille Bell-Hutchinson (Campus Registrar, UWI Mona), Dr. Oswald Harding (Dean, Faculty of Law at the University of Technology [UTECH]).**

## PRINCE HENRY OF WALES UNVEILS PLAQUE AT THE FACULTY OF LAW AS PART OF THE DIAMOND JUBILEE CELEBRATIONS

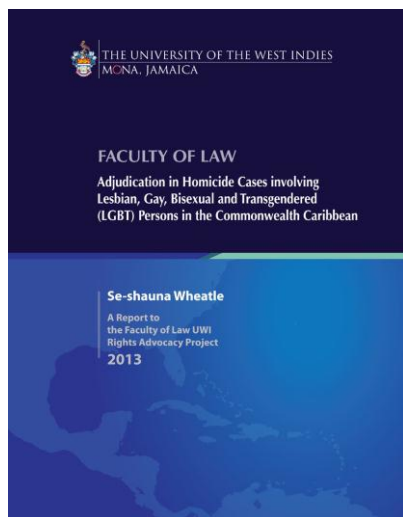


**From L to R: Prof. E. Nigel Harris (Vice Chancellor, UWI), Prof. Gordon Shirley (Former Principal, UWI Mona Campus), Prince Henry of Wales.**

# FACULTY OF LAW RESEARCH

## U-RAP RESEARCH AND THE LAUNCH OF THE WHEATLE STUDY

The Faculty of Law UWI Rights Advocacy Project was established as a project of the teachers in the three Faculties of Law, UWI and has its



administrative base at the Faculty of Law, Mona. The U-RAP comprises two Co- Coordinators, Arif Bulkan at St. Augustine and Tracy Robinson at Mona, and two other team members, Westmin James at the Cave Hill campus, who serves as Litigation Specialist, and Research Coordinator, Janeille Zorina Matthews at the Mona campus. The main objective of the Project is to promote human rights, equality and social justice in the Caribbean undertaking and participating in human rights litigation and also by initiating and supporting human rights research.

In 2011, U-RAP co-sponsored a survey study, undertaken by the Death Penalty Project on attitudes toward the mandatory death penalty in Trinidad - one of the last remaining Caribbean countries with the mandatory death penalty. World-renowned experts, Roger Hood and Florence Seemungal were commissioned to supervise the survey and authored the

report 'Public Opinion Survey on the Mandatory Death Penalty in Trinidad' (2011). The study revealed far less antipathy towards the Faculty of Law in 2009. Today it includes the participation of public law mandatory death penalty than is generally assumed. In 2012, U-RAP launched in Georgetown, Guyana, a report by anthropologist Dr. Christopher Carrico on '**The Social Impact of Laws affecting LGBT Persons**' in Guyana. This study was undertaken in the Georgetown area of Guyana. It is sometimes remarked that, since few consenting adults are arrested and brought to trial for the 'unnatural' sex crimes, these laws pose little risk or harm to the human rights of sexual minorities. The Carrico Study plainly disputes this and points to a range of serious negative social effects that can be related to the continued existence of certain laws affecting LGBTs.

On APRIL 24, 2013 U-RAP launched a second commissioned report by Se-Shauna Wheatle, titled **Adjudication in Homicide cases involving Lesbian, Gay, Bisexual & Transgendered (LGBT) Persons in the Caribbean**, at the Faculty of Law, UWI, St Augustine Campus. The preparation of the report received financial support from the Foreign and Commonwealth Office, Barbados. Natalia Casado, a Mona Law graduate of 2013 served as a research assistant.

Wheatle is currently a Lecturer of Law at Exeter College, Oxford. She obtained her LLB at The University of the West Indies before attending the University of Oxford as a Rhodes Scholar to read for the Bachelor of Civil Law (BCL). She is now pursuing doctoral research in the fields of comparative human rights law and comparative constitutional law. Wheatle has written several articles on equality, gender and sexuality in Caribbean constitutional law. Currently a Regional Correspondent for the Oxford University Human Rights Hub, she was previously the convener of the Public Law Discussion Group of Oxford's Law Faculty, and has also sat on Oxford University's Race Equality Steering Group.

