

THE CHRISTIE METHOD

CAPE LAW

UNIT 1

Public Law · Part One: Caribbean Legal Systems



NAOMI E. CHRISTIE

Attorney-at-Law · Guyana's top CAPE student 2006–2008

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CAPE LAW, UNIT 1 — PUBLIC LAW

*Part One: Caribbean Legal Systems — A Christie Method
Textbook for the CXC CAPE Law Examination*



Written by Naomi E. Christie

*Attorney-at-Law · LL.B (Distinction), L.E.C. (Hons), LL.M (NYU) · Guyana's
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The Christie Method: CAPE Law, Unit 1 — Public Law
Part One: Caribbean Legal Systems — A Christie Method Textbook for the CXC CAPE
Law Examination

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Written by Naomi E. Christie — Attorney-at-Law · LL.B (Distinction), L.E.C. (Hons),
LL.M (NYU) · Guyana's top CAPE student 2006–2008
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*For my parents, who built everything I stand on — long nights
and sacrifice of love.*

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A Note Before We Begin — How to Use This Book

This is Part One of *The Christie Method: CAPE Law, Unit 1 — Public Law*. It covers, completely, **Module 1 of the CXC CAPE Law syllabus: Caribbean Legal Systems** — the module every Unit 1 candidate sits first, and the foundation everything else in your law studies stands on.

Three promises govern every page:

1. **The syllabus is the map.** This book is written to the syllabus in force, **CXC A23/U2/17** (Revised 2017, Amended 2025), which replaced CXC A23/U2/09. Every chapter opens with a syllabus box telling you exactly which Specific Objective and Content items it covers, cited by number. The examiner can only ask what the map contains; this book walks the map street by street.
2. **Everything is receipted.** Every case, statute and thinker in this book is real and checkable. Cases carry their citations; Guyanese statutes carry their chapter numbers in the Laws of Guyana; the endnotes and bibliography let you verify anything you doubt. I walk with receipts, and so should you: an authority you can cite precisely is worth three you half-remember.
3. **Guyana first, the Caribbean always.** Where a Guyanese authority exists, it leads — this is your law, in your country's own cases. But CAPE is a Caribbean examination, and the examiner rewards a candidate who can name a Commonwealth Caribbean state and apply its law; you will meet Barbados, Trinidad and Tobago, Jamaica, Belize and the Eastern Caribbean throughout.

Every chapter walks the same five beats:

Beat	Name	What it does
1	The Story	Why this topic matters in Guyanese and Caribbean life — you see home first, theory second.
2	The Law of the Topic	The core content, plainly, mapped to the syllabus objective it serves.
3	Worked Receipts	An exam answer worked step by step — nothing skipped.
4	Counsel Says	The strategy box: what the examiner rewards, the trap in the question, how top scripts open.
5	Try It Yuhself	Practice in exam format — with full answers in Appendix I. Never answer-less drilling.

The assessment, in one view (from the syllabus itself): Paper 01 — 45 multiple-choice items, 15 per module, 1 hour 30 minutes, 30 per cent. Paper 02 — extended response, three questions, 25 marks each, 2 hours 30 minutes, 50 per cent. Paper 031 — the School-Based Assessment, 20 per cent; private candidates sit **Paper 032** instead — one compulsory question on a topic published in advance, 1 hour 30 minutes, 20 per cent. Chapter Ten of this book is a complete war room for the Paper 032 candidate — because Guyana's many private CAPE Law candidates deserve a guide that was written knowing they exist.

This book is always free at christiejustuslaw.com. If you are holding a paid copy, thank you — the paid edition supports the free library, so that the next student pays nothing.

Walk good, and let us begin where Guyana itself began the argument.

PART ONE — CARIBBEAN LEGAL SYSTEMS



Chapter One — What Is Law? Natural Law, Positive Law, and the Question Berbice Asked First

SYLLABUS MAP — *This chapter covers CAPE Law Unit 1, Module 1 (Caribbean Legal Systems), Specific Objective 1: describe the nature of law — Content 1(b) theories of law: natural law and positive law, 1(c) law and religion, and 1(d) law and morality.¹ The origin, role and functions of law (Content 1(a)) open Chapter Two; the sources of law (Objective 2) fill the rest of Chapter Two; classification of law (Objective 3) is Chapter Three.*

BEAT 1 • THE STORY — *why this matters in Guyanese life*

Before you ever open a statute book, child, Guyana already taught you this chapter.

On the 23rd of February, 1763, on a plantation called Magdalenenberg up the Canje, and then along the whole Berbice River, enslaved Africans rose up under a man named Cuffy — Kofi — a cooper by trade, and for the better part of a year they held Berbice and governed it themselves.² Now hold that date in your mind and ask the question this whole chapter turns on: **the laws that held those people in slavery — were they law?**

Because understand this: slavery in Berbice was not lawlessness. It was *lawful*. It was written down, administered by a Governor, enforced by courts, backed by punishment. Every box a lawyer might tick, it ticked. And still, every fibre of you knows it was wrong — so wrong that this country put Cuffy in bronze at the Square of the Revolution and made the 23rd of February our Republic Day.

So which is it? If law is simply whatever the ruler validly commands, then the slave codes were law — wicked law, but law — and Cuffy was a lawbreaker. But if a rule must pass some higher test — justice, morality, the dignity God or nature planted in every human being — before it deserves the *name* of law, then the slave codes were never truly law at all, and Cuffy was not breaking law; he was answering to a higher one.

That disagreement is not old talk. It is the first examinable topic on your syllabus, it has a name on each side — **positive law** and **natural law** — and it walked into a modern Guyanese courtroom as recently as 2018, as you will see before this chapter is done. When your grandmother says "what is wrong can't be right, I don't care what paper it write on" — she is a natural lawyer. When the magistrate says "I did not make this law, counsel, but I am bound to apply it" — that is legal positivism talking. Both of them live in you already. Your job at CAPE is to give them their proper names, their thinkers, and their cases.

BEAT 2 • THE LAW OF THE TOPIC — *the core content, plainly*

1. The meanings of "law"

At its plainest, law is **a body of rules regulating human conduct in a community, recognised as binding and enforced by the authority of the state**. But the syllabus asks you for the *theories* of law — plural — because thinkers have never agreed on what makes a rule *count* as law. Two great families of answers dominate: natural law and positive law (legal positivism).³

2. Natural law — law judged by a higher standard

Natural law theory holds that true law is not merely made; it is *measured*. Above every human legislature stands a higher order — for the classical and Christian thinkers, the order of God or of nature discoverable by reason — and a human rule is genuine law only insofar as it conforms to that higher standard.

- **Aristotle and the Stoics** distinguished the justice that is natural — the same everywhere, "having the same force" in every place — from justice that is merely conventional, holding only because a particular community adopted it.⁴

- **St Augustine** supplied the movement's famous slogan: *lex iniusta non est lex* — an unjust law is no law at all.⁵
- **St Thomas Aquinas**, the tradition's greatest architect, taught that human law derives its force from eternal and natural law; a human law that conflicts with natural law is a *corruption* of law, and (with careful qualifications) does not bind in conscience.⁶
- **Modern natural lawyers** restated the tradition without needing theology: **Lon Fuller** argued law has an "inner morality" — rules must be public, clear, prospective, stable and honoured in practice, or the system fails to be law at all;⁷ **John Finnis** grounded law in basic human goods that any reasonable person can recognise.⁸

The strength of natural law is that it explains our deepest legal instincts: why the post-war world refused to accept "I was only following valid orders," and why we say the Berbice slave codes were an offence against law, not an instance of it. **The weakness**, the positivists reply, is uncertainty: whose morality? Which reading of nature or scripture? Men have defended both liberty *and* slavery in the name of natural order.

3. Positive law — law as it is posited (laid down)

Legal positivism separates two questions the natural lawyer runs together: *what is the law?* and *is the law good?* For the positivist, a rule is law if it was made in the recognised way by the recognised authority — its moral merit is a separate matter for criticism and reform.

- **Jeremy Bentham**, scourge of natural-law talk (he called natural rights "nonsense upon stilts"), demanded that law be studied as it *is*, then reformed by the measure of utility.⁹
- **John Austin** built the classic command theory: law is the **command of a sovereign, backed by a sanction**, in a society habitually obedient to that sovereign.¹⁰ Tidy — but it struggles to explain laws that empower rather than command (the law of wills, of contract, of marriage), and modern states where the "sovereign" is itself limited by a constitution.
- **H. L. A. Hart**, the twentieth century's leading positivist, answered Austin: a legal system is a union of **primary rules** (rules of conduct) and **secondary rules** (rules about rules — of recognition, change and adjudication). The **rule of recognition** — the accepted master

test for what counts as law in a given society — is what makes a rule valid, not the say-so of a commander.¹¹ Hold onto that phrase: in the Commonwealth Caribbean, as you will see, our rule of recognition has a name and an address — the written Constitution.

- **Hans Kelsen's** "pure theory" pushed the same instinct to its limit: every norm draws validity from a higher norm, up to a presupposed *Grundnorm* (basic norm) at the system's root.¹²

The strength of positivism is certainty and honesty: judges apply identifiable law, and we can condemn a wicked statute *as law that ought to be changed* without pretending it doesn't exist. **The weakness** shows at the extreme: if validly-made evil is still fully "law," what do we say to the person it crushes? This clash was fought out in the famous **Hart–Fuller debate** (1958) over how post-Nazi courts should treat validly-enacted wicked laws.¹³

4. Law, morality and religion — the family resemblance and the family quarrels

Law, morality and religion overlap so heavily in the Caribbean that students sometimes treat them as one thing. They are not. Learn the relationships in three movements:

(a) Common ground. Much of our criminal law simply *is* morality with a seal: do not kill, do not steal, do not bear false witness. Guyana's own legal culture is soaked in the moral vocabularies of Christianity, Hinduism and Islam — the three great faiths of our one people — and our law protects the freedom of each (see Chapter Two on the Constitution, and this book's standing rule of respect: each tradition's sacred things are spoken of only as themselves).

(b) Divergence. Not everything immoral is illegal (adultery, ordinary lies, ingratitude), and not everything illegal is immoral (driving on the right, filing a return late — *mala prohibita*, wrongs because prohibited, versus *mala in se*, wrongs in themselves — a distinction you will re-use in Criminal Law, Part Three, Chapter 1). Law demands a defined minimum; morality invites a limitless best.

(c) The battleground: should the law enforce morals? After Britain's **Wolfenden Report** (1957) recommended that private adult homosexual conduct cease to be criminal, **Lord Devlin** argued society is entitled to use the criminal law to protect its shared morality — the

"reasonable man on the Clapham omnibus" test of intolerance — while **Professor Hart**, following Mill's harm principle, replied that private conduct harming no one is not the law's business.¹⁴ That academic quarrel became case law:

- In **Shaw v DPP** the House of Lords upheld a conviction for the revived offence of *conspiracy to corrupt public morals* against the publisher of a prostitutes' directory, Viscount Simonds claiming for the courts a "residual power" to guard the moral welfare of the state.¹⁵
- In **Kneller v DPP** the Lords followed *Shaw* (magazine advertisements for homosexual meetings) even though several of their Lordships doubted *Shaw* was rightly decided — a lesson in precedent you will meet again in Chapter Two, §5.¹⁶

(d) The Caribbean chapter of the same battle — a Guyanese case you must know. In **McEwan and others v Attorney General of Guyana**, four transgender persons had been convicted under section 153(1)(xlvii) of the Summary Jurisdiction (Offences) Act — an 1893 vagrancy provision criminalising a man appearing in "female attire" for an "improper purpose." The **Caribbean Court of Justice**, sitting as Guyana's final court, struck the provision down: it was hopelessly vague, rooted in the morals of a vanished Victorian age, and inconsistent with the constitutional guarantees of equality and human dignity. Justice Saunders observed, in substance, that a citizen's constitutional rights cannot be made to depend on the moral sensibilities of others; difference is not a crime.¹⁷ Here is the whole chapter in one case: a *validly enacted* rule (the positivist's law) measured against a *higher standard* (the natural lawyer's instinct) — but notice carefully **where the higher standard now lives: inside the written Constitution itself.**

5. The Caribbean synthesis — our answer to the old quarrel

This is the point that separates a Grade I script from the crowd. In Britain, with an unwritten constitution and (traditionally) parliamentary sovereignty, the natural-law/positivist debate stays philosophical. But the Commonwealth Caribbean took the natural lawyers' cargo — human dignity, equality, due process — and *enacted it*, in supreme written Constitutions with entrenched fundamental rights. Article 8 of the Constitution of the Co-operative Republic of Guyana declares the Constitution the **supreme law**, and any other law inconsistent with it

void to the extent of the inconsistency.¹⁸ Our rule of recognition (Hart's phrase — see §3 above) is the Constitution; and because the Constitution carries moral content, a Caribbean judge testing a statute against fundamental rights is doing, with positivist tools, what Aquinas said reason must always do: measuring human law against a higher one. (*Where the framers deliberately preserved old colonial law from that measuring — the "savings clauses" — a modern controversy erupts; the CCJ's criticism of such clauses awaits you in Chapter Five, and in Part Two on the Constitution.*)¹⁹

So when the examiner asks whether law and morality are separate, the Caribbean student has an answer no imported textbook gives so directly: *in our region the debate has been partly settled by drafting — we wrote the minimum content of morality into the supreme positive law itself — and the frontier cases, like McEwan, are where the two traditions still negotiate.*

BEAT 3 • WORKED RECEIPTS — *an exam answer, step by step*

Question (Paper 02 style, 25 marks): *"An unjust law is no law at all." Discuss, with reference to the theories of natural law and legal positivism, and to Commonwealth Caribbean experience.*

Watch me work it — every step shown, nothing skipped.

