

FACULTY OF LAW



FACULTY OF LAW

Mona

Year ending July 31, 2017



DR. LEIGHTON JACKSON

LLB *UWI*, LLM *Sydney.*, D.JUR *Barry, Osgoode*

Dean

– *Dean’s Overview* –

HIGHLIGHTS OF THE WORK OF THE DEPARTMENT

The first Dean appointed in the Faculty of Law at Mona, Dr Derrick McKoy, passed the baton to his successor, Dr Leighton Jackson, at the end of the 2016/2017 academic year. This is an important time in the history of the Faculty as work continues to be done to build on the foundation set more than 40 years ago when Mona functioned as a “feeder” to the LLB programme at Cave Hill.

The Faculty hosted its Third Annual Weekend Symposium on Law, Governance and Society under the theme “Security and Justice: Global Priorities” from June 9–11, 2017. Papers presented at the 2 previous symposia were published in the *Journal of Law, Governance and Society* which was launched on June 9, 2017.

TEACHING, LEARNING, STUDENT DEVELOPMENT AND ACHIEVEMENT

299 students were welcomed into the Faculty for the 2016/2017 academic year, with 29 of these students completing year one at the Western Jamaica Campus. During the year, the Faculty continued to identify and implement strategies aimed at improving the students’ experience and equipping them to perform at their optimum. These initiatives included providing additional tutoring and revision sessions for students who

were identified as being 'at-risk'. The graduation class of 2017 comprised 110 females and 35 males. Of these 145 students, 38 were awarded the LLB with First Class Honours.

In an effort to provide greater support for students, the Faculty sanctioned the award of Mona Law Bursaries valued at approximately twenty-nine million dollars during 2016/2017.

The Faculty continued to work closely with the executive body of the Mona Law Society (Law Faculty students' association) to effect changes in the best interest of the students and to ensure the best opportunity is created to produce a well-rounded graduate. From this partnership, a breakfast programme was implemented; funds were raised for a needy student fund through various initiatives such as an OpenEar Concert, the hosting of a drama production by Mr and Ms Law 2016 and other activities. The students lounge was equipped with a microwave and refrigerator, in response to the students' requests.

The Faculty prepared teams to participate in international and regional mooted competitions. This initiative started under the leadership of the former Dean and has continued. This exposure allows for greater exposure and development of the team members and wider recognition for the University. In 2016/2017 the Faculty participated in the Frankfurt Investment Arbitration Mooted Competition with a team of students (Dexter Mears, Samuel Bailey and Ashley Innis) coached by Mrs Caprice McFarlane-Morrison. The team performed well placing 5th out of 38 teams. The Team also received awards for Best Latin American/Caribbean Team with a cash prize of 500 Euros; Best non-OECD (Organisation for Economic Co-operation and Development) team; Both Ashley Innis and Samuel Bailey were nominated for "Best Orator" of the competition. The team was also given an exclusive invitation to a cross examination workshop for finalists.

A second team comprising of 2 First Year students and 1 Final Year student as the resource persons – Benjamin Fraser, Tahir Thompson and Shajoe Lake (Researcher) – represented the Faculty and University at the Caribbean Court of Justice (CCJ) Mooted Competition. The team

successfully competed mainly with Third Year students from other Campuses and also graduates in training for certification by the Council of Legal Education. Overall, the MonaLaw team placed 3rd in the competition. The team was coached by Drs Emir Crowne and Jason Haynes.