Wheatle's report was launched to a packed audience including teachers, officials and students at St. Augustine. Judges of the Caribbean Court of Justice, members of the Judiciary of Trinidad and Tobago, members of the LGBT community along with members of the Bar were also present.

The feature address was given by Se-shauna Wheatle, who highlighted the main findings of her report, outlining both the context of the study and her analysis of the criminal law principles involved and their constitutional implications. Wheatle examined the transcripts of homicide cases involving LGBT persons either as defendant or victim, as well as cases where the killing resulted from an allegation by one of the parties that the other was an LGBT person. Although there were difficulties in accessing transcripts, based on those

obtained and examined, a sobering picture of systemic bias and covert discrimination against LGBT victims of crimes was revealed in her findings.

Among other issues, Wheatle's report points out the incongruity of the defence of justifiable homicide, the misapplication of provocation principles to situations where there is no violence involved or where proportionality principles are abandoned, and the tension between criminal law doctrines and fundamental constitutional and human rights principles involving due process, equality and protection of the law.

Wheatle addressed these issues and discussed findings and conclusions that may be considered by judges and other stakeholders. The main conclusions were centered on reform of the criminal law. Hence, the report highlighted the need for the '*abolition of the defence of justifiable homicide and for reform of the defence of provocation*' to exclude the availability of the defence of provocation in cases where the homicide occurred in response to a non-violent sexual advance. These changes, it is argued, would introduce greater proportionality into the defences as applied in cases where the deceased is an LGBT person.

On June 7, 2013 Wheatle also presented her findings to a Conference with LGBT Human Rights Defenders held at the Mona Campus. On September 26, 2013, she shared her findings in a panel at the Conference of Caribbean Association of Judicial Officers held in Barbados.

# INTERNATIONAL MOOTING

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## MONA LAW PARTICIPATES IN PRICE MEDIA LAW MOOT COURT COMPETITION

In October 2012, The University of the West Indies, Mona Campus registered its very first team in an international moot court competition- the Price Media Law Moot Court Competition which is based on international human rights law.

Mr. Andre Coore coached the four members team, which was comprised of Mr. Rushaine Cunningham, Ms. Kacey-Ann Nelson, Mr. Peter Marshall and Ms. Orene Plummer.



*From L to R: Mr. Andre Coore (Coach), Ms. Kacey-Ann Nelson, Dr. Leighton Jackson (Co-ordinator), Ms. Orene Plummer, Mr. Rushaine Cunningham and Mr. Peter Marshall.*

Teams were judged on two main areas: Written and Oral Advocacy. The Team's written memorials scored well with a combined average of 80.2% and only had 1 penalty point deducted from each of the 40+ page memorials. The Oral rounds were held in New York City in January, 2013. The Mona team was dominant in their first match scoring a comprehensive 8 - 1 victory over the University of Miami. The team however failed to advance to the final rounds as they subsequently lost to the eventual third place finishers, Southwestern University, in a hard fought match. The UWI advocates competed valiantly with each achieving at least a score of 90%. Mr. Rushaine Cunningham was awarded the Excellence in Advocacy prize for obtaining a perfect score.



*Members of The UWI Mona team with judges and their competitors after winning their first match against University of Miami.*

## UWI MONA FACULTY OF LAW PLACES SECOND IN CCJ MOOTING COMPETITION

The Faculty of Law at the University of the West Indies, Mona was placed second in their first outing of the annual Caribbean Court of Justice Moot Court Competition in Trinidad and Tobago held on March 14 and 15, 2013 at the CCJ's headquarters in Trinidad and Tobago.

The Mona team made up of Mr. Adrian Cotterell, Mr. Jahmar Clarke and Ms. Natalia Casado coached by Ms. Caprice MacFarlane defeated the likes of Norman Manley Law School, and the Eugene Dupuch Law School. As second place winner to a law School, the Faculty of Law at The UWI, Mona was named the top performing academic institution in the region, beating Law faculties from other Universities in Guyana, Suriname, Barbados, Trinidad and Tobago and Jamaica.