Step 1 — Crack the question (2 minutes). The quotation is Augustine's *lex iniusta non est lex* — flag that attribution early; examiners reward it. "Discuss" means *both sides plus your own reasoned position*. "Caribbean experience" is not decoration — it is a command. A script with no Caribbean authority caps its own grade.

Step 2 — Plan in five moves (3 minutes, on the answer booklet's inside page):

1. Define the two theories (Aquinas/Augustine vs Austin/Hart).
2. Case *for* the maxim (post-war justice; slavery — Berbice 1763 as the home-ground example).
3. Case *against* (certainty; whose morals? Bentham; Hart's "law but too iniquitous to obey" honesty).

4. Caribbean synthesis: supreme constitutions enact the moral minimum — Art 8; *McEwan*; note *Shaw/Knuller* as the contrast where courts, not constitutions, policed morals.
5. Judgment: the maxim survives in the Caribbean *as constitutional supremacy* — an unjust law here is often, quite literally, no law, because Art 8 voids it.

Step 3 — Open with the point, not the throat-clearing. First sentence of a top script does work: *"Augustine's maxim states the natural-law position at its boldest; the Commonwealth Caribbean, by entrenching moral minimums in supreme written constitutions, has converted much of that philosophy into enforceable positive law."* One sentence — thesis, both theories, regional angle. That is how you signal Grade I from line one.

Step 4 — Argue in paragraphs that each earn marks. One authority per paragraph minimum: Aquinas⁶ » Austin¹⁰ » Hart¹¹ » Hart–Fuller¹³ » *Shaw/Knuller*^{15 16} » Art 8¹⁸ » *McEwan*¹⁷. Apply, don't recite: after each authority, one sentence of so *what* tied back to the maxim.

Step 5 — Conclude by answering, in your own voice. Never "in conclusion, there are many views." Rather: *"The maxim overstates — a wicked statute in force is a legal fact its victims cannot wish away — but Caribbean constitutionalism has given it teeth: in Guyana, by Article 8, the unjust law that collides with the Constitution is not merely bad law; it is void."*

BEAT 4 • COUNSEL SAYS — *the strategy box*

Counsel says: learn the pairs, they are the marks. Augustine–Aquinas. Bentham–Austin. Hart–Fuller (validity debate). Hart–Devlin (enforcement of morals — *different debate, different Hart opponent; confusing the two is the classic Module 1 error*). *Shaw–Knuller* (courts as guardians of morals). Art 8–*McEwan* (the Caribbean settlement).

Counsel says: Paper 01 gives you fifteen multiple-choice items on this Module — definitions win those.¹ Thirty seconds per item; if theories of law appear, the wrong answers will usually swap Austin's "command" for Hart's "rules." Read for the *tester's trap*, then move.

Counsel says: in Paper 02, a case *named* earns little; a case *used* earns plenty. "In *McEwan*, the CCJ struck down an 1893 vagrancy law" is naming. "*McEwan* shows the Caribbean relocating the natural lawyer's higher standard into the Constitution itself" is using. Be the second student.

Counsel says: private candidate? Paper 032's prepared topic is published per year in the syllabus itself, all the way to 2030 — "Sources of Law" was the 2023 topic, and "Common Law and Equity" is set for 2026.²⁰ Chapter Ten of this book is your complete war room for that paper — prepare your notes to the syllabus heads and walk in calm.

Counsel says: I sat these papers from a public school in Berbice and topped the country twice — not because town children are brighter than country children (they are not), but because I treated the syllabus document itself as my map and walked it street by street, the way we just walked Objective 1. Get your own copy of CXC A23/U2/17. Tick the objectives as you master them. The examiner can only ask what the map contains.

BEAT 5 • TRY IT YUHSELF — *practice, with answers in the back*

A. Multiple choice (Paper 01 style)

1. The theory that law is "the command of a sovereign backed by a sanction" belongs to: (A) Aquinas (B) Austin (C) Hart (D) Fuller
2. Hart's "rule of recognition" is best described as: (A) a moral test for valid law (B) the accepted master criterion identifying valid law in a system (C) a rule commanding obedience to judges (D) the doctrine of precedent
3. *Lex iniusta non est lex* is most associated with: (A) legal positivism (B) the pure theory of law (C) natural law theory (D) utilitarianism
4. In *Shaw v DPP* the House of Lords: (A) abolished conspiracy to corrupt public morals (B) upheld a conviction for conspiracy to corrupt public morals (C) followed the Wolfenden Report (D) struck down a vagrancy statute
5. In *McEwan v AG of Guyana* the CCJ held that s.153(1)(xlvii) of the Summary Jurisdiction (Offences) Act was: (A) valid but outdated (B) saved by the savings clause (C) unconstitutional (D) a matter for

Parliament alone

B. Short essay (Paper 02 practice). *"In the Commonwealth Caribbean, the debate between natural law and legal positivism is of merely historical interest."* Discuss. (Use the Step 1–5 method from Beat 3; write your plan first; 45 minutes.)

C. The Berbice question (discussion — bring it to class or the dinner table). Under a strict Austinian analysis, were the Berbice slave codes of 1763 valid law? Under Fuller's "inner morality of law"? Under Article 8 reasoning, had a supreme rights-bearing constitution existed? Three frameworks, one history — say which analysis you find most honest, and why.

Answers: Appendix I.

CROSS-REFERENCES

- The functions of law, and the sources of law (Constitution, legislation, common law, equity, precedent, custom): **Chapter Two.**
- Classification of law (*mala in se* revisited): **Chapter Three, §2.**
- Court hierarchy, the CCJ vs the Privy Council (how *McEwan* reached the CCJ at all): **Chapters Four and Five.**
- Fundamental rights and the savings-clause controversy: **Part Two, Chapters 2–3.**
- Criminal liability (the state's moral minimum in action): **Part Three, Chapter 1.**

ENDNOTES — CHAPTER ONE

1. Caribbean Examinations Council, *CAPE Law Syllabus* (CXC A23/U2/17, Revised 2017, Amended 2025), Unit 1, Module 1, Specific Objective 1 and Content 1(b)–(d). Paper 01 carries 15 multiple-choice items per Module (Assessment Grid, *ibid*).
2. On the 1763 Berbice uprising and its leadership see Marjoleine Kars, *Blood on the River: A Chronicle of Mutiny and Freedom on the Wild Coast* (The New Press, 2020); Cuffy is honoured as a national hero of Guyana at the 1763 Monument, Square of the Revolution, Georgetown; Republic Day is observed on 23 February.
3. For the standard regional treatment, R.-M. B. Antoine, *Commonwealth Caribbean Law and Legal Systems* (2nd edn,

Routledge-Cavendish, 2008), chs 1–3 — the syllabus's own recommended text.

4. Aristotle, *Nicomachean Ethics*, Book V, ch 7 (natural vs conventional justice).
5. Augustine, *De Libero Arbitrio* (On Free Choice of the Will), Book I — the source conventionally rendered *lex iniusta non est lex*.
6. Aquinas, *Summa Theologiae*, I–II, qq. 90–97, esp. q. 95 art. 2 and q. 96 art. 4.
7. Lon L. Fuller, *The Morality of Law* (Yale University Press, 1964), ch 2 (the eight ways to fail to make law).
8. John Finnis, *Natural Law and Natural Rights* (Clarendon Press, 1980).
9. Jeremy Bentham, *Anarchical Fallacies* (written c.1796) ("nonsense upon stilts"); *Of Laws in General* (ed. Hart, 1970).
10. John Austin, *The Province of Jurisprudence Determined* (1832), Lecture I.
11. H. L. A. Hart, *The Concept of Law* (Clarendon Press, 1961), chs 5–6.
12. Hans Kelsen, *Pure Theory of Law* (2nd edn, 1960; trans. Knight, University of California Press, 1967).
13. H. L. A. Hart, "Positivism and the Separation of Law and Morals" (1958) 71 *Harvard Law Review* 593; Lon L. Fuller, "Positivism and Fidelity to Law — A Reply to Professor Hart" (1958) 71 *Harvard Law Review* 630.
14. *Report of the Committee on Homosexual Offences and Prostitution* (Wolfenden Report, Cmnd 247, 1957); Patrick Devlin, *The Enforcement of Morals* (OUP, 1965); H. L. A. Hart, *Law, Liberty and Morality* (OUP, 1963); cf. J. S. Mill, *On Liberty* (1859).
15. *Shaw v Director of Public Prosecutions* [1962] AC 220 (HL) — listed among the syllabus's suggested cases for this Module.
16. *Kneller (Publishing, Printing and Promotions) Ltd v Director of Public Prosecutions* [1973] AC 435 (HL) — also on the syllabus's suggested-case list.
17. *McEwan and others v Attorney General of Guyana* [2018] CCJ 30 (AJ) (Caribbean Court of Justice, appellate jurisdiction, on appeal from Guyana).

18. Constitution of the Co-operative Republic of Guyana Act 1980 (Act No. 2 of 1980, as amended), Article 8.
19. See *Nervais v R*; *Severin v R* [2018] CCJ 19 (AJ) (Barbados) on the CCJ's treatment of general savings clauses; discussion in Part Two.
20. CXC A23/U2/17, Regulations for Private Candidates, Paper 032, and the published Topics for Paper 032 table (Unit 1: 2023 "Sources of Law"; 2026 "Common Law and Equity"; 2027 "Stare Decisis"; the full table to 2030 is reproduced in Chapter Ten).

Chapter Two — Where Law Comes From: The Functions of Law and the Sources of Caribbean Law

SYLLABUS MAP — *This chapter completes Specific Objective 1 with Content 1(a): the origin, role and functions of law; and covers all of Specific Objective 2: assess the importance of the contribution of the various sources of law to the development of Commonwealth Caribbean law — Content 2(a) literary sources: constitution, 2(b) legal sources: legislation (primary and subsidiary) and interpretation by the Courts, 2(c) historical sources: common law, 2(d) equity — origin and development in the Caribbean, 2(e) judicial precedent, and 2(f) customs and conventions.¹*

BEAT 1 • THE STORY — *why this matters in Guyanese life*

Stand in front of Stabroek Market and read the names around you. *Stabroek* itself — Dutch. *Vlissengen* Road — Dutch. The *koker* that drains the city when the rain falls — a Dutch word for a Dutch invention, because the Dutch taught this coast to live below the level of the sea. And when your family buys a house lot, the document that passes the land is still called a **transport** — a word, and a way of owning land, that came up the Essequibo with the Dutch West India Company nearly four hundred years ago.²

Now hear the strange part. On the 1st of January, 1917, the law of this country changed almost overnight. By one Ordinance, British Guiana swept away Roman-Dutch law — the law the Dutch had planted and the British had tolerated for a century — and adopted the **common law of England** as the general law of the colony. One day the courts reasoned

from Grotius and Voet; soon after, from English judges.³ Yet the transport survived. The koker survived. The layers did not vanish; they settled, the way our coast is layered — sea-defence on top of Dutch polder on top of river mud.

That is what this chapter teaches: law is not one thing from one place. It is layers, and each layer has a name — Constitution, legislation, common law, equity, precedent, custom, convention. A lawyer reading any legal problem is really asking, quietly: *which layer does this rule come from, and which layer wins if they collide?* By the end of this chapter you will ask that question automatically. But first, a prior question the syllabus puts to you plainly: what is law for?

BEAT 2 · THE LAW OF THE TOPIC — *the core content, plainly*

1. The origin, role and functions of law

Wherever human beings have lived together, rules followed — first as custom and religious ordinance, later as the commands of chiefs and kings, finally as the deliberate enactments of assemblies. Law's *origin*, in every society, is the same need: a community cannot survive on goodwill alone. Its *role* is to be the framework within which everything else — family, market, worship, government — can safely happen. Learn the classic **functions of law** as a list you can deploy in any essay, each with a home-ground example:

1. **Keeping order and peace.** The criminal law replaces private revenge with public justice — the fight at the rum shop becomes a charge of assault, not a feud between families.
2. **Protecting persons and property.** From the Offences Against the Person laws to the law of theft, the state guards body and belongings.
3. **Protecting rights and liberties.** Guyana's Constitution entrenches fundamental rights — expression, worship, equality — and gives the citizen a court to enforce them (Chapter Four).⁴
4. **Regulating and facilitating private dealings.** The law of contract does not command you to sell rice; it *enables* you to sell rice safely, by promising that bargains will be honoured or compensated

— Hart's point, from Chapter One, that much law empowers rather than commands.⁵

5. **Resolving disputes.** Courts — and, increasingly, arbitration and mediation (Chapter Eight) — give quarrels a peaceful ending with an authoritative answer.
6. **Ordering government itself.** Public law distributes and limits state power — the Constitution tells even the President what he may not do.
7. **Driving social change.** Law does not only follow society; it leads it — the abolition of slavery in 1834, adult suffrage in 1953, the Juvenile Justice Act 2018 changing how Guyana treats its children in trouble.⁶

2. "Sources of law" — the concept, and the first source: the Constitution

The phrase "**sources of law**" is used in three senses, and the syllabus names all three.⁷ A **literary source** is where the law is *written down and consulted* — for us, above all, the text of the Constitution. A **legal source** is the process that *gives a rule its legal force* — legislation enacted by Parliament, precedent laid down by courts. A **historical source** is where a rule *originally came from* — the common law of England, the customs of merchants — even if its force today rests on some other footing.