NATIONAL, REGIONAL AND INTERNATIONAL ENGAGEMENT

Papers Presented

- **Blake, C.**, “Language and Credibility in the Judicial Process: A Jamaican Case Study”, presented at the 13th Biennial Conference of the International Association of Forensic Linguists, University of Porto, Portugal, 10–14 July 2017 (3000 words).
- **Ffolkes-Goldson, S.**, “Status Report on Company Law in the Region”, Chair: IMPACT Justice Project, Caribbean Law Institute, University of the West Indies, Cave Hill Campus, Barbados, 4 July 2017 (10 pages).
- **Robinson, T.**, “Saving Law: Crime, Constitutions and Decolonisation in the Anglophone Caribbean”. Paper presented at the British Academy Research Network’s Conference on “Crime and its Representation in the Anglophone Caribbean, 1834–2018”, UWI Regional Headquarters, Mona, Jamaica, 14–15 June 2017 (9 pages).
- **Robinson, T.**, “Legalizing Norms Related to Sexual, Gender and Bodily Diversity in the Inter-American Human Rights System”. Paper presented at the Yale Law School, Seminario en Latinoamérica de Teoría Constitucional y Política/Seminar in Latin America on Constitutional and Political Theory, (SELA) 2017, “The Constitutional Dilemmas of Social Democracy” Quito, Ecuador, 8–11 June 2017 (23 pages).
- **Haynes, J.**, “Revenge Porn: A Caribbean Perspective”, Paper presented at the Jamaican Bar Association Mid-Year Conference, UWI Regional Headquarters, Kingston, Jamaica, June 2017.
- **Haynes, J.**, “Contested Developments in Sports Law: Ambush Marketing and Ticket Touting”, 3rd Annual Symposium on Law,

Governance and Society, UWI Mona Faculty of Law, Annual Symposium, Melia Braco Hotel, Trelawny, Jamaica, June 2017.

- **E. Crowne** “Sports Dispute Resolution in the Caribbean: The Urgent Need for Reform”, 3rd Annual Symposium on Law, Governance and Society, UWI Mona Faculty of Law, Annual Symposium, Melia Braco Hotel, Trelawny, Jamaica, June 2017.
- **Robinson, T.**, “New-old Law in the Postcolony: Regulating Sex in the Anglophone Caribbean”, Paper presented at The Penn Program on Democracy, Constitutionalism, And Citizenship (DCC), The Tenth Annual Conference, “Citizenship on the Edge: Sex/Gender/Race”, University of Pennsylvania, Philadelphia, 5 May 2017 (23 pages).
- **Robinson, T.**, “Soft legalising in a polarized world: LGBTI persons, human rights and the inter-American human rights system”, Transnational Law Seminar at Rutgers Law School, Newark, New Jersey, 28 March 2017 (PowerPoint presentation with 38 slides).
- **Robinson, T.**, “Criminalized Sex in the Anglo-Caribbean: Loved Law”. Lunchtime lecture presented at the Rutgers Center for Gender, Sexuality, Law and Policy (CGSLP), Newark New Jersey, 28 March 2017 (PowerPoint presentation with 19 slides).
- **Ffolkes-Goldson, S.**, “Corporate Governance: Emerging Trends”, Mayberry Investments Ltd. Board of Directors, March 2017 (15 pages).
- **Blake, C.**, “Disenfranchisement of Caribbean Vernacular Speakers in the Legal System” presented at the Stanford Humanities Center, Stanford University, 14 February 2017 (5,500 words).
- **Blake, C.**, “Blind Justice: Caribbean Vernacular Speakers in the Legal System” Stanford University Department of Linguistics Seminar, 8 February 2017 (4500 words).
- **N. Corthesy** Faculty of Law Mona Law Series on Copyright – Use and Abuse, “Copyright Term – Balancing Exclusive Rights and the Public Domain”, The UWI Mona, Kingston, Jamaica, February 2017 (28 pages).
- **Haynes, J.**, “Sports and the Law: Implications for the Economic

Landscape of Jamaica” presented and served as a panellist at the Annual Norman Manley Lecture, Norman Manley Law School, Jamaica, 2017.