The Hugh Wooding Law School of Trinidad and Tobago was placed first in the competition.

This year's moot dealt with banking and financial issues arising from the revised Treaty of Chaguaramas which provides the framework for the Caribbean Community (CARICOM). Arguments were presented before a panel of CCJ judges who

applauded the submissions of the students and commented on the 'exceptionally high standard' of the arguments of the mooters. This award marks the first ever award given to the newly established three-year programme at the Faculty of Law at The UWI, Mona.

The CCJ's Annual International Law Moot Court Competition was inaugurated in March 2009, in an effort to encourage aspiring attorneys to become familiar with the Revised Treaty of Chaguaramas, and other areas of International Law.



*The UWI Mona Mooting team from L to R: Ms. Caprice McFarlane (Coach), Dr. Leighton Jackson (Co-ordinator), Mr. Adrian Cotterell, Mr. Jahmar Clarke, and Ms. Natalia Cassado.*



# TRACY ROBINSON VISITS PUERTO RICAN UNIVERSITIES

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Tracy Robinson, Senior Lecturer in the Faculty of Law, visited the University of Puerto Rico Law (UPR) between September 9 and 14, 2013. While at UPR she taught a one credit course over five days titled *'Feminist Engagements and Feminist Entanglements with Human Rights'*.

The UPR Law School has a very vibrant clinical programme that has been in existence for over sixty years. Each student is required to complete six credit hours of clinics. Robinson delivered the keynote address at the Oath-Taking Ceremony for Students in the Legal Aid Clinic at UPR Law School on Friday September 13, 2013. In taking this oath, students recognise that the disadvantaged do not have access to justice and that the provision of legal services is an important legal responsibility and they undertake to abide by all the ethical and professional rules for the legal profession.



**UPR Law School students taking the oath at the Oath-Taking Ceremony.**

Ms. Robinson is a member of the Inter-American Commission on Human Rights. She serves on the Commission as its First Vice President, the Rapporteur for the Rights of Women and oversees the LGBTI Unit. She is also the Rapporteur for the United States of America. She was invited to make a presentation on *'The Inter American Commission on Human Rights: A Forum for the Vindication of the Rights of LGBTI Persons'* on Wednesday, September 11, 2013.



**Tracy Robinson delivering the Keynote Address, *'A Call to be Moved'*.**



***Robinson with Professor Vivian Neptune, Dean, UPR Law School, (left) and Ana Irma Rivera-Lasse, President of the Bar Association of Puerto Rico.***

Tracy Robinson also visited the Inter-American University of Puerto Rico Law School and met with officials and staff and the Director of the new International Human Rights Clinic at the School, Annette Martinez-Orabona and the students in the clinic.



***Robinson talking with professors and students at Inter-American University***



***After the LGBTI talk, Tracy Robinson with William Ramirez, the Director of the ACLU in Puerto Rico, Professor Efrén Rivera, UPR, Nora Vargas Acosta, Clinical Professor and organiser of the lecture, Professor Jodie Roure, CUNY, Professor Michelle Rowley, University of Maryland and representatives of the ACLU Puerto Rico.***

## Upcoming Events

- ❖ **Research Days:**  
February 6 & 7, 2014
- ❖ **Mona Law Series:**  
February & April 2014
- ❖ **Intellectual Property Law Forum:**  
February 25 - 26, 2014
- ❖ **Mona Law Society Week:**  
February 2014

## VISITORS TO THE FACULTY

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### WORLD INTELLECTUAL PROPERTY ORGANIZATION (WIPO) OFFICIALS



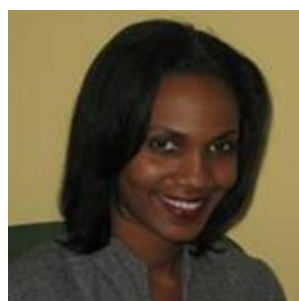
***From L to R: Mrs. Martha Chikowore (Consultant, WIPO), Professor Gordon Shirley (Former Principal), Mrs. Carlotta Graffigna (Executive Director and Advisor, WIPO Academy), Dr. Camille Bell-Hutchinson (Campus Registrar) and Mrs. Suzanne Ffolkes-Goldson (Deputy Dean, Faculty of Law)***



