



# THE UNIVERSITY OF THE WEST INDIES

**EXAMINATIONS OF**     DECEMBER     **2002**

**CODE AND NAME OF COURSE:** LA10A - LAW AND LEGAL SYSTEMS

**DATE AND TIME:**

**DURATION: 2 HOURS**

**INSTRUCTIONS TO CANDIDATES:** This paper has 2 pages and 6 questions.

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**Answer THREE (3) questions. Answers may be confined to the law of any jurisdiction in the Commonwealth Caribbean unless the context indicates otherwise.**

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1. "None of the theories on the nature and functions of law fit neatly into West - Indian society."

Discuss.

2. "There are several sources of law but the Constitution, Legislation and Equity have the greatest potential for giving direction to West-Indian law."

Do you share this view?

3. Salboa is an independent country similar to several countries in the Commonwealth Caribbean. It was rediscovered first by the Spanish, conquered by the French who retained it for one hundred years and then conquered by the British in 1800, who retained it. Under French rule, a Civil Law Code was promulgated. However, on January 1, 1890, the following clause was enacted in Salboa:

"Henceforth the law of the United Kingdom shall be the law of Salboa except in matters of real property and family law."

Salboa has a strong indigenous community - the Kik Peoples, who live on a Special Reserve. Juan, a member of the Kik Peoples marries Sali, an outsider to the Kik community. It is part of the Kik People's tradition that, upon marriage, all of a bride's property becomes part of the communal land of her husband's community. Sali's family objects strenuously to these arrangements. As a solution to the latter, they propose the creation of a trust. However, it has emerged that in 1890 the trust concept was unknown in Salboa. They also wish to take the matters to the House of Lords.

**P.T.O.**

The government is now also claiming that all of the lands currently held by the Kik People's community actually belong to the State as of right because Salboa is a conquered territory, and that they will not allow the Kik Peoples to commit such flagrant violations of the laws of the land.

Discuss.

4. Pimpo and Wimpi are the leaders of a schoolgirl pornographic 'ring' which publishes pornographic photographs of young girls and boys on the Internet. Bimbo, aged eight ( 8) and Dimi, aged twelve (12), are two members of the 'ring' who live with Pimpo. The police know of Pimpo and Wimpi's activity but claim that there is no statute in the country under which to charge them.

Pimpo engages in sexual intercourse regularly with Bimbo and Dimi. One day, while being forced into this activity by Pimpo, Bimbo, who is in acute pain, grabs a knife and stabs Pimpo. Pimpo dies. The police, who now learn of the 'goings on' at the house, arrest Bimbo for murder. They also seize Dimi. Both Bimbo and Dimi are thrown in jail. Bimbo's trial is set for one month later in the High Court. Dimi is sentenced the next day to ten years 'hard labour' in a juvenile home.

During Bimbo's trial, the judges refuse to hear evidence from Bimbo and Dimi. They direct the jury:

"These two young people are juveniles and are not subjects appropriately recognised by this court. Their evidence may be unreliable. However, you should not automatically assume that they are guilty."

Bimbo is found guilty and sentenced to death.

Meanwhile, Bimbo's legal aid attorney is proposing a motion of mistrial on the ground that the judge did not allow Bimbo her right to be tried summarily. He wishes to take this 'unfair case' to a Commission of Inquiry and if that fails, to go through the channels under the UNICEF Convention to help Bimbo. His friend, Noall, thinks that the Privy Council is the best avenue for redress.

Discuss.

5. Do you believe that the new jurisdiction proposed under the Caribbean Court of Justice will significantly enhance West-Indian jurisprudence and the accessibility of the law for those seeking legal redress?
6. "The problems that we experience with our jury system are no different to anywhere else."

Discuss.