The Constitution stands first among our sources, and not merely first among equals. The Constitution of the Co-operative Republic of Guyana (1980, as amended) declares itself, in Article 8, **the supreme law of Guyana**: any other law inconsistent with it is void to the extent of the inconsistency.⁸ Three consequences follow, and each is examinable:

- **Every other source is subordinate.** An Act of Parliament, a regulation, a precedent — all must pass under the Constitution's measuring rod. This is the great structural difference between Caribbean systems and Britain's, where Parliament is traditionally sovereign and no court may strike down its Acts.
- **The Constitution creates the very organs that make the other sources.** Parliament's power to legislate is itself a constitutional grant — in Guyana, Article 65: Parliament may make laws "for the peace, order and good government of Guyana."⁹

- **The Constitution is a source of enforceable rights**, not just a description of government: the fundamental-rights provisions can be sued on directly (Part Two of this book).

3. Legislation — primary, subsidiary, and what the courts do with it

Primary legislation is law made by Parliament itself: **Acts** (statutes). In Guyana a bill passes through readings and committee in the National Assembly, receives the President's assent, and is published in the Official Gazette; it then binds as an Act, cited by its chapter in the Laws of Guyana — for example, the Civil Law of Guyana Act, Cap 6:01.¹⁰ Legislation is today the *most prolific* source of new law: it can be made quickly, comprehensively, prospectively, and democratically — and, unlike precedent, it does not have to wait for a lawsuit to happen.

Subsidiary (delegated) legislation is law made by some person or body *under authority delegated by an Act* — ministers making regulations, municipalities making by-laws, professional bodies making rules. The parent Act is the enabling Act; the child must stay within it. Delegated legislation multiplies the law's reach (Parliament cannot debate the technical detail of every port regulation), but it raises a control problem: the maker is not Parliament. The controls are parliamentary (laying procedures, revocation) and judicial — a court will strike down subsidiary legislation that is ***ultra vires***, beyond the powers the parent Act gave.¹¹

Interpretation by the courts. A statute is words, and words carry doubt into court. Over centuries the judges built approaches you must know by name:

- **The literal rule:** give words their plain, ordinary meaning, even if the result is inconvenient — Parliament is presumed to mean what it said. The classic English illustrations: *Whiteley v Chappell* (impersonating a dead voter was not impersonating "a person entitled to vote"); *Fisher v Bell* (a flick-knife displayed in a shop window was an invitation to treat, not an "offer for sale").¹² And here Guyana owns a syllabus case: in ***R v Ramsonahai and Duke***, the Federal Supreme Court, on appeal from British Guiana, read the words "to prosecute" in a conspiracy provision *strictly*, in their precise legal sense, and quashed convictions that depended on

stretching them — penal statutes above all are construed strictly, in favour of the accused.¹³

- **The golden rule:** start literal, but modify the meaning where the literal reading yields absurdity or repugnance — *Adler v George* ("in the vicinity of" a prohibited place includes *inside* it); *R v Allen* ("shall marry" in the bigamy statute must mean "go through a form of marriage," or the offence could never be committed).¹⁴
- **The mischief rule:** from *Heydon's Case* (1584) — ask what defect ("mischief") in the old law the statute was passed to cure, and read it to suppress the mischief and advance the remedy.¹⁵
- **The modern purposive approach:** today's courts, Caribbean courts emphatically included, read the words in the light of the statute's purpose and context; since *Pepper v Hart* even parliamentary materials may (within limits) be consulted.¹⁶ And for constitutions the Privy Council set a special, generous key in *Minister of Home Affairs v Fisher*: a constitution calls for "a generous interpretation avoiding what has been called 'the austerity of tabulated legalism,'" suitable to give individuals the full measure of their fundamental rights — the approach the CCJ carried forward in cases like *McEwan* (Chapter One).¹⁷

Add the **presumptions** (against retrospectivity; against interference with vested rights; that penal provisions are construed strictly; that the Crown/State is not bound unless named) and the internal and external **aids** (long title, headings, definition sections; dictionaries, reports, treaties), and you hold the full interpretation toolkit.¹⁸

4. The historical sources — common law and equity

(a) The common law. After 1066 the Norman kings' judges rode circuit and slowly welded England's local customs into one body of judge-made law — *common* to the whole realm, administered in the royal courts, hardened by precedent. That body of law — with its writs, its doctrines of contract, tort and crime — is the **common law**, and it came to the Caribbean in the baggage of empire. The rule of thumb of **reception**: in *settled* colonies the settlers carried English law with them as their birthright; in *conquered or ceded* colonies (which most of the Caribbean was) the existing law continued until the new sovereign changed it — which, by statute or proclamation, the British sooner or

later did, fixing for each territory a **reception date** on which English law was taken as the base.¹⁹

Guyana's story is the region's most dramatic, and it is your best essay material. The three colonies — Essequibo, Demerara, Berbice — were Dutch, and when Britain finally kept them (ceded 1814, united as British Guiana 1831), the capitulation terms preserved the **Roman-Dutch law** in force. For a century, then, a British colony ran on Dutch law. The mixture grew unworkable — two vocabularies, imported English commercial statutes sitting on a Roman-Dutch base — until the **Civil Law of Guyana Act (Cap 6:01)**, in force from 1 January 1917, replaced Roman-Dutch law with **the common law of England** as the general law, while deliberately keeping Roman-Dutch-derived machinery in land matters — which is why your family's land still passes by *transport* before the court, and why Guyana's property law remains unlike anyone else's in the region.²⁰ St Lucia tells a cousin story: its Civil Code (1879), drawn from Quebec's and ultimately France's, still gives St Lucian private law a civilian accent.²¹ The lesson the examiner wants: **the Commonwealth Caribbean is not simply "English law overseas" — it is a family of hybrid systems**, each with a reception history that explains its present shape.

(b) Equity. The common law's own rigidity created the second stream. Medieval litigants who could find no writ, or no conscience, in the common-law courts petitioned the King, who passed the petitions to his **Chancellor** — originally a churchman, keeper of the King's conscience. Out of the Chancellor's case-by-case mercy grew a parallel court (Chancery) and a parallel body of doctrine: **equity** — the trust, the injunction, specific performance, relief against forfeiture and fraud. Its spirit is preserved in the **maxims**: *equity will not suffer a wrong to be without a remedy; equity looks to the intent rather than the form; he who comes to equity must come with clean hands; equity acts in personam; delay defeats equity*.²²

Two collisions define equity's career. First, ***Earl of Oxford's Case* (1615)** settled that where common law and equity conflict, **equity prevails**.²³ Second, the **Judicature Acts 1873–75** fused the *administration* of the two streams — one set of courts now applies both — though the *doctrines* remain distinct: *Walsh v Lonsdale* shows the fusion working, an agreement for a lease being treated in the same court

as good as the lease equity deemed done.²⁴ The Caribbean received equity along with the common law, and our courts administer both together — in Guyana the High Court applies common law and equity concurrently, equity prevailing in case of conflict, on the English model.²⁵ For the Caribbean student the point to *assess* (the syllabus's verb) is that equity remains a living source: every injunction our courts grant to stop a demolition, every trust that holds family land together, every claim that a strict legal right is being used unconscionably, draws on the Chancellor's stream.

5. Judicial precedent — the common law's engine

The doctrine of **judicial precedent** (*stare decisis* — "let the decision stand") is the rule that like cases be decided alike: a court is **bound** to follow the *ratio decidendi* — the legal principle necessary to the decision — of a **higher court** in its hierarchy, while *obiter dicta* (things said by the way) persuade but do not bind.²⁶ The machinery you must command:

- **Binding vs persuasive.** Decisions of a higher court in the same hierarchy bind; decisions of courts elsewhere (English courts in a CCJ jurisdiction, other Caribbean courts, the Privy Council in a state that has left it) are persuasive only — often highly persuasive, never compulsory.
- **The escape routes.** A court may **distinguish** a precedent (materially different facts), and a superior court may **overrule** a precedent or **reverse** the decision under appeal. Advocacy largely consists of driving through these gaps.
- **Final courts and their own past.** The House of Lords freed itself from its own precedents by the **Practice Statement of 1966**, in the interests of justice over rigidity; intermediate courts remain generally bound by themselves per *Young v Bristol Aeroplane*, subject to its exceptions (conflicting decisions; conflict with a higher court; *per incuriam*).²⁷ The Caribbean followed the logic of finality: Guyana's Court of Appeal — which stood as the country's **final court** from 1970 to 2005 (Chapter Five) — asserted in ***Persaud v Plantation Versailles*** the freedom of a final court to depart from its own previous decisions where right requires;²⁸ and the **CCJ**, in *Attorney General v Joseph and Boyce*, made clear that while it values continuity, it is not bound by the Privy Council's decisions —

Caribbean precedent now grows from a Caribbean root.²⁹

- **Assess it** (the syllabus's verb again): precedent delivers **certainty, equality, efficiency and the slow wisdom of accumulated cases** — and threatens **rigidity, the perpetuation of error, and law-making by judges nobody elected**. The 1966 Practice Statement, and the CCJ's willingness to rethink inherited doctrine (*Nervais*, Chapter Five), are the system correcting for its own stiffness.³⁰

6. Custom and convention — the quiet sources

Custom is the oldest source — law that grows from long practice rather than enactment. English law recognises a *local custom* as law if it has run from time immemorial, continuously, peaceably, certainly, reasonably, and is accepted as obligatory.³¹ In the modern Caribbean, custom's living importance is real but specific: **the customary land rights of Indigenous peoples**. In Guyana, the Amerindian Act 2006 (No. 6 of 2006) gives statutory recognition and protection to Amerindian villages' rights over titled lands, translating long occupation and custom into enforceable law; across the region (as in Belize's Maya land litigation, which reached the CCJ) customary tenure has been vindicated against the state.³² Custom also lives inside commerce — trade usages read into contracts — and behind the common law itself, which began as custom systematised.

Conventions are settled political practices that bind as a matter of constitutional morality but are **not enforced by courts** — the Westminster inheritance: that the President acts on ministerial advice in defined matters, that a government defeated on confidence resigns, that the judiciary is not attacked in parliamentary debate. Written constitutions like ours absorbed many conventions into text (which makes them law); the remainder grease the machinery — real rules, politically sanctioned, judicially unenforceable.³³ Distinguish these sharply in Paper 01 from *treaties/conventions* in the international-law sense — the examiner knows candidates confuse the two.

7. Assessing the sources together

The syllabus verb for this objective is **assess** — so end where the examiner will make you end. Rank the sources not as a museum list but

as a working machine: **the Constitution** is supreme and measures all; **legislation** is the modern workhorse — fast, democratic, comprehensive; **precedent** supplies the daily texture of the law and its stability; **common law and equity** are the deep inherited reservoirs that fill every gap statute leaves; **custom and convention** are small in volume, indispensable where they operate. And all of them, in the Caribbean, carry a regional signature: received sources *creolised* — reshaped by written supreme constitutions, by our own final court, by statutes like Cap 6:01 that chose, deliberately, what to keep of the layers history left us.

BEAT 3 · WORKED RECEIPTS — *an exam answer, step by step*

Question (Paper 02 style, 25 marks): *"In the Commonwealth Caribbean today, legislation has eclipsed all other sources of law." Assess this statement.*

Step 1 — Crack the question (2 minutes). "Assess" commands a weighing, not a description: you must measure legislation *against each rival source* and reach a reasoned verdict. The trap: writing everything you know about sources one by one, with no assessment. Every paragraph must end by comparing.

Step 2 — Plan in five moves (3 minutes):

1. The claim's strength: volume, speed, democracy, reform power — the Juvenile Justice Act 2018, the Arbitration Act 2024 (Chapter Eight) as fresh Guyanese proof.
2. First check: the **Constitution** — legislation is subordinate to it (Art 8; *McEwan* striking a statute down). What is eclipsed cannot strike down the eclipser.
3. Second check: **precedent** — statutes are inert until interpreted; *Ramsonahai*, *Fisher v Bell* show courts controlling statutory meaning; the common law and equity still govern whole fields (much of contract, tort, trusts) where Parliament has barely spoken.
4. Third check: the quiet sources — custom (Amerindian Act 2006 shows legislation *absorbing* custom, a partnership not an eclipse) and convention.

5. Verdict: legislation is the *most productive* source, but the system is a hierarchy with the Constitution at its head and the courts at its centre; "eclipse" mistakes volume for supremacy.

Step 3 — Open with the point. *"Legislation is unquestionably the modern Caribbean's most prolific source of law; but in constitutional systems built on Article 8 supremacy and judicial interpretation, the most prolific source is neither the highest nor the self-sufficient one."*

Step 4 — Argue with one authority per paragraph. Art 8⁸ » McEwan¹⁷ » Ramsonahai¹³ » Earl of Oxford's Case²³ » Persaud v Plantation Versailles²⁸ » Amerindian Act 2006.³² After each: one sentence tying back to "eclipsed."