***From L to R: Mrs. Carlotta Graffigna (Executive Director and Advisor, WIPO Academy) presents a gift to Mrs. Claudette Solomon (Librarian, Faculty of Law) and Mrs. Suzanne Ffolkes-Goldson (Deputy Dean, Faculty of Law).***

### TRADE POLICY & LEGAL SPECIALIST IN THE OFFICE OF TRADE NEGOTIATION (OTN) OF THE CARICOM SECRETARIAT, DR. CHANTAL ONONAIWU

On March 4, 2013, The Faculty of Law invited Dr. Chantal Ononaiwu to present in a Talk and Discussion session titled *“CARICOM Law and the Caribbean Court of Justice”*.



Chantal Ononaiwu is a Rhodes Scholar and holds an LLB (first class honours) from the University of the West Indies, an LLM from The University of Cambridge and a DPhil in Law from the University of Oxford. She is the Trade Policy & Legal Specialist in the Office of Trade Negotiation (OTN) of the CARICOM Secretariat, formerly the Caribbean Regional Negotiating Machinery (CRNM).

Her responsibilities include providing advice and making proposals on legal text pertinent to trade negotiations in which CRNM member states are involved and analysing provisions in other trade agreements that may be relevant to those negotiations.

She also has specific responsibility for the subject of Dispute Settlement and collaborates with the OTN's Services Trade Unit on the subjects of Services and Investment.

Prior to joining the CRNM, Dr. Ononaiwu was the Director, Value Proposition Development at Invest Barbados (the Barbados International Business Promotion Corporation) and a Lecturer in the Faculty of Law at The University of the West Indies, Cave Hill Campus.

### **ATTORNEY-AT-LAW MRS. KAREN CHIN QUEE AKIN**



Mrs. Karen Chin Quee Akin presented a short lecture on the topic *"Regulatory Framework for Public Listed Companies, Insider Trading and the Duties and Responsibilities of Directors and Officers"* on March 12, 2013.

An attorney-at-Law admitted to practice at the Jamaican Bar, Mrs. Karen Chin Quee Akin is a graduate of The University of the West Indies and the Norman Manley Law School. She has practised at the private bar as an Associate with the law firms Thwaites, Fairclough Watson & Company and Rattray Patterson Rattray. She has had many years' experience as Corporate Counsel and Corporate Secretary for The Bank of Nova Scotia Jamaica Limited, Life of Jamaica Limited and now Grace Kennedy Limited.

### **ATTORNEY-AT-LAW MS. MICHELLE WALKER**

Ms. Michelle Walker presented on the topic *"Law Relating to Treaties"* to the Public International Law I students in October 2012.

Ms. Walker is the Head of the Legal Unit at the Ministry of Foreign Affairs and Foreign Trade in Jamaica.

### **ATTORNEY-AT-LAW MR. JEREMY TAYLOR**

Mr. Jeremy Taylor presented on the topic *"Accomplices"* to the Criminal Law I students in November 2012. Mr. Taylor is the Deputy Director of Public Prosecutions at the Attorney General Office in Jamaica.





## THE PRESIDENT OF THE CARIBBEAN COURT OF JUSTICE (CCJ) SIR DENNIS BYRON



*From L to R: C. William Iton (University Registrar), Professor E. Nigel Harris (Vice Chancellor), Sir Dennis Byron (President of the CCJ), and Professor Gordon Shirley (Former Principal).*



*Sir Dennis Byron meets students from the Faculty of Law while Mrs. Ffolkes-Goldson and Miss Robinson look on.*

## CARIBBEAN COURT OF JUSTICE JUDGES ADRIAN SAUNDERS AND JACOB WIT

The Honourable Mr. Justice Adrian Dudley Saunders and The Honourable Mr. Justice Jacob Wit visited the Faculty of Law on March 7, 2013.