- **Haynes, J.,** “Combatting ‘Revenge Porn: A Comparative Approach’”, presented at the CPE British Pacific Conference, London, United Kingdom, 2017.
- **Robinson, T.,** “Committee Jurisprudence and General Comments 32 and 35 on Fair Trial, Liberty and Security of the Person”. Presented at the International Human Rights Seminar for the Judiciary, convened by the Office of the Chief Justice and supported by the UN in Jamaica, Kingston, 1 October 2016 (PowerPoint presentation with 47 slides).
- **Robinson, T.,** “Without Fear or Favour: Judicial Independence, Separation of Powers and the Power of the Purse in Small States in the 21st Century”. Feature Address presented at the OECS Bar Association’s 13th Regional Law Conference, St. Lucia, 16 September 2016 (20 pages).
- **Robinson, T.,** “Universality, the Caribbean and the Inter-American Human Rights System”, Paper presented at 1st Encuentro Internacional de Especialistas y Redes del SIDH, “Retos del Sistema Interamericano de Derechos Humanos”, organised by the Instituto de Investigaciones Juridicas de la UNAM, Mexico City, 18 August 2016 (5 pages).
- **Matthews, J.,** “What’s Past is Prologue: Crime and Gender in Post-Colonial Antigua and Barbuda.” Presentation at “Gender Equality in Antigua and Barbuda”, sponsored by The University of the West Indies, Open Campus Antigua and Barbuda, The Antigua and Barbuda Studies Association and the Antigua and Barbuda Youth Enlightenment Academy, St. John’s Antigua, 11–12 August 2016.

RESEARCH OUTPUT

Referred Journal Articles

- **Cameron, R.,** “An Analysis of the Property Rights of Spouses Act: Rights Holders Perspectives”, *JLGS*, Vol. 1, 2, 2017

- **Corthesy, N.**, “Trademarks, country names and misappropriation of national identity”, accepted for publication, *Oxford Journal of Intellectual Property Law and Practice*, 2017, Vol 4 (10 Pages)
- **Crowne, E.**, “‘Mice Ate My Licence Agreement’: Claims Applicant before Federal Court of Canada”, *Journal of Intellectual Property Law & Practice* (Oxford), Vol. 12, No. 7, 2017.
- **Crowne, E.**, “Federal Court Interprets Canada’s Technological Protection Measures For The First Time”, *Journal of Intellectual Property Law & Practice* (Oxford), Vol. 12, No. 6, 2017.
- **Crowne, E.**, “Trinidad High Court Allows Defendant to ‘Win(e) With No Worries’”, *Journal of Intellectual Property Law & Practice* (Oxford), Vol. 12, No. 5, 2017.
- **Crowne, E.**, “No Need To Consider All Potential Uses of a Mark in Opposition Proceedings: Canadian Federal Court of Appeal”, *Journal of Intellectual Property Law & Practice* (Oxford), Vol. 12, No. 2, 2017.
- **Ali, S.**, “Law, Governance and Society – the ‘Holy Trinity’ of Civilization” (2016) Vol. 1 and 2 *Journal of Law, Governance and Society* p.iv (editorial)
- **Haynes, J.**, ‘Legislative Approaches to combating Revenge Porn’ *Statute Law Review*, published 5 March 2017
- **Robinson, T.**, Arif Bulkan, “Constitutional Comparisons by a Supranational Court in Flux: The Privy Council and Caribbean Bills of Rights” (2017) 80 *Modern Law Review* 379–411 (32 pages).
- **Haynes, J.**, “Northern Ireland’s Human Trafficking and Exploitation Act (2015): A Preliminary Assessment” (2016) 42(2) *Commonwealth Law Bulletin* 181–211, 2016.
- **Haynes, J.**, “The right to Free Movement of Persons in Caribbean Community (CARICOM) Law: Towards Juridification?” *Journal of Human Rights in the Commonwealth* 57–66, 2016.

INCOME GENERATION

The Faculty of Law, UWI, Rights Advocacy Project (U-RAP) coordinated by Arif Bulkan (STA) and **Tracy Robinson** (Mona), received a sub-grant from the Robert Carr Network Fund of \$105,456.64 USD and from the Global Fund of \$198,675.00 USD through the Caribbean Coalition of Vulnerable Communities (CVC). This project aimed to undertake the training of lawyers and judges, to provide support for the development of a regional pro bono litigation group and to undertake legal and environmental assessments related to HIV/AIDS. The output of which is the production of legal literacy resources.