Step 5 — Conclude by answering. *"Legislation reigns in volume; the Constitution reigns in law. The truer picture is not an eclipse but an orbit — every source, legislation included, circling a supreme constitutional centre, held in course by the courts."*

BEAT 4 • COUNSEL SAYS — the strategy box

Counsel says: learn the three senses of "source" — literary, legal, historical — as your opening paragraph for *any* sources essay. It signals command in your first four sentences, and it is straight from the syllabus's own wording.

Counsel says: the interpretation rules are Paper 01 gold. The setters love to describe a scenario and ask which rule the judge applied. Match the fingerprint: absurd result avoided = golden; defect in the old law cured = mischief; plain words followed off the cliff = literal; purpose and context = purposive. And when a penal statute is read strictly for the accused, reach for the Guyanese case — *Ramsonahai and Duke*.

Counsel says: Guyana's 1917 switch is your unfair advantage. No other candidate in the region can write "my own country changed its entire common law by one statute, and kept the Roman-Dutch transport on purpose" — reception, legislation and legal hybridity proved in a single home-ground example. Use it in every sources essay. Use the layers.

Counsel says: private candidate, mark this chapter twice. The published Paper 032 topics include "Sources of Law" (2023), "**Common Law and Equity**" (2026) and "**Stare Decisis**" (2027) — three harvests from this one chapter. Chapter Ten shows you how to turn

§§4–5 into your prepared-notes pack.

Counsel says: when I revised sources at your age, I drew the layers as an actual diagram of our coast — Constitution as the sea wall, statute as the road, common law and equity as the two drainage trenches, custom as the river mud everything stands on. Foolishness? I topped the country. Make the law look like home and it will stay with you in the exam hall.

BEAT 5 • TRY IT YUHSELF — *practice, with answers in the back*

A. Multiple choice (Paper 01 style)

1. The Constitution as a written text consulted for the law is best described as a: (A) legal source (B) literary source (C) historical source (D) persuasive source
2. Subsidiary legislation that exceeds the power conferred by its parent Act is: (A) voidable at the Minister's option (B) valid until repealed (C) *ultra vires* and void (D) subject to the golden rule
3. In *R v Ramsonahai and Duke* the Federal Supreme Court's approach to the penal statute was to: (A) apply the mischief rule broadly (B) construe the words strictly in their precise sense (C) consult parliamentary debates (D) apply the Constitution's supremacy clause
4. *Earl of Oxford's Case* (1615) establishes that: (A) common law prevails over equity (B) equity prevails where the two conflict (C) equity and common law were fused into one doctrine (D) the Chancellor is bound by precedent
5. The Civil Law of Guyana Act, Cap 6:01, in force from 1917: (A) adopted Roman-Dutch law as the general law (B) abolished the transport system (C) adopted English common law as the general law while retaining Roman-Dutch elements in land matters (D) enacted the St Lucia Civil Code in Guyana
6. A settled political practice binding governments but not enforced by courts is: (A) a custom (B) a convention (C) subsidiary legislation (D) obiter dictum

B. Essay (Paper 02 practice). *"Judicial precedent gives the Commonwealth Caribbean certainty at the price of rigidity — and the price is too high."* Discuss, with reference to the Practice Statement 1966, *Persaud v Plantation Versailles*, and the Caribbean Court of Justice. (45

minutes; plan first.)

C. The transport question (discussion). Guyana in 1917 chose to adopt English common law generally but keep Roman-Dutch machinery for land. What does that choice teach about who a "source of law" really serves — the logic of the system, or the life of the people? Would you have made the same choice?

Answers: Appendix I.

CROSS-REFERENCES

- The Constitution's supremacy in action against a statute: **Chapter One, §4(d)** (*McEwan*).
- How the court hierarchy that precedent depends on is built: **Chapters Four and Five**.
- Guyana's Court of Appeal as final court 1970–2005: **Chapter Five, §1**.
- Arbitration legislation as modern statutory reform: **Chapter Eight**.
- Prepared-topic packs for "Common Law and Equity" (2026) and "Stare Decisis" (2027): **Chapter Ten**.

ENDNOTES — CHAPTER TWO

1. CXC A23/U2/17, Unit 1, Module 1, Specific Objectives 1–2, Content 1(a) and 2(a)–(f).
2. On Dutch colonisation of Essequibo (from 1616), Demerara and Berbice, and the polder coast, see generally the standard histories of Guyana, e.g. V. T. Daly, *A Short History of the Guyanese People* (Macmillan, 1975).
3. Civil Law of Guyana Act, Cap 6:01 (Laws of Guyana), originally the Civil Law of British Guiana Ordinance 1916, in force 1 January 1917.
4. Constitution of the Co-operative Republic of Guyana, Title 1 (fundamental rights); enforcement provisions discussed in Part Two.
5. H. L. A. Hart, *The Concept of Law* (Clarendon Press, 1961), ch 3 (power-conferring rules).
6. Slavery Abolition Act 1833 (UK), effective 1 August 1834; universal adult suffrage first exercised in British Guiana in the general election of 1953; Juvenile Justice Act 2018 (No. 18 of 2018) (Guyana).

7. R.-M. B. Antoine, *Commonwealth Caribbean Law and Legal Systems* (2nd edn, Routledge-Cavendish, 2008), ch 5 (the classification of sources); the syllabus adopts the literary/legal/historical taxonomy in Content 2(a)–(c).
8. Constitution of Guyana, Art 8.
9. Constitution of Guyana, Art 65(1).
10. On the legislative process see the Constitution of Guyana, Arts 65–170 (Parliament; assent and Gazette publication); Acts are cited by chapter number in the consolidated Laws of Guyana.
11. Antoine (n 7) ch 6; the *ultra vires* doctrine is developed fully in Part Two (administrative law).
12. *Whiteley v Chappell* (1868) LR 4 QB 147; *Fisher v Bell* [1961] 1 QB 394.
13. *R v Ramsonahai and Duke* (1961) 3 WIR 535 (Federal Supreme Court, on appeal from British Guiana) — on the syllabus's suggested-case list for this Module. The court held that "to prosecute" bore its strict sense, and the convictions for conspiracy could not stand on a stretched reading.
14. *Adler v George* [1964] 2 QB 7; *R v Allen* (1872) LR 1 CCR 367.
15. *Heydon's Case* (1584) 3 Co Rep 7a; 76 ER 637.
16. *Pepper (Inspector of Taxes) v Hart* [1993] AC 593 (HL).
17. *Minister of Home Affairs v Fisher* [1980] AC 319 (PC, Bermuda), 328 (Lord Wilberforce); *McEwan v AG of Guyana* [2018] CCJ 30 (AJ).
18. On presumptions and aids, F. A. R. Bennion's and Cross's standard treatments are summarised in Antoine (n 7) ch 9.
19. On reception and reception dates, Antoine (n 7) ch 4; V. Newton, *Commonwealth Caribbean Legal Systems: A Study of Small Jurisdictions* (Triumph, 1988) — a syllabus resource.
20. Civil Law of Guyana Act, Cap 6:01, ss 2–3 (adoption of English common law as the general law; savings). The transport system of land conveyance before the court, of Roman-Dutch origin, continues under the Deeds Registry Act, Cap 5:01.
21. N. J. O. Liverpool, *The History and Development of the St Lucia Civil Code* (ISER, Cave Hill, 1983) — a syllabus resource.

22. On the origins of equity and the maxims: J. McGhee (ed), *Snell's Equity* (Sweet & Maxwell), ch 1; Antoine (n 7) ch 8.
23. *Earl of Oxford's Case* (1615) 1 Ch Rep 1; 21 ER 485.
24. Supreme Court of Judicature Acts 1873–1875 (UK); *Walsh v Lonsdale* (1882) 21 Ch D 9.
25. High Court Act, Cap 3:02 (Guyana) (jurisdiction; concurrent administration of law and equity).
26. On ratio and obiter: Cross & Harris, *Precedent in English Law* (4th edn, OUP, 1991); Antoine (n 7) ch 7.
27. *Practice Statement (Judicial Precedent)* [1966] 3 All ER 77 (HL); *Young v Bristol Aeroplane Co Ltd* [1944] KB 718 (CA).
28. *Persaud v Plantation Versailles & Schoon Ordre Ltd* (1970) 17 WIR 107 (Court of Appeal, Guyana). See also C. A. Eversley, "The Doctrine of Stare Decisis — An Enlightened Judicial Approach" (1980) Guyana Law Journal 63 — a syllabus resource.
29. *Attorney General v Joseph and Boyce* [2006] CCJ 3 (AJ) (Barbados).
30. *Nervais v R*; *Severin v R* [2018] CCJ 19 (AJ) (Barbados); discussed in Chapter Five.
31. The classic tests are collected in Antoine (n 7) ch 10 (from *Tanistry Case* (1608) Davis 28 and later authority).
32. Amerindian Act 2006 (No. 6 of 2006) (Guyana), Parts V–VI (village lands; rights); *Maya Leaders Alliance v Attorney General of Belize* [2015] CCJ 15 (AJ) (customary land tenure protected by the Belize Constitution).
33. On conventions: Fiadjoe, *Commonwealth Caribbean Public Law* (3rd edn, Cavendish, 2015) — a syllabus resource; the classic account is Dicey's, *Introduction to the Study of the Law of the Constitution* (10th edn, Macmillan, 1959).

Chapter Three — Sorting the Law: Classification

SYLLABUS MAP — *This chapter covers Specific Objective 3: explain the bases on which the law can be classified — Content 3(a) reasons for classification, and 3(b) classification bases: (i) subject matter (for example contract, criminal, tort); (ii) functional (for example substantive and procedural); (iii) conceptual (for example private law and public law).¹*

BEAT 1 • THE STORY — *why this matters in Guyanese life*

A Monday morning outside any Magistrate's Court in Guyana — New Amsterdam, Whim, Georgetown, it does not matter. On one bench sits a young man charged with unlawful possession; the State is against him, and if things go badly he faces a fine or a cell. On the next bench sits a woman suing her neighbour over a fence line and a broken promise to pay for it; nobody is going to jail, and the State could not care less who wins — it only lends the referee.

Same building. Same magistrate, some days. Two utterly different kinds of law.

Now sharpen it. A minibus on the East Coast road, driven too fast, hits a cyclist. From that *one* piece of foolishness, *two* legal lives begin: the State may charge the driver with dangerous driving — **criminal law**, prosecuted by the police or the DPP, punishment the object, proof beyond reasonable doubt. And the cyclist may sue the driver in **negligence** — **civil law**, the law of tort, compensation the object, proof on a balance of probabilities. The driver can be acquitted in one court and still lose in the other, on the very same facts, and the law sees no contradiction at all.²

If that seems strange to you, this chapter is the cure. Lawyers sort law into boxes not for tidiness but because **the box decides everything that happens next**: which court, which procedure, who must prove what, to what standard, and what the winner walks away with. Learn the boxes and you will read any legal problem — in the exam or in life — the way counsel reads it: *what kind of case is this, really?*

BEAT 2 • THE LAW OF THE TOPIC — *the core content, plainly*

1. Why classify at all — the reasons

The syllabus asks first for the *reasons* for classification. Give the examiner five:

1. **Allocation of courts and procedure.** Classification routes the case: criminal matters to the criminal courts under criminal procedure, civil claims to civil courts under civil procedure (Chapter Four maps the buildings).
2. **Burden and standard of proof.** In a criminal trial the prosecution must prove guilt **beyond reasonable doubt** — the "golden thread" of *Woolmington v DPP*; in a civil trial the claimant proves the case on a **balance of probabilities** — *Miller v Minister of Pensions*.³
3. **Remedies and outcomes.** Classification tells you what the end of the case can be: punishment (fine, imprisonment) in crime; compensation, injunction, specific performance, declaration in civil law.
4. **Vocabulary and parties.** It fixes even the names: the State (in Guyana, the DPP's office in the name of the State) *prosecutes* an *accused*; a *claimant* (plaintiff) *sues* a *defendant*. Misusing these in an essay is a small wound that bleeds marks.
5. **Coherent development and teaching.** Law reform, scholarship and legal education proceed field by field; the syllabus you are studying is itself a classification — Public Law in Unit 1, Private Law in Unit 2.

2. Classification by subject matter

The most familiar sorting is by **what the law is about**: contract, tort, criminal law, family law, property law, company law, labour law, and so on. Each subject-matter field carries its own principles, cases and statutes. Three you will live with at CAPE:

- **Criminal law** — wrongs the State treats as offences against society itself (Part Three of this book). Recall from Chapter One the moral grading *within* this box: *mala in se*, conduct wrong in itself (murder, theft), and *mala prohibita*, conduct wrong because regulation forbids it (licensing and traffic offences) — a distinction that explains why the criminal box holds both the murderer and the vendor without a permit.⁴
- **Contract and tort** — the two great civil obligations fields (your Unit 2): obligations you *chose* (contract) versus obligations the law *imposes* on everyone (tort — negligence, nuisance, defamation).
- **Family law** — status, marriage, children, maintenance. Its foundational definition is itself a famous case: *Hyde v Hyde*, defining marriage at common law as "the voluntary union for life of one man and one woman" — a definition born, note well, in a court steeped in the religious conceptions of its age, which is Chapter One's law-religion relationship wearing subject-matter clothes.⁵

The subject-matter map is not static: new fields crystallise as society changes — environmental law, oil and gas law (ask Guyana), information technology law. Classification is a living act, not a museum catalogue.