*From L to R: Justice Adrian Saunders, Justice Jacob Wit and Dr. Derrick McKoy.*

The Hon. Mr. Justice Adrian Saunders is a Judge of the Caribbean Court of Justice (CCJ) and is also the Chairman of the Caribbean Association of Judicial Officers (CAJO). He also chairs the West Indies Cricket Board's Disciplinary Committee and is a member of the International Cricket Council's Code of Conduct Commission.

The Hon. Mr. Justice Jacob Wit took the Oath of Office as a Judge of the Caribbean Court of Justice (CCJ) in 2005. In November 2010, Mr. Justice Wit was appointed and sworn in as the President of the Constitutional Court of St. Maarten, a part-time function. He is the lone Civil Law Judge on the CCJ Bench.



# MONA LAW WELCOMES NEW FACULTY MEMBERS

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## DR. SHAZEEDA ALI

Dr. Shazeeda Ali is the Caribbean's leading researcher on corporate misconduct, which straddles both public and private law.

She joined Mona Law in September 2012,



having spent six years as a Technical Advisor/ Assistant Attorney General at the Attorney General's Chambers and then a Tutor in Ethics,

Rights & Obligations of the Legal Profession at the Norman Manley Law School. Dr. Ali earned her LL.B at The University of the West Indies, an LL.M at the University of Cambridge and a PhD at the University of London.

Her book, **Money Laundering Control in the Caribbean** which was published in 2003 is the authoritative text on the subject in the region. She is also the editor of *Risky Business: Perspectives on Corporate Misconduct* published in 2010.

In 2011 she edited a special issue of the *West Indian Law Journal* (Vo. 36, October 2011) on financial crime in Jamaica. Both collections include her scholarship and that of other leading experts in the area. In 2012, her article, *"Re-Defining Stewardship?"* was published in the *Journal of Financial Crime* (Vol. 19 (2) May 2012).

Her expertise is sought out in training persons who are directly involved in the enforcement of the laws relating to corporate misconduct, including financial investigators, prosecutors and regulators as well as stakeholders such as lawyers and financial intermediaries.

## DR. RAMONA BIHOLAR

Dr. Ramona G. Biholar is a Romanian national. She obtained her first Law Degree

from the Romanian Faculty of Law of the Babeş-Bolyai University in Cluj-Napoca. She spent her fourth year of law studies in Spain, at the Faculty of Law of the



University of Zaragoza, where she additionally enrolled in and graduated the courses of the Jean Monnet Cathedra in European Law and Institutions, and in European Commercial Law. Dr. Biholar received her LL.M Degree in International and European Law from the Faculty of Law of Utrecht University in the Netherlands. From 2008 to 2012 she joined the Netherlands Institute of Human Rights (SIM) of Utrecht University Law School as a PhD researcher granted by the Netherlands Organisation for Scientific Research (NWO) the MaGW award to pursue her PhD research in the field of women's human rights in Jamaica. She spent several research periods at the Institute for Gender and Development Studies (IGDS) in Jamaica and she conducted extensive qualitative data

collection in the country. As a result, she wrote the book entitled *“Transforming Discriminatory Sex Roles and Gender Stereotyping. The implementation of Article 5 (a) CEDAW for the realisation of women’s right to be free from gender-based violence in Jamaica”*.

Dr. Biholar is currently a lecturer at the Faculty of Law, The University of the West Indies, Mona Campus. She teaches undergraduate courses in International Human Rights Law and the Law of the European Union and the LL.M course in Advanced International Human Rights Law. For the period December 2012 - December 2013, Dr. Biholar also collaborates with the Institute for Gender and Development Studies (IGDS) on the St. Augustine Campus, for the project *“Politics, Power and Gender Justice in the Anglophone Caribbean”*. In this role, she is involved in ethnographic research and writing on masculine identities and the implementation of gender policies in the Commonwealth of Dominica.