PUBLIC SERVICE

Rose Cameron

- Member, Jamaican Bar Association
- Member, Jamaican Bar Association, Continuing Legal Education Committee
- Member, Executive of the UWI Alumni Association, Jamaica Chapter
- Member, Advisory Council, University College of the Caribbean
- Moderator, The Jamaican Bar Association, *“Revenge Porn: Judicial and Legislative Perspectives”*, 3 June 2017, UWI, Regional Headquarters.

Emir Crowne

- Editorial Board, *Journal of Intellectual Property Law & Practice* (Oxford), 2015–Present
- Founder, Donald G. Bowman National Tax Moot, Co-Chair, Donald G. Bowman Moot National Tax Moot Committee, 2010–Present
- Justices of the Peace Review Council, Ministry of the Attorney General, Ontario, Appointed Member (Handles matters concerning accommodation of needs, education, training, and alleged misconduct of Justices of the Peace in Ontario), 2007–Present

Natalie Corthesy

- Facilitator, Legal Retreat of the Entertainment Policy & Monitoring Division, Ministry of Culture, Gender, Entertainment and Sports, Melia Braco, Trelawny, Jamaica, June 21–23, 2017.
- Specially invited participant, National Consultations on the Introduction of Subsidiary Legislation to the Copyright Act of Jamaica to Regulate the Activities of Collective Management Societies, Jamaica Intellectual Property Office, January 30, 2017.
- Member of the International Trademark Association (INTA), 2017

Suzanne Ffolkes-Goldson

- Ministry of Finance and Planning Implementation Oversight Committee to Monitor Implementation of Strategic Priorities of the Corporate Governance Framework for Public Bodies
- Private Sector Organization of Jamaica (PSOJ) Corporate Governance Committee Member and Chair of the Corporate Governance Code Sub-Committee

Jason Haynes

- Reviewer, *Commonwealth Law Bulletin and Journal of International Dispute Settlement*, 2012–Present
- Member, Chevening Eastern Caribbean Alumni Association
- Member, Commonwealth Scholarship Alumni Association
- Fellow, UK Higher Education Authority (UKHEA)
- Member, Socio-Legal Studies Association, United Kingdom
- Volunteer, Norman Manley Law School Legal Aid Clinic, Jamaica, 2016–2017

Janeille Matthews

- Moderator of Roundtable and Small-Table Discussion, “Why Pro Bono and Social Justice Lawyering/Legal Services Matter in the Caribbean.” held at “Caribbean Social Justice & Pro Bono Lawyering Meeting: Everybody is Somebody” Sponsored by The UWI Mona,

Faculty of Law Rights Advocacy Project (URAP), Port-of-Spain,
Trinidad, 1–2 December 2016

Tracy Robinson

- Member, “Committee on Judicial Appointments in Trinidad and Tobago”, chaired by Justice Desiree Bernard and established by the Law Association of Trinidad and Tobago to examine the constitutional and other arrangements pertaining to the selection and appointment of judges of the High Court and the Court of Appeal and to make recommendations.
- Commissioner, “Independent Review of Equity and Health inequalities in the Americas”, a two-year review which is the first large-scale effort to gather evidence on health inequities in the Region of the Americas, is overseen by a panel of expert commissioners and chaired by Professor Sir Michael Marmot, UCL Institute of Health Equity, and commissioned by PAHO/WHO.

Shazeeda Ali

- Assisted in the design and implementation of the Financial Investigation Course 2017, (Financial Investigations Division, Jamaica)
- Member, International Association of Prosecutors (IAP), 2016–Present,
- Chair, *Countering Cybercrime through Money Laundering Regimes*, 4th International Association of Prosecutors (IAP) North American and Caribbean Regional Conference, Montego Bay, JAMAICA, November 3, 2016.