3. Functional classification — substantive and procedural

The second base sorts law by **the job a rule does**:

- **Substantive law** defines rights, duties and liabilities themselves — the elements of murder, the requirements of a valid contract, the duty of care in negligence.
- **Procedural (adjectival) law** governs *how* rights are enforced — how proceedings start, time limits, pleadings, evidence, appeals: the Criminal Law (Procedure) Act, Cap 10:01, and the Civil Procedure Rules 2016 in Guyana are procedural law in the flesh.⁶

Do not mistake procedure for the junior partner. Procedure is where rights live or die — a meritorious claim filed out of time is a dead claim; an unfair procedure can poison a fair rule. The fundamental-rights

guarantee of **due process / protection of the law** is, at bottom, the Constitution taking procedure seriously (Part Two).⁷ The examiner's favourite trap here is a scenario asking whether a rule is substantive or procedural — classify by asking: *does this rule tell me who wins, or how the fight is run?*

4. Conceptual classification — public law and private law

The third base sorts by **whose relationship the law governs**:

- **Public law** governs the relationships in which the State appears *as the State* — constitutional law (the structure and limits of government), administrative law (control of official power), criminal law (the State against the accused). Unit 1 of your syllabus is exactly this box.
- **Private law** governs relations between legal persons as equals — contract, tort, property, trusts, family. Unit 2 is this box.

Overlay the related pair **civil law vs criminal law** (take "civil" here as "non-criminal," a usage distinct from the "civil law" *systems* — the Roman-descended family Guyana's Roman-Dutch layer came from; Chapter Two, §4). The full contrast, in the table the examiner wants you able to reproduce:

	Criminal case	Civil case
Purpose	Punish and deter public wrongs	Compensate or vindicate private rights
Parties	The State prosecutes the accused	Claimant sues defendant
Standard of proof	Beyond reasonable doubt (<i>Woolmington</i>)	Balance of probabilities (<i>Miller</i>)
Typical outcome	Conviction: fine, imprisonment; or acquittal	Judgment: damages, injunction, specific performance, declaration
Courts (Guyana)	Magistrates' Courts; High Court (indictable)	Magistrates' Courts (small claims); High Court
Vocabulary	Guilty / not guilty	Liable / not liable

And keep the minibus in mind: the classifications **cross-cut**. One event can generate a public-law prosecution and a private-law claim; one field (say, labour law) can hold substantive and procedural, public and private

rules at once. The boxes are lenses, not prisons — the mark of a Grade I script is using two lenses on one set of facts.

BEAT 3 · WORKED RECEIPTS — *an exam answer, step by step*

Question (Paper 02 style, 25 marks): (a) Outline TWO reasons why the classification of law is important. [4 marks] (b) Ravi, driving a minibus recklessly on the Corentyne highway, collides with Devi's stall, destroying it and injuring Devi. Explain the classifications of law relevant to the legal proceedings that may follow. [6 marks] (c) "The distinction between public law and private law is neither clear nor useful." Assess this view. [15 marks]

Step 1 — Read the mark allocation like a map (1 minute). 4 + 6 + 15. Part (a) wants two crisp reasons, two sentences each — not your whole chapter. Part (b) wants *application*: name the classifications and pin each to Ravi and Devi. Part (c) is the essay — spend your time there.

Step 2 — Part (a), two reasons, cleanly. (1) Classification fixes procedure and standard of proof — criminal guilt beyond reasonable doubt (*Woolmington*), civil liability on a balance of probabilities (*Miller*); (2) it determines available outcomes — punishment in crime, compensation and equitable remedies in civil law. Two marks each: point + authority or example.

Step 3 — Part (b), apply, don't lecture. The State may prosecute Ravi for reckless/dangerous driving — public law, criminal, procedure under Cap 10:01, proof beyond reasonable doubt. Devi may sue Ravi in tort (negligence) for the stall and her injuries — private law, civil, balance of probabilities, damages the remedy. One event, two proceedings, no contradiction even if outcomes differ. Six marks earned by *labels correctly pinned to facts*.

Step 4 — Part (c), argue both sides. *For the criticism*: the State contracts and gets sued like a private party; hybrid fields (labour, environmental) straddle the line; one set of facts crosses boxes, as part (b) itself proved. *Against it*: the distinction carries real consequences — judicial review and constitutional redress lie only against public power (Part Two); the special protections of the criminal accused exist only in the public box; the very architecture of your syllabus, and of the court

system (Chapter Four), assumes the line. Authorities: *Woolmington*; *Hyde v Hyde* as a private-law definition shaped by public morality; *McEwan* (Chapter One) as public law policing the State's reach into private life.

Step 5 — Conclude by answering. *"The line is blurred at its edges but load-bearing at its centre: whole remedies, protections and procedures hang on it. A distinction can be imperfect and indispensable at once — this is one."*

BEAT 4 • COUNSEL SAYS — *the strategy box*

Counsel says: this is the shortest objective on the Module — and therefore Paper 01 territory. Expect items matching a rule to its class: "the law defining the elements of murder is (A) procedural (B) substantive..." Drill the three bases until the sorting is reflex: **about what** (subject matter), **doing what** (function), **between whom** (concept).

Counsel says: in problem parts, the phrase that earns is "*one event, two proceedings*." Examiners set facts like Ravi's minibus precisely to see who knows an acquittal in the criminal court does not bar the civil claim — different parties, different standards. Say it explicitly; it is the point of the question.

Counsel says: never write "the victim sues for dangerous driving" or "the State sues the thief." Prosecution and suit, accused and defendant, guilty and liable — keep each vocabulary in its own box. Sloppy terms tell the examiner you have not truly sorted the law, whatever else you write.

Counsel says: classification looks humble beside the grand theories of Chapter One — but I will tell you a secret from practice: the first thing counsel does with any client's story is classify it. Crime or civil? Substantive defect or procedural? Public power or private wrong? Get the box right and the whole road unrolls in front of you. Get it wrong and you are eloquent in the wrong courtroom.

BEAT 5 • TRY IT YUHSELF — *practice, with answers in the back*

A. Multiple choice (Paper 01 style)

1. The rule that a claimant in negligence must prove her case on a balance of probabilities is: (A) substantive law (B) procedural law (C) public law (D) natural law
2. Contract, tort and criminal law are classifications by: (A) function (B) concept (C) subject matter (D) source
3. Which pairing is correct? (A) criminal — compensation (B) civil — beyond reasonable doubt (C) public law — the State as State (D) private law — prosecution
4. In *Woolmington v DPP* the House of Lords described proof of guilt beyond reasonable doubt as: (A) the golden rule (B) the golden thread (C) the rule of recognition (D) obiter dictum
5. A driver is acquitted of dangerous driving but later held liable in negligence on the same facts. This is best explained by: (A) the doctrine of precedent (B) double jeopardy (C) the different parties and standards of proof in criminal and civil proceedings (D) the supremacy of the Constitution

B. Essay (Paper 02 practice). *"Procedural law is merely the servant of substantive law."* Discuss. (Consider due process, time limits, and what an unenforceable right is worth; 45 minutes.)

C. The market question (discussion). Walk through Stabroek or the New Amsterdam market in your mind and find five rules of law in operation (a licence on a stall wall, a price agreed, a scale inspected, a bag snatched, a wage paid). Classify each rule three ways — subject matter, function, concept. Which rule was hardest to box, and why?

Answers: Appendix I.

CROSS-REFERENCES

- *Mala in se / mala prohibita* first met: **Chapter One, §4(b)**; deployed again in **Part Three, Chapter 1**.
- Which courts hear which class of case: **Chapter Four**.
- The standards of proof at work in a jury trial: **Chapter Seven**.
- Public-law control of officialdom (judicial review, the Ombudsman): **Chapter Nine** and **Part Two**.

ENDNOTES — CHAPTER THREE

1. CXC A23/U2/17, Unit 1, Module 1, Specific Objective 3, Content 3(a)–(b).
2. The double aspect of one event is orthodox: see R.-M. B. Antoine, *Commonwealth Caribbean Law and Legal Systems* (2nd edn, Routledge-Cavendish, 2008), ch 1.
3. *Woolmington v DPP* [1935] AC 462 (HL) ("the golden thread"); *Miller v Minister of Pensions* [1947] 2 All ER 372 (Denning J).
4. Chapter One, §4(b), and sources there cited.
5. *Hyde v Hyde and Woodmansee* (1866) LR 1 P & D 130 — on the syllabus's suggested-case list for this Module. The common-law definition has since been modified by statute in several jurisdictions; its examinable value here is as the classic subject-matter definition and as an artefact of law's religious inheritance.
6. Criminal Law (Procedure) Act, Cap 10:01 (Guyana); Civil Procedure Rules 2016 (Guyana), in force 2017.
7. Constitution of Guyana, Arts 144 (protection of the law — fair hearing) and Title 1 generally; developed in Part Two.

Chapter Four — The Ladder of Justice: Structure and Hierarchy of the Courts



SYLLABUS MAP — This chapter covers Specific Objective 4: examine the structure and operation of the court system — Content 4(b) Courts of Appeal, High Courts and Supreme Courts and 4(c) Magistrates' Courts, including Juvenile Court, Family Court and Petty Sessions.¹ Content 4(a) — the advantages and disadvantages of the Judicial Committee of the Privy Council and the Caribbean Court of Justice — is so important to the Caribbean story that it takes the whole of Chapter Five.

BEAT 1 • THE STORY — *why this matters in Guyanese life*

Every Guyanese knows the courthouses without ever being taught them. The magistrate's court in the market town — zinc roof hot by ten o'clock, the list called name by name, half the district's business settled before lunch. The High Court in Georgetown behind Victoria's statue, where the murder trials run and the newspapers wait outside. The Court of Appeal upstairs in its quiet, where three judges ask the questions that decide what the law is. And now, at the top, a court that does not even sit in Guyana — the Caribbean Court of Justice in Port of Spain, where *McEwan* ended and where Guyana's biggest cases go to die or be born again.

Why a ladder? Why not one big courtroom for everything?

Think of it the way a nurse thinks of the health system. You do not carry a cut finger to the specialist surgeon, and you must not leave heart surgery to the health post. Cases, like patients, come in sizes — and justice, like medicine, must be **near, fast and cheap** for small matters, and **deep, careful and final** for great ones. The court structure is

triage. And the ladder has a second job the clinic does not: because of precedent (Chapter Two, §5), the courts above *teach* the courts below — every rung is bound by the rungs above it, so the ladder is also how the law keeps itself consistent from Crabwood Creek to Mabaruma.

One more thing before we climb, and it is a point that wins essays: in the Caribbean the ladder is not mere administrative furniture. It is **constitutional architecture**. In *Hinds v R* the Privy Council struck down parts of Jamaica's Gun Court Act for handing the jurisdiction of higher courts to a differently-constituted body — Parliament cannot quietly rebuild the ladder in ways the Constitution's structure forbids.² The courts are not just *in* the Constitution's world; they *are* part of its separation of powers.

BEAT 2 • THE LAW OF THE TOPIC — *the core content, plainly*

1. Reading any court system — the four questions

Faced with any Commonwealth Caribbean court structure — and Paper 02 will say "in a named Commonwealth Caribbean state," so pick Guyana and know it cold — ask four questions of every court: **What is its jurisdiction** (criminal or civil? original or appellate? limited or unlimited)? **Who sits** (lay justices, magistrate, judge, panel)? **Where do appeals go? Whose precedents bind it?** Answer those and you have "examined the structure and operation," which is exactly the syllabus verb.

2. The magistracy — justice near the people

Magistrates' Courts are the ground floor and carry the overwhelming bulk of the system's caseload. In Guyana the country is divided into magisterial districts, each served by courts under the Summary Jurisdiction Acts; magistrates are professional (legally qualified) and salaried, appointed on the advice of the Judicial Service Commission.³ Their work:

- **Criminal (summary) jurisdiction.** Trial without jury of summary offences — the daily national diet of traffic matters, minor assaults, possession charges, praedial larceny. Penalties are capped by statute; the magistrate is judge of both fact and law.

- **Committal in indictable matters.** For serious offences triable in the High Court, the magistracy conducts the committal stage, testing whether the evidence justifies sending the accused to stand trial — a filter, formerly the oral preliminary inquiry, now streamlined by paper committal reforms.⁴
- **Civil jurisdiction.** Small claims — debt, minor contract and tort — up to a monetary ceiling fixed by statute; cheap, quick, informal by design.
- **Specialised magistracies.** The syllabus names three:
- **Juvenile Court** — children in conflict with the law are dealt with separately, in closed, specially-conducted proceedings. Guyana's Juvenile Justice Act 2018 rebuilt this field: it raised the minimum age of criminal responsibility, prioritises diversion and rehabilitation over punishment, and requires juvenile matters to be heard by courts sitting as juvenile courts with trained personnel.⁵
- **Family Court** — matrimonial, maintenance, custody and domestic matters gathered before specialist judicial officers with social-services support. Guyana's Family Court became operational in 2016, decades after it was first promised — an examinable lesson in the gap between enacting institutions and resourcing them.⁶
- **Petty Sessions** — in several territories (Jamaica is the classic example) minor matters may be heard by lay **Justices of the Peace** sitting in petty sessions: citizen-judges for citizen-sized disputes. Guyana's system is professionalised, but you must know the lay magistracy exists regionally — it is a standard Paper 01 item.⁷

Assess the magistracy as the syllabus expects: it is where the citizen actually meets justice — accessible, fast, local; but overloaded lists, self-represented parties, and the sheer volume of matters make it also where delay and rough edges are most felt. Reforms — night courts, specialised courts, court-connected mediation (Chapter Eight) — aim exactly here.