## **DR. CELIA BROWN-BLAKE**



Dr. Celia Brown-Blake is a senior lecturer at Mona Law. She earned an LL.B and a BA at The University of the West Indies, an LL.M at the University of London, and also holds an MA and PhD from The University of the West Indies. Her most recent publication, *‘Judicial Oversight of Financial Regulatory Action in the Commonwealth Caribbean’*,

assesses the extent to which our courts have supported and added value to the financial regulatory environment, and finds that although there is judicial support for the regulatory framework, this ought not to be equated with judicial deference to regulatory agencies.

In 2012, her article, *‘Judicial Oversight of Financial Regulatory Action in the Commonwealth Caribbean’*, was published in the Common Law World Review. Her article, *‘Lessons from a Cross-Border Insolvency in the Caribbean’*, is published in the 2009 volume of the Caribbean Law Review.

Dr. Brown-Blake’s other main research interest is in language and the law. Her current research in this area examines the role of law in expanding the use of non-dominant Caribbean languages in public domains such as the court system and in the wider public sector. It is expected that this will contribute to the discourse on the centrality of the language issue in effective public administration and governance. Amongst her publications in this area is a 2008 article, *‘The Right to Linguistic Non-Discrimination and Creole Language Situations: The Case of Jamaica’* in the Journal of Pidgin and Creole Languages.

## DR. MARK GILLIS

Dr. Mark Gillis who is from San Francisco (US) recently joined the Mona Law team as



a Lecturer. Prior to coming to Mona, he earned a BA in

History

from Stanford University (1985) and then a J.D. from UC Berkeley (1988). After a few years working in a private law firm in New York, he relocated to Prague, the Czech Republic, where he was awarded the Doctor of Laws degree from Charles University in Prague (1999) after defending his thesis on the Czech Constitutional Court's jurisprudence. He advised both the Czech Constitutional Court and the Czech Supreme Court on various matters, including the transition to EU law. He has taught law at several universities, including the Masaryk University Faculty of Law, Charles University Faculty of Law, the American University of Armenia, and the American University in Bosnia and Herzegovina. His areas of specialization in teaching and research include constitutional law, international law and European Union law.

## ORIENTATION OF NEW LAW STUDENTS



*From L to R: Dr. Derrick McKoy (Dean), Ms. Tracy Robinson, (Senior Lecturer), Mrs. Natalie Corthésy (Lecturer), Ms. Paula Llewellyn (Director of Public Prosecution), Mrs. Suzanne Ffolkes Goldson (Deputy Dean), Professor Gilbert Kodilinye.*

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### MONA LAW WESTERN JAMAICA CAMPUS (WJC) STUDENTS AT THE CCJ SITTING OF THE SHANIQUE MYRIE V THE STATE OF BARBADOS HELD AT THE JAMAICA CONFERENCE CENTRE ON MARCH 7, 2013



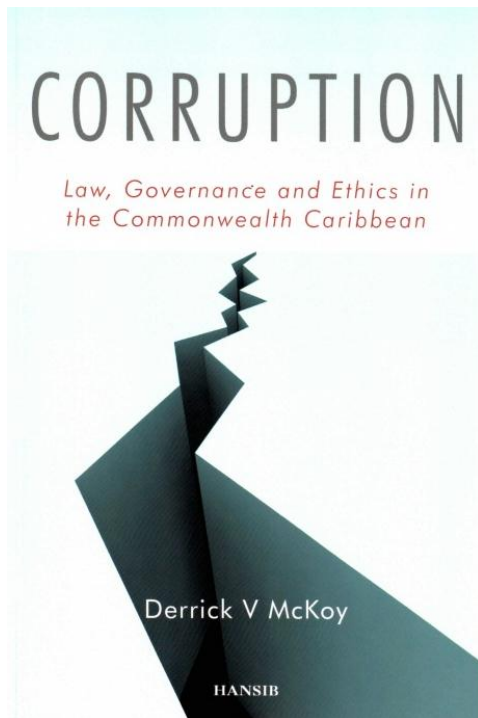
*From L to R (front): Ms. Michelle Brown (Counsel), Ms. Shanique Myrie (The Applicant), Ms. Davia Kenton (Law Student) Ms. Nancy Anderson (Counsel), Ms. Coleen Lewis (Mona Law WJC Lecturer)  
Background: WJC Law Students*