OUTREACH

Emir Crowne

March– August 2017 Successful defense of Riker Hylton against allegations that he refused to submit to a doping control test. Decision is reported as *JADCO v. Hylton*, 2017 IADP 0002. This type of outreach not only serves an under-served community (namely, amateur athletes), it is also an important advocacy initiative that contributes to our national and

regional development and post-colonial identity. This was undertaken entirely without charge to the athlete.

Tracy Robinson and Janeille Matthews

U-RAP – The Faculty of Law The UWI Rights Advocacy Project (U-RAP) established in 2009 has three main pillars of work – strategic litigation, socio-legal research and legal education – aimed at generating greater respect for and understanding of human rights in the Caribbean. Its administrative base is Mona but public law teachers at Mona, Cave Hill and St. Augustine undertake the work of the Project which is coordinated by Arif Bulkan (STA) and **Tracy Robinson** (Mona).

In August 2016, the Supreme Court of Belize gave judgment in favour of Caleb Orozco in Belize, litigation initiated by U-RAP in 2010 with partners. The ground-breaking decision ruled that the offence of carnal intercourse against the order of nature is unconstitutional to the extent that it criminalises sex between consenting adults in that it violates the rights to dignity, privacy, equality and non-discrimination and freedom of expression. A very limited appeal against this decision has been filed by the Government of Belize and a more extensive appeal has been filed by the Roman Catholic Church which is an interested party to the litigation.

In December 2016, U-RAP hosted a meeting of approximately 35 lawyers from 12 Caribbean countries on pro bono and social justice lawyering in Port of Spain, Trinidad, and in January 2017 established the Caribbean Pro Bono and Social Justice Lawyering Group, which now comprises about 60 lawyers. The aim of the group is to strengthen access to justice for groups and persons who are often marginalised in the justice system and have limited access to legal services. Bulkan and **Robinson** edited the first newsletter for the Group which was published in January 2017.

In March 2017, an appeal against the February 2017 Guyana Court of Appeal decision to the Caribbean Court of Justice was filed in U-RAP led litigation in Guyana. This case, *McEwan v AG* challenges the constitutionality of a colonial vagrancy law that criminalises cross-

dressings for an improper purpose. The principal clients in this litigation are transgender women who were arrested and convicted of this offence. This case raises very important legal issues about the operation of savings law clauses, the application of the rules of legal certainty and the meaning of the reformed constitutional provisions in the Guyana Constitution on equality.

Caribbean Ombudspersons, Citizen Security and the Inter-American Human Rights System – Tracy Robinson organised the two-day seminar, “Caribbean Ombudspersons, Citizen Security and the Inter-American Human Rights System”, a collaboration of the Faculty of Law, The UWI Mona and the Inter-American Commission on Human Rights (IACHR) at The UWI Mona, funded by the European Union (€20,000 Euros) in May 2016.

Under Robinson’s supervision, in April 2017 the Faculty of Law, The UWI Mona published the booklet, *Caribbean Ombudspersons, Citizen Security and the Inter-American Human Rights System* (2017) which explains the Inter-American Human Rights System (IAHRS), discusses standards in the IAHRS related to citizen security and summarises the good practices for ombudspersons identified in the seminar, provides guidance on the tools of the IACHR and includes the Joint Statement of the Caribbean Ombudspersons produced at the Seminar.

DISTINGUISHED VISITORS

The Faculty hosted Fulbright Scholar Inga Laurent, Associate Professor and the Director of the Externship Program at the Gonzaga University School of Law. Professor Laurent received her J.D. from Cleveland-Marshall College of Law and her B.A. from Westminster College. Her research focus during the period was on Restorative Justice and included a Panel Discussion entitled: ‘From Retributive to Restorative Justice and Practices’ which formed part of the Faculty’s UWI Research Days Signature Events on February 2, 2017. The other members of the panel were Mrs Kahilah Whyte, Coordinator of Restorative Justice in the Ministry of Justice and Mr Kevel Campbell, Trainer, Coach and Supreme Court Mediator also gave presentations.