3. The High Court — the heavyweight original court

Guyana's Constitution establishes a **Supreme Court of Judicature** consisting of two limbs: the **Court of Appeal** and the **High Court**.⁸ (Watch regional vocabulary: in Guyana "Supreme Court" is the umbrella; in Barbados or Jamaica the "Supreme Court" is itself the high-level trial

court. In an exam, define your terms for your named state.)

The **High Court** holds **unlimited original jurisdiction** in civil and criminal matters:

- **Criminal assizes.** Indictable offences — murder, manslaughter, treason, the gravest sexual and violent offences — tried by **judge and jury** (the jury gets Chapter Seven to itself).
- **Civil trials.** Contract, tort, land, probate, admiralty, company matters beyond the magistracy's ceiling, tried by judge alone.
- **Constitutional and supervisory jurisdiction.** The High Court is the court of first instance for **constitutional redress** — the citizen alleging breach of fundamental rights applies here⁹ — and it supervises inferior tribunals and public authorities through judicial review (Part Two). This is the jurisdiction that makes the High Court a *constitutional* actor, not merely a busy trial court.
- **Specialised sittings.** Modern case management has grown specialised courts and divisions within the High Court family — in Guyana, a Commercial Court for business disputes, and from 2017 a **Sexual Offences Court** with special measures for vulnerable witnesses — the structure adapting to the caseload's human realities.¹⁰
- **The Full Court.** A Guyanese peculiarity you should own: appeals from the magistracy generally lie first to a **Full Court** of two or more High Court judges — an intermediate appellate stop below the Court of Appeal.¹¹

4. The Court of Appeal — where the law is settled

The **Court of Appeal** hears appeals from the High Court (and, up the chain, from the Full Court and magistracy) in both civil and criminal matters. It is presided over by the **Chancellor of the Judiciary** — in Guyana the Chancellor heads the judiciary, with the Chief Justice heading the High Court — and normally sits in panels of three.¹² Its work is **appellate, not a retrial**: it corrects errors of law, reviews findings within established limits, and in doing so lays down the precedents that bind every court below (Chapter Two, §5). From 1970 to 2005 this court was the end of Guyana's ladder — a unique period in Caribbean judicial history that belongs to Chapter Five's story.

Above it now stands the **Caribbean Court of Justice**, Guyana's final appellate court since 2005 — but the region's great final-court debate deserves its own chapter, and gets it next.

5. Operation — how the parts make a system

The syllabus verb is *examine the structure and operation*; earn the second half. Three systemic points:

1. **The hierarchy is the precedent system's skeleton.** Binding force flows down the same ladder appeals flow up: CCJ over Court of Appeal over Full Court and High Court over magistracy. A hierarchy question and a precedent question are the same question wearing different clothes — and "Hierarchy and Appeal Process" was itself a published Paper 032 topic (2019).¹³
2. **Appeal is a safeguard, not a rematch.** Rights of appeal are statutory and structured — as of right on law, with leave on other grounds, with special rules for the State in criminal matters. The ladder trades some speed for the assurance that no single human being's error is final.
3. **The system is under strain and reforming.** Backlog and delay are the Caribbean court system's chronic illness; the treatments — case-management rules (Guyana's Civil Procedure Rules 2016), specialised courts, technology, ADR diversion (Chapter Eight) — are all attempts to keep the ladder's lower rungs from buckling under load. An answer that names both the strain and the reforms reads like counsel wrote it.

BEAT 3 · WORKED RECEIPTS — an exam answer, step by step

Question (Paper 02 style, 25 marks): (a) *Distinguish between original and appellate jurisdiction. [4 marks]* (b) *Kwame, aged 15, is arrested in Guyana for robbery; his mother is simultaneously suing Kwame's school over an unpaid catering contract of modest value. Identify the courts in which each matter would begin, and explain why they differ. [6 marks]* (c) *"The magistracy, not the higher courts, is the true face of justice in the Commonwealth Caribbean." Assess this claim. [15 marks]*

Step 1 — Allocate time by marks. Four minutes on (a), eight on (b), the rest on (c).

Step 2 — (a) is definition plus illustration. Original jurisdiction: hearing a matter at first instance, evidence and all — the High Court trying a murder. Appellate: reviewing another court's decision for error — the Court of Appeal correcting law, not rehearing witnesses. Two marks a limb: definition + example.

Step 3 — (b) is classification (Chapter Three) driving structure (this chapter). Kwame: a juvenile in a criminal matter — proceedings begin in the magistracy sitting as a **Juvenile Court**, under the Juvenile Justice Act 2018's protective regime; robbery being indictable, committal procedures apply with the juvenile framework overlaid. The mother: a civil claim of modest value — the **Magistrate's Court civil jurisdiction** (small claims within the statutory ceiling). Same building, different doors: the difference is driven by classification (criminal/civil), the party's age, and monetary limits.

Step 4 — (c): argue the claim, then check it. *For:* volume (the overwhelming share of all matters ends in the magistracy); accessibility (local, cheap, fast, no robes of mystery); specialised human-scale courts (juvenile, family) live there; for most citizens the magistrate is the only judge they will ever see. *Against:* the higher courts guard the Constitution (redress jurisdiction), settle the law for everyone through precedent, and correct the magistracy's errors — the "face" depends on the safeguard behind it; *Hinds* shows the higher courts' jurisdiction is constitutionally protected precisely because it matters most. Authorities: caseload reality, JJA 2018, Family Court 2016, Art 123 structure, *Hinds v R*.

Step 5 — Conclude by answering. *"The magistracy is justice's face; the higher courts are its spine. A face without a spine cannot stand, and a spine without a face is never seen — the claim is half of a truth the system needs whole."*

BEAT 4 · COUNSEL SAYS — the strategy box

Counsel says: draw the ladder for your named state until you can reproduce it in ninety seconds: Magistrates' Courts (with Juvenile and Family doors) » Full Court » High Court » Court of Appeal » CCJ.

Guyana's Full Court is the detail that separates a prepared candidate from a regional-average one — most territories don't have it; you do.

Counsel says: vocabulary discipline again — "Supreme Court" means different things in different states. In Guyana it is the *umbrella* (Court of Appeal + High Court, Art 123). Never write it loosely; the examiner reads regionally.

Counsel says: for every court, be able to give one strength and one weakness in a single breath — magistracy: accessible/overloaded; High Court: thorough/slow; Court of Appeal: settles law/adds delay. Assessment verbs demand this two-sided reflex.

Counsel says: I have stood in every room on this ladder — as a student watching from the gallery, and as counsel for the State. Hear this: the awe you feel for the higher courts, keep it; but the respect you must learn is for the magistrate calling sixty matters before lunch with the whole district watching. Justice's reputation in Guyana is made or lost on that ground floor. Write your essays like someone who knows that.

BEAT 5 • TRY IT YUHSELF — *practice, with answers in the back*

A. Multiple choice (Paper 01 style)

1. Guyana's Supreme Court of Judicature consists of: (A) the High Court alone (B) the Court of Appeal and the High Court (C) the CCJ and the Court of Appeal (D) the magistracy and the High Court
2. Petty Sessions courts, in territories that retain them, are staffed by: (A) puisne judges (B) registrars (C) lay Justices of the Peace (D) assessors
3. In Guyana, appeals from the Magistrates' Courts generally lie first to: (A) the Court of Appeal (B) the Full Court of the High Court (C) the CCJ (D) the Ombudsman
4. In *Hinds v R* the Privy Council held that: (A) Jamaica could not abolish appeals to the Privy Council (B) legislation could not transfer higher-court jurisdiction to a court not constituted with equivalent safeguards (C) the Gun Court's sentences were too harsh (D) juries are constitutionally required

5. A 13-year-old charged with an offence in Guyana should be brought before: (A) the High Court assizes (B) a court sitting as a Juvenile Court under the Juvenile Justice Act 2018 (C) the Full Court (D) Petty Sessions
6. The court of first instance for constitutional redress in Guyana is: (A) the Magistrate's Court (B) the High Court (C) the Court of Appeal (D) the CCJ

B. Essay (Paper 02 practice). *"Specialised courts — juvenile, family, sexual offences, commercial — represent the future of the Caribbean court system."* Assess, with reference to a named Commonwealth Caribbean state. (45 minutes.)

C. The gallery question (discussion). Spend a morning (truly — the syllabus itself recommends attending court) in the public gallery of your nearest Magistrate's Court. Count the matters called, the adjournments, the unrepresented parties. Then answer: if you could change one thing about the operation of that courtroom, what, and what would it cost?

Answers: Appendix I.

CROSS-REFERENCES

- The apex of the ladder — Privy Council vs CCJ: **Chapter Five**.
- Precedent flowing down the ladder: **Chapter Two, §5**.
- The people who staff these courts: **Chapter Six**; the jury in the High Court: **Chapter Seven**.
- Keeping cases off the ladder entirely — ADR: **Chapter Eight**.
- "Hierarchy and Appeal Process" as a Paper 032 topic: **Chapter Ten**.

ENDNOTES — CHAPTER FOUR

1. CXC A23/U2/17, Unit 1, Module 1, Specific Objective 4, Content 4(b)–(c).
2. *Hinds v R* [1977] AC 195 (PC, Jamaica).
3. Summary Jurisdiction (Magistrates) Act, Cap 3:05 (Laws of Guyana); on the Judicial Service Commission see Chapter Six and the Constitution of Guyana, Art 198.

4. Criminal Law (Procedure) Act, Cap 10:01 (Guyana), as amended (committal proceedings; the paper-committal reform).
5. Juvenile Justice Act 2018 (No. 18 of 2018) (Guyana) — minimum age of criminal responsibility, diversion, juvenile courts and custody standards; it replaced the colonial-era juvenile offenders regime.
6. The Family Court of Guyana, a division of the High Court, began operations in 2016 under rules made for the purpose.
7. On the lay magistracy and petty sessions in the region (e.g. Jamaica's Justices of the Peace), see R.-M. B. Antoine, *Commonwealth Caribbean Law and Legal Systems* (2nd edn, Routledge-Cavendish, 2008), ch 15.
8. Constitution of Guyana, Art 123; Court of Appeal Act, Cap 3:01; High Court Act, Cap 3:02.
9. Constitution of Guyana, Art 153 (redress for contravention of fundamental rights).
10. Guyana's Commercial Court (a specialised division of the High Court) has operated since 2006; the first Sexual Offences Court opened at the Georgetown High Court in November 2017 pursuant to the Sexual Offences Act 2010's case-management goals.
11. High Court Act, Cap 3:02 (constitution of the Full Court and its appellate jurisdiction from courts of summary jurisdiction).
12. Court of Appeal Act, Cap 3:01; Constitution of Guyana, Art 124 (composition; the Chancellor as President of the Court of Appeal).
13. CXC A23/U2/17, Topics for Paper 032 (Unit 1, 2019: "Hierarchy and Appeal Process") — see Chapter Ten.

Chapter Five — The Final Court Question: The Privy Council and the Caribbean Court of Justice

SYLLABUS MAP — *This chapter covers Specific Objective 4, Content 4(a): advantages and disadvantages of the Judicial Committee of the Privy Council and the Caribbean Court of Justice — the great standing debate of Caribbean legal systems, and one of the most reliably examined evaluations on the paper.¹*

BEAT 1 • THE STORY — *why this matters in Guyanese life*

In 1970, Guyana did something no other Commonwealth Caribbean nation had done. On becoming a Republic — Cuffy's date, the 23rd of February — this country cut the last judicial rope to London and **abolished appeals to the Judicial Committee of the Privy Council.**² For the next thirty-five years, the Guyana Court of Appeal was the end of the road: a nation of well under a million people carrying its own law on its own shoulders, alone in the region.

Half the Caribbean called it brave. The other half called it reckless — a final court with no court above it, in a small society where everybody knows everybody, in decades when Guyana's democracy itself passed through dark weather. Both halves were describing something real, and you will weigh them honestly in this chapter.

Then in 2005 the road forked again. The **Caribbean Court of Justice** opened its doors in Port of Spain, and Guyana — along with Barbados — joined its appellate jurisdiction from the very first day. Not London's judges; not loneliness either: a *regional* final court, built by treaty, funded by a trust designed to keep politicians' hands off it, staffed

by Caribbean jurists. And thirteen years later that court handed down *McEwan* — striking a Victorian vagrancy law out of Guyana's books in a judgment written with an understanding of this society no foreign bench could counterfeit (Chapter One).

Here is what makes this topic electric: **the debate is still live.** Jamaica and Trinidad and Tobago — the CCJ's own host! — still send their final appeals to London. Referenda in Grenada and Antigua and Barbuda asked the people to switch, and the people said no.³ The examiner does not want your tribal loyalty. The examiner wants what this chapter builds: both sides, weighed, with cases as your weights.