## NEW BOOKS

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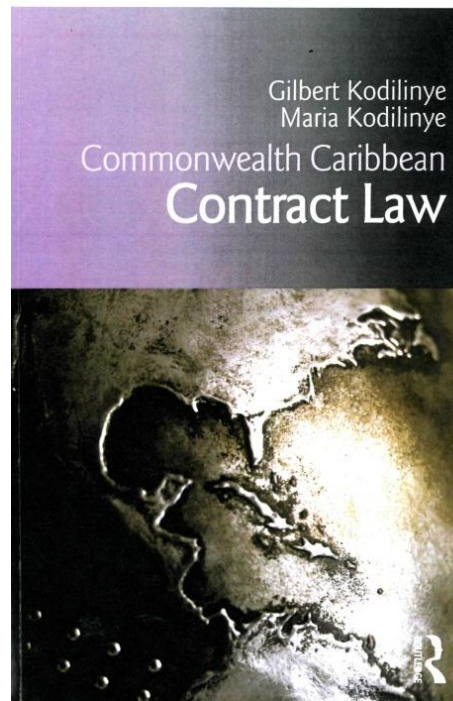
### CORRUPTION



This book on Corruption explains why it is important to study anticorruption regimes and sets out the existing state of knowledge on the subject. The author, Dr. Derrick McKoy, explores why corruption exists, how governments are addressing the problem and includes the emerging law on the subject; including the law on bribery, misconduct in public office, the tort of misfeasance in public office, judicial misconduct and contemporary anti-corruption legislation. Special consideration is given to the role of the constitutions when examining questions of the corruption of public officials. The author also discusses the effectiveness of the anticorruption strategies and new institutional frameworks that have been established to address the corruption problem. Dr. McKoy places special emphasis on the Contractors-

General in Belize and Jamaica, as important agencies in the anti-corruption struggle, and advances a theory that should guide policymakers in the development of anticorruption policies.

### COMMONWEALTH CARIBBEAN CONTRACT LAW



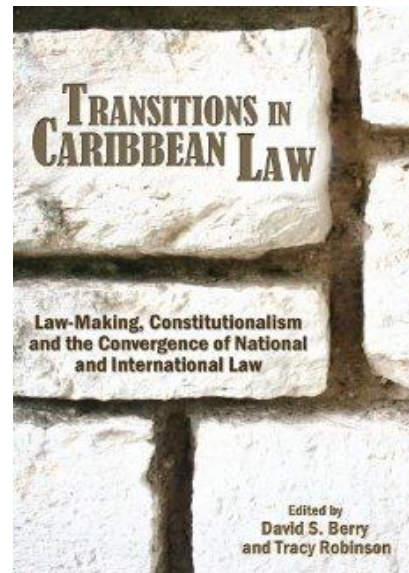
The first textbook on Commonwealth Caribbean Contract Law for undergraduate and sixth form students, *Commonwealth Caribbean Contract Law* is a new and unrivalled resource on the subject. This textbook utilizes Caribbean case law and statutory provisions to provide a clear and immersive path into the study of contract law from a Caribbean perspective.

Encompassing topics that include misrepresentation, privity, and remedies, this book expertly introduces and explains the many aspects of contract law in the Caribbean.

Written by a well-established textbook author who is a professor of law at the University of the West Indies and a solicitor at a leading international law firm based in London, the textbook comprehensively covers all key principles of contractual obligations studied by undergraduate students, and is relevant to practitioners in a modern and accessible way. An invaluable reference, this book is essential reading for those with an academic or professional interest in Caribbean contract law.

## **TRANSITIONS IN CARIBBEAN LAW: LAW-MAKING, CONSTITUTIONALISM AND THE CONVERGENCE OF NATIONAL AND INTERNATIONAL LAW**

*Transitions in Caribbean Law: Law-making, Constitutionalism and the Convergence of National and International Law* is a collection of contemporary essays that explore developments in the legal systems of the Commonwealth Caribbean across a range of fields: administrative law, constitutional law, corporate and commercial law, international law and labour law. It is edited by David Berry and Tracy Robinson.