BEAT 2 • THE LAW OF THE TOPIC — *the core content, plainly*

1. The Judicial Committee of the Privy Council

The **JCPC**, established in its modern form by the Judicial Committee Act 1833, sits in London (now in the UK Supreme Court building) and serves as the final court of appeal for those Commonwealth jurisdictions that retain it — still including, in our region, Jamaica, Trinidad and Tobago and most of the Eastern Caribbean.⁴ Its judges are, in the main, the Justices of the UK's Supreme Court. Appeals reach it as of right in defined cases, or by leave.

The case for the Privy Council (learn these as arguments, each with its answer ready):

1. **Judicial quality and depth.** Its bench comprises some of the common-law world's most experienced appellate judges, drawing on an enormous caseload's worth of accumulated jurisprudence.
2. **Detachment.** Sitting an ocean away, its judges are insulated from local politics, local friendships and local pressures — a serious virtue in small societies where a judge's neighbour may be a litigant.
3. **Continuity and investor confidence.** A long-established final court is said to reassure commerce: the law's ultimate interpreter is known, stable, and predictable.
4. **It costs the region nothing to run.** The UK bears the institution's cost.

5. **It has protected Caribbean rights.** Give the devil his due with authority: in *Pratt and Morgan v Attorney General of Jamaica* the Privy Council held that prolonged delay on death row (beyond about five years) constitutes inhuman punishment — a landmark restraining Caribbean states on behalf of Caribbean prisoners.⁵

The case against (again, each with its counter):

1. **Distance and access.** London is far and appeals are costly; for most Caribbean litigants the "final court" was always theoretically theirs and practically unreachable — justice's last rung priced in pounds.
2. **Democratic and symbolic deficit.** Independent nations outsourcing their final word on their own constitutions to judges of another country, appointed by another country's process, is — the argument runs — unfinished independence. The judgment in *McEwan* could cite this society's realities because its authors belong to this region; a borrowed bench borrows its understanding.
3. **Unfamiliarity with local conditions.** Privy Council judges themselves have acknowledged the difficulty of interpreting Caribbean statutes and social contexts from London.
4. **The reluctant host.** Senior UK judges have publicly questioned the volume of Privy Council time consumed by Caribbean appeals — a final court signalling limited appetite for its own jurisdiction weakens the "stability" argument.
5. **It decides our greatest questions without us.** *Pratt and Morgan* cut both ways: whatever you think of the result, a court abroad recalibrated the operation of the death penalty across the region — policy of life and death, settled outside the region's own institutions.

2. The Caribbean Court of Justice

The CCJ was created by the **Agreement Establishing the Caribbean Court of Justice (2001)** and inaugurated at Port of Spain on 16 April 2005.⁶ Its genius — and the source of most exam marks — is that it is **two courts in one building**:

- **Original jurisdiction** — the CCJ is the compulsory and exclusive tribunal for interpreting and applying the **Revised Treaty of**

Chaguaramas, the constitution of CARICOM's single market. *Every* CARICOM member state is subject to this jurisdiction — Jamaica and Trinidad included. Here the court functions like an international court: states, and in proper cases private entities, litigate treaty rights — as when a Trinidadian cement company sued **Guyana** itself over trade obligations, and the CCJ confirmed that even individuals and companies may, with leave, invoke the Treaty against states.⁷

- **Appellate jurisdiction** — the CCJ as final court of appeal in ordinary civil and criminal matters, *replacing* the Privy Council — but **only for states that accede**: Barbados and **Guyana** (from 2005), Belize (2010), Dominica (2015), and St Lucia (2023).⁸

Answering the independence problem in advance. The CCJ's designers knew the fear — small-state courts bend to big-state politics — and built against it. Learn the three safeguards as a set:

1. **Funding:** a **Trust Fund** of approximately US\$100 million, raised through the Caribbean Development Bank, finances the court in perpetuity — no judge's salary ever depends on a government's annual goodwill.⁹
2. **Appointment:** judges are appointed not by politicians but by an independent **Regional Judicial and Legal Services Commission**; only the President of the Court is appointed by the Heads of Government, and then on the Commission's recommendation and by qualified super-majority.¹⁰
3. **Tenure:** security of tenure to retirement age, on the classic model of judicial independence.

The case for the CCJ:

1. **Completion of independence** — the region's final word spoken in the region's own voice; sovereignty made whole.
2. **Access to justice** — nearer, cheaper, and itinerant (the CCJ can and does sit in member states; it has sat in Guyana), with modern practices including video links reducing cost further.
3. **Contextual understanding** — judges who know the societies they judge. The proof is the case law: *Joseph and Boyce* (recasting death-row commutation with a Caribbean doctrine of the legitimate expectation that mercy procedures be followed); *Maya Leaders*

Alliance v AG of Belize (customary Indigenous land tenure protected); *Nervais v R* (refusing to let colonial-era "savings clauses" freeze fundamental rights in their 1966 shapes — "the savings clause... should not be allowed to preserve" laws inconsistent with dignity indefinitely); *McEwan* (Guyana's own, Chapter One).¹¹

4. **A jurisprudence of our own** — the CCJ is not bound by Privy Council precedent (*Joseph and Boyce*, Chapter Two §5); Caribbean law can now grow from Caribbean roots while still drawing on the whole common-law world persuasively.
5. **Institutional insulation** — the Trust Fund and Commission answer, structurally, the very fear that kept states away.

The case against / the hesitations:

1. **Youth and small caseload** — a final court's authority accretes over decades; sceptics preferred to wait and watch (though two decades of consistent jurisprudence have eroded this argument's force).
2. **Political trust deficit** — however sound the design, some publics remain unconvinced that regional institutions can resist regional politics; the referendum defeats in Grenada (2016 and 2018) and Antigua and Barbuda (2018) show constitutional change failing not on the court's record but on public confidence and domestic politics.³
3. **Cost of transition and entrenchment** — leaving the Privy Council usually requires special constitutional majorities or referenda; the *procedure* of change, not its merits, blocks it (contrast Guyana, which — having left London in 1970 — could accede by ordinary constitutional process in 2004–05).
4. **The detachment argument in reverse** — the Privy Council's distance, for some, remains a feature, not a bug.

3. Evaluating — the Guyana thread that ties it together

For the evaluative essay, Guyana is the region's perfect case study, because this one country has lived **all three models**: London's court (to 1970), a purely national final court (1970–2005), and the regional court (2005–). Each stage answers an exam argument: the colonial stage proves the access problem (how many Guyanese ever carried an appeal to London?); the national stage proves both the sovereignty ideal *and* the small-society risk the Privy Council's defenders fear; and the regional

stage — *McEwan* above all — shows a court both *near enough to understand* and *far enough to be fearless*. That triptych, deployed in a Paper 02 conclusion, is a Grade I signature.

BEAT 3 · WORKED RECEIPTS — *an exam answer, step by step*

Question (Paper 02 style, 25 marks): *"The Caribbean Court of Justice has answered every serious objection ever raised against it; the remaining obstacles are political, not legal." Discuss with reference to the advantages and disadvantages of the Judicial Committee of the Privy Council and the Caribbean Court of Justice.*

Step 1 — Crack the question (2 minutes). Two claims hide in the quotation: (i) the design + record objections are answered; (ii) what remains is politics. "Discuss" both. The trap: writing a flat for/against list without engaging the quotation's structure.

Step 2 — Plan in five moves:

1. The objections as raised: independence, quality, stability (the Privy Council's advantages restated as fears about the CCJ).
2. The design answers: Trust Fund, RJLSC, tenure.
3. The record answers: *Joseph and Boyce*, *Maya Leaders*, *Nervais*, *McEwan* — quality and courage demonstrated, including against governments.
4. What the Privy Council still genuinely offers (detachment, depth, cost-free) — test whether these are "serious objections" or preferences; *Pratt and Morgan* as its best exhibit, and its double edge.
5. The politics: referendum defeats, entrenchment hurdles; Guyana's three-stage history as proof that accession is a political act with legal consequences.

Step 3 — Open with the point. *"Two decades of jurisprudence and a deliberately insulated design have met the CCJ's critics on their own ground; what the referenda of 2016–2018 defeated was not the court's case law but the region's confidence — a political fact no judgment can overrule."*

Step 4 — One authority per paragraph. Trust Fund/RJLSC⁹ ¹⁰ » *Joseph and Boyce*¹¹ » *Nervais*¹¹ » *McEwan* (Ch 1) » *Pratt and Morgan*⁵ » the referenda.³ After each, one sentence answering: does this support or wound the quotation?

Step 5 — Conclude by answering. *"Largely true — with the honest caveat that in constitutional democracies, political obstacles are not lesser obstacles: a final court must be accepted, not merely excellent. The CCJ has done its part; the remaining work belongs to electorates, and Guyana's own journey shows it can be done."*

BEAT 4 • COUNSEL SAYS — *the strategy box*

Counsel says: the two jurisdictions are the classic Paper 01 ambush. Original = Revised Treaty of Chaguaramas, *all* CARICOM states, compulsory. Appellate = final appeals, *only* acceding states (Barbados, Guyana, Belize, Dominica, St Lucia). An item saying "Jamaica is subject to the CCJ's original jurisdiction" is TRUE. Candidates fall there every year.

Counsel says: learn the three insulation devices — Trust Fund, Commission, tenure — as one breath. Every evaluation essay needs them; they are the difference between asserting the CCJ is independent and *demonstrating* it.

Counsel says: balance is marked. However warmly you (or your teacher, or this author) regard the CCJ, an essay that cannot state the Privy Council's genuine strengths — and *Pratt and Morgan* is the strongest — reads as advocacy, not assessment. The Grade I candidate is generous to the side she ultimately rejects.

Counsel says: *McEwan* is your crown exhibit and mine — argued for Guyana, decided in the region, freeing citizens of this country from a law older than anyone living. When you cite it, cite it with its meaning: the question was never whether Caribbean judges could match London's learning. It was whether our law would finally be finished *here*. In Guyana, since 2005, it is.

BEAT 5 • TRY IT YUHSELF — *practice, with answers in the back*

A. Multiple choice (Paper 01 style)

1. The CCJ's original jurisdiction concerns: (A) final criminal appeals (B) interpretation and application of the Revised Treaty of Chaguaramas (C) constitutional redress at first instance (D) juvenile matters
2. Which state abolished Privy Council appeals in 1970 and acceded to the CCJ's appellate jurisdiction in 2005? (A) Barbados (B) Jamaica (C) Guyana (D) Belize
3. CCJ judges (other than the President) are appointed by: (A) the Heads of Government (B) the Regional Judicial and Legal Services Commission (C) the UK Supreme Court (D) national parliaments
4. In *Pratt and Morgan v AG of Jamaica* the Privy Council held that: (A) the death penalty is unconstitutional (B) prolonged delay on death row constitutes inhuman punishment (C) savings clauses are void (D) Jamaica must join the CCJ
5. The CCJ's operations are financed by: (A) annual votes of member governments (B) the United Kingdom (C) a trust fund raised through the Caribbean Development Bank (D) court fees
6. In *Nervais v R* the CCJ: (A) upheld Barbados's mandatory death penalty (B) declined jurisdiction (C) held the general savings clause could not shield the mandatory death penalty from constitutional challenge (D) followed the Privy Council as binding

B. Essay (Paper 02 practice). *"For small societies, the best final court is a distant one."* Discuss with reference to the Judicial Committee of the Privy Council and the Caribbean Court of Justice. (45 minutes; be generous to both sides before you decide.)

C. The 1970 question (discussion). Guyana stood alone for thirty-five years with no court above its own Court of Appeal. Interview someone who remembers those decades (a grandparent, a retired teacher, an attorney) and ask: did ordinary people feel the difference? Then say whether you believe a national final court, a regional one, or a distant one best protects the citizen — and name the case that most influences your answer.

Answers: Appendix I.

CROSS-REFERENCES

- *McEwan* in full — the CCJ measuring a statute against the Constitution: **Chapter One, §4(d)**.
- The CCJ and precedent (not bound by the Privy Council): **Chapter Two, §5**.
- Where the CCJ sits atop the national ladder: **Chapter Four**.
- Savings clauses and *Nervais* developed properly: **Part Two, Chapters 2–3**.

ENDNOTES — CHAPTER FIVE

1. CXC A23/U2/17, Unit 1, Module 1, Specific Objective 4, Content 4(a).
2. Appeals to the Judicial Committee were terminated by statute upon Guyana's assumption of republican status in 1970, leaving the Guyana Court of Appeal as the final court until accession to the CCJ.
3. Constitutional referenda on (inter alia) accession to the CCJ's appellate jurisdiction failed in Grenada (2016 and 2018) and Antigua and Barbuda (2018).
4. Judicial Committee Act 1833 (UK); the Committee sits at the United Kingdom Supreme Court building, Parliament Square.
5. *Pratt and Morgan v Attorney General of Jamaica* [1994] 2 AC 1 (PC, Jamaica).
6. Agreement Establishing the Caribbean Court of Justice (signed 14 February 2001); the Court was inaugurated at Port of Spain, its seat, on 16 April 2005. Guyana's accession was effected by the Caribbean Court of Justice Act 2004 (Guyana).
7. Revised Treaty of Chaguaramas (2001); *Trinidad Cement Ltd v Co-operative Republic of Guyana* [2009] CCJ 1 (OJ) (locus standi of private entities under Art 222).
8. Accessions to the appellate jurisdiction: Barbados and Guyana (2005), Belize (2010), Dominica (2015), St Lucia (2023).
9. The CCJ Trust Fund, capitalised at approximately US\$100 million through the Caribbean Development Bank, finances the Court's expenditure independently of member governments' annual budgets.
10. Agreement Establishing the CCJ, Arts IV–V (Regional Judicial and Legal Services Commission; appointment of the President by the Heads on the Commission's recommendation).

11. *Attorney General v Joseph and Boyce* [2006] CCJ 3 (AJ) (Barbados); *Maya Leaders Alliance v Attorney General of Belize* [2015] CCJ 15 (AJ); *Nervais v R*; *Severin v R* [2018] CCJ 19 (AJ) (Barbados); *McEwan v Attorney General of Guyana* [2018] CCJ 30 (AJ).

Chapter Six — The People of the Law: Legal Personnel

SYLLABUS MAP — This chapter covers Specific Objective 5, Content 5(a): the role and function of legal personnel — Judges, Registrars, Bailiffs, Marshalls; the Attorney General, the Director of Public Prosecutions, and Attorneys.¹ Content 5(b), the jury, has Chapter Seven to itself. Because no honest account of attorneys is complete without the duties and discipline that govern them, this chapter closes with the profession's ethics — territory the syllabus's own suggested cases (*Forde v Law Society*; *Re Niles*) still point to.

BEAT 1 • THE STORY — *why this matters in Guyanese life*

Walk into the High Court in Georgetown while a matter is being called, and watch the room instead of the case.

The **marshal** cries the court into being — "All rise!" — and silence obeys a man with no weapon but an office. The **registrar's** clerk hands up the file that is the case, as far as the system is concerned; lose the file and the dispute goes back to being a quarrel. Counsel for the State sits at one table — she answers, through her chambers, to the **Director of Public Prosecutions**, and to no politician. At the bench, elevated not for vanity but for meaning, sits the **judge** — and the Constitution has wrapped her appointment, her salary and her removal in armour, for reasons this chapter will make you feel.

Now a test you can run at home. Open any newspaper from this week and find the **Attorney General** speaking for the Government on some legal controversy — and notice he is a politician, a Cabinet minister, defending policy. Then find a story about a prosecution — and notice a

different office entirely, the DPP, deciding whom to charge. Most citizens blur these two. After this chapter, you never will: **the AG is the Government's lawyer; the DPP is the public's prosecutor** — and the wall between them is one of the quiet load-bearing walls of a free state.

The law is not a machine that runs itself. It is people, in offices older than any of them, each office a promise: that the file will be kept, the summons served, the case prosecuted without fear or favour, the judgment given without fear of dismissal. Learn the people and you learn what the promise costs.

BEAT 2 • THE LAW OF THE TOPIC — *the core content, plainly*

1. Judges — and the armour around them

Role. Judges preside over trials and appeals, rule on law, find facts (where there is no jury), sentence, and — through precedent (Chapter Two, §5) — make law interstitially. In constitutional states they carry a further, heavier duty: measuring the acts of Parliament and the Executive against the supreme Constitution (Chapters One and Four).

Structure and appointment (Guyana). The judiciary is headed by the **Chancellor of the Judiciary**, with the **Chief Justice** heading the High Court. The Chancellor and Chief Justice are appointed by the President — but only with the agreement of the Leader of the Opposition, a consensus requirement designed to lift the top of the judiciary above party.² Other judges (Justices of Appeal, puisne judges) are appointed by the President acting on the advice of the **Judicial Service Commission**; magistrates likewise trace their appointment to the JSC — professional selection, not political gift.³

Independence — the armour, piece by piece. Learn these as a set; every essay on judges needs them:

1. **Security of tenure** — a judge serves to retirement age and can be removed only for inability or misbehaviour, and only through the Constitution's special procedure (tribunal inquiry), never by simple political displeasure.⁴

2. **Protected remuneration** — salaries charged on the Consolidated Fund, not subject to annual political whim, and not alterable to a judge's disadvantage.⁵
3. **Immunity** — no personal suit for judicial acts; the appeal, not the lawsuit, is the remedy for judicial error.
4. **Insulated appointment** — the JSC model above.

Assess honestly — the syllabus's verb is *evaluate*, and Guyana gives you live material: the consensus mechanism for the top appointments, admirable on paper, produced in practice long periods in which the offices of Chancellor and Chief Justice were held in **acting** capacities because President and Opposition Leader could not agree — an arrangement critics (including the CCJ's own judges, extra-judicially) have condemned as corrosive of the very independence the design protects. An acting head of the judiciary, the argument runs, is armour with a hinge in it.⁶

2. The court's officers — registrars, bailiffs, marshals

- **The Registrar** is the court's chief administrative officer and record-keeper: filings, the registers, the court's seal, taxation of costs, and in Guyana significant quasi-judicial functions besides — the Registrar's establishment also administers such solemn machinery as probate of estates; the Deeds Registry (a separate registry with its own Registrar) processes the transports Chapter Two made famous.⁷ Nothing juridical happens until it happens *on the record* — the Registrar keeps the record.
- **Bailiffs and marshals** are the enforcement arm: serving summonses and other process, executing judgments (levying on goods), maintaining order in court. The distinction in local usage: the **marshal** attends the higher courts (the Supreme Court's officers), the **bailiff** the magistracy — but the function is one: they are the point at which the law's paper becomes the law's *presence* at a citizen's door. A judgment nobody can enforce is advice; the bailiff is why it is not.⁸

Do not skip these offices in revision because they seem humble — the syllabus names them, Paper 01 tests them, and (the deeper point) they carry the system's integrity at its most corruptible edges: process falsely "served," goods wrongly seized. Where court officers fail, the citizen's

faith fails at the doorstep, long before any judge is seen.

3. The Attorney General — the Government's lawyer

The **Attorney General** is the **principal legal adviser to the Government**: in Guyana a constitutional office, in practice held by the Minister of Legal Affairs — a member of Cabinet, politically appointed and politically answerable.⁹ Functions: advising the Government on legality; superintending the drafting of legislation; representing the State in civil proceedings (the AG is the nominal defendant when you sue the State — look again at the case names you have met: *McEwan v Attorney General of Guyana*; *AG v Joseph and Boyce*); and general guardianship of the public interest in defined matters.

The examinable tension: the AG wears **two hats** — law officer and politician. The office is *supposed* to bring legal conscience into Cabinet; the standing critique is that Cabinet politics can flow the other way, into legal advice. Note the regional variation (some states have had non-political or technocratic AGs) and hold the comparison ready for an evaluation question.

4. The Director of Public Prosecutions — the public's prosecutor

The **DPP** controls criminal prosecutions: the power to **institute** criminal proceedings, to **take over** proceedings begun by anyone else (including private prosecutions), and to **discontinue** them — the *nolle prosequi*.¹⁰ In Guyana the Constitution vests these powers in the DPP and then does the crucial thing: it declares that in their exercise the DPP **shall not be subject to the direction or control of any other person or authority**.¹¹

Say plainly *why* this independence exists: prosecution is the state's heaviest civil power — the power to put a citizen on trial. Vested in a politician, it becomes a weapon (prosecute rivals, shelter friends); vested in an independent constitutional officer, it is at least structurally honest. The AG/DPP separation is thus not administrative trivia but a **rule-of-law guarantee**: government policy may not decide who is charged. (Regional nuance worth a mark: in some territories the AG retains formal prosecutorial roles or the DPP's independence has been qualified — always answer for a *named* state; in Guyana the separation is

clean on the constitutional text.)

5. Attorneys-at-law — the fused profession, its duties, and its discipline

The profession. England divides lawyers into barristers (advocacy) and solicitors (client work); Guyana, like most of the region, runs a **fused profession**: every practitioner is admitted as an **attorney-at-law**, entitled to do both.¹² Admission runs through the regional training system — the LL.B, then the **Legal Education Certificate** from a Council of Legal Education law school (for Guyanese, ordinarily Hugh Wooding Law School in Trinidad) — followed by admission to the local Bar under the Legal Practitioners Act.¹³

The attorney's three loyalties — and the hierarchy among them — organise all professional ethics:

1. **To the court.** The attorney is first an *officer of the court*: never mislead a judge, never manufacture evidence, cite the authority that hurts your case if it is on point. When client and court pull opposite ways on honesty, **the court wins** — counsel may fight fiercely, but only cleanly.
2. **To the client.** Competence, diligence, confidentiality, loyalty free of conflicting interests, and scrupulous handling of the client's money — the gravest and most-punished category of breach.
3. **To colleagues and the profession.** Courtesy, kept undertakings (an attorney's undertaking is enforceable coin), and conduct that maintains the profession's honour.

Discipline — the promise kept publicly. These duties are enforced through a statutory **Code of Conduct** and disciplinary machinery under the Legal Practitioners Act: complaints are inquired into by a disciplinary body (in Guyana, the Legal Practitioners Committee), with sanctions rising from reprimand through **fines** and **suspension** to the professional death sentence — **striking off the Roll** — and with appeal to the courts.¹⁴ The syllabus's suggested cases *Forde v Law Society* and *Re Niles* both arise from this disciplinary world; carry them as your citations that professional discipline is real law, really enforced, and judicially supervised.¹⁵ The system's *point* is examinable: the profession polices itself **because** it holds monopoly privileges (audience, client funds, the administration of justice itself) —

self-regulation is the rent the monopoly pays, and when discipline is seen to be soft, calls for external regulation follow.

BEAT 3 · WORKED RECEIPTS — *an exam answer, step by step*

Question (Paper 02 style, 25 marks): *(a) Distinguish the roles of the Attorney General and the Director of Public Prosecutions in a named Commonwealth Caribbean state. [6 marks] (b) Outline the functions of TWO officers of the court other than judges and attorneys. [4 marks] (c) "Judicial independence in the Commonwealth Caribbean is well designed but imperfectly delivered." Evaluate this statement. [15 marks]*

Step 1 — Time by marks. Six minutes, four minutes, the rest to (c).

Step 2 — (a): name the state, then four clean contrasts. Guyana. (1) Constitutional bases: AG as principal legal adviser (Art 112) vs DPP's prosecutorial powers (Art 187). (2) Function: civil/advisory vs criminal prosecution — institute, take over, discontinue. (3) Accountability: Cabinet minister, politically answerable vs constitutionally independent — "not subject to the direction or control of any other person or authority." (4) Appearance in litigation: the AG is sued for the State (*McEwan v AG*); the State prosecutes through the DPP. Close with the *why*: prosecutorial decisions removed from politics.

Step 3 — (b): two offices, two functions each. Registrar: custody of the court's records and seal; administrative and quasi-judicial functions (filings, probate side). Marshal/bailiff: service of process; execution of judgments and court order-keeping. Two marks each — function, crisply, not history.

Step 4 — (c): design, then delivery, then verdict. *Design:* the four-piece armour — tenure, protected pay, immunity, JSC appointment; top-office consensus appointment (agreement with the Leader of the Opposition). *Delivery's gaps:* prolonged acting appointments at the judiciary's summit where consensus fails; under-resourcing and backlog as a practical constraint on independence (a starved court is a dependent court); regional episodes of executive-judicial friction. *Balance:* the design has also held — courts in the region, including Guyana's, have struck down state action, and the CCJ's insulated model (Chapter Five)

shows the region improving its own architecture. Authorities: Arts on appointment/removal, the JSC, the acting-appointments critique, *McEwan* as proof of courts unafraid of the state.

Step 5 — Conclude by answering. *"Well designed is proved by the text; imperfectly delivered is proved by the acting appointments. But the deeper truth is hopeful: the delivery failures are failures against a standard the design itself set — and a region that built the CCJ's safeguards has shown it knows how to finish the job."*

BEAT 4 • COUNSEL SAYS — *the strategy box*

Counsel says: the AG/DPP distinction is the single most predictable question on this objective — Paper 01 and Paper 02 both. Drill the four contrasts (basis, function, accountability, litigation role) until you can write them in four minutes flat.

Counsel says: "not subject to the direction or control of any other person or authority" — learn that phrase *as a phrase*. Quoting the constitutional formula for DPP independence, with the article number, is a receipt few candidates carry.

Counsel says: on judges, the examiner rewards *structure*: armour (the four protections) » purpose (impartial adjudication, especially against the state) » stress-test (acting appointments; resourcing). Facts without the *why* are lists; the *why* is the mark.

Counsel says: I have been the young attorney rising in a Guyanese courtroom, and I give you the oath under the oath: the file matters more than the flourish. Respect the registrar's clerk, learn the marshal's name, keep your undertakings to the other side like scripture — that is what "officer of the court" means on an ordinary Tuesday. The profession you may one day join is a promise kept by its smallest courtesies; the striking-off cases in the reports are, almost every one, the story of a lawyer who forgot that.

BEAT 5 • TRY IT YUHSELF — *practice, with answers in the back*

A. Multiple choice (Paper 01 style)

1. In Guyana, the principal legal adviser to the Government is: (A) the Chief Justice (B) the Attorney General (C) the DPP (D) the Chancellor
2. The power to discontinue a criminal prosecution (*nolle prosequi*) in Guyana belongs to: (A) the Attorney General (B) the Commissioner of Police (C) the Director of Public Prosecutions (D) the Registrar
3. The Chancellor and Chief Justice of Guyana are appointed by the President: (A) alone (B) on the advice of Cabinet (C) with the agreement of the Leader of the Opposition (D) on the