It is the first reader to take a panoramic view of Anglo-Caribbean law in the twenty first century. The essays in *Transitions in Caribbean Law* take up the early nationalist question about developing a 'Caribbean jurisprudence' and the sustained concern about lawmaking and the development of law in the context of small jurisdictions and a global economy. This exploration includes essays that look at how Caribbean countries are, with varying success, building norms for governance through constitutional amendments and constitutional interpretation.

A number of the essays in *Transitions in Caribbean Law* demonstrate how law in the Anglophone Caribbean today exceeds the boundaries of the nation state, or is transnational, and the impact of the early work of a transnational/regional/international court, the Caribbean Court of Justice (CCJ). The early work of the CCJ, and how it understands the confluence of national and international law, receives close attention in the collection. From the perspective of international law,



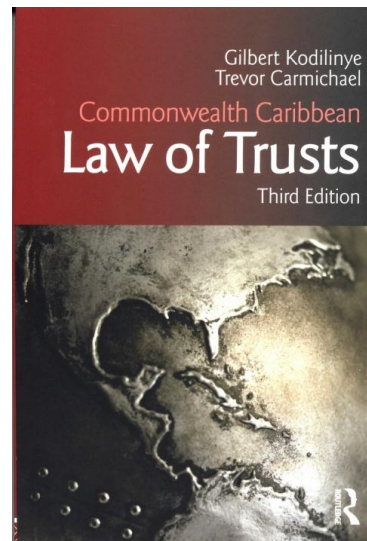
administrative law and constitutional law, three essays analyse the CCJ's most significant early decision, a death penalty appeal decided in 2006 a year and half after the inauguration of the Court, *AG v Joseph*. This is, to date, the most sustained analysis of this important decision.

Amongst the essays in the book is an article by the late Margaret Demerieux, published posthumously, that offers a close examination of the legacy of the Judicial Committee of the Privy Council on human rights matters.

The contributions to this book are: Leighton M. Jackson, *'Fi We Law: The emergence of Caribbean jurisprudence and the doctrine of precedent'*; Suzanne Goldson, *'Corporate Governance: One Size Fits All?'*; Rose-Marie Antoine, *'Expanding the Purview of Accountability in Employment by the State'*; Lesley A. Walcott, *'Unresolved Questions: Caribbean Jurisprudence on the Duty of Uberrimae Fides'*; David S. Berry, *'The Use of International Law by Domestic Tribunals in the Caribbean in Death Penalty Cases'*; Eddy D. Ventose, *'Legitimate Expectations, International Treaties and the Caribbean Court of Justice'*; Kamille Adair, *'Human Trafficking Legislation in the Commonwealth Caribbean: Effective or Effected?'*; Margaret Demerieux, *'The Common Law and the Litigation of Fundamental Rights and Freedoms Before the Privy Council'*; Arif Bulkan, *'Judicial Independence as an Indispensable Feature of the Rule of Law and Democracy: Implications for the Commonwealth Caribbean'*; Godfrey P. Smith, *'Constitutionalism in Belize: Lessons for the Commonwealth Caribbean?'*

and Tracy Robinson, *'Our Inherent Constitution'*.

## COMMONWEALTH CARIBBEAN LAW OF TRUSTS



The law of trusts is a subject of considerable importance in the commonwealth Caribbean. Traditional areas, such as testamentary trusts, resulting and constructive trusts, and charitable trusts, are now fully incorporated into the mainstream substantive law of the region, while the principles associated with offshore trust regimes are constantly expanding and developing.

This third edition of *Commonwealth Caribbean Law of Trusts* has been updated to reflect new case law and legislation, and to highlight recent trends relating to both traditional and offshore trusts. The book provides a core text for students of trusts law in the Commonwealth Caribbean, comprehensively covering general legal principles and analyzing key Caribbean and English cases. This established text will also serve as a useful reference source for practitioners of trusts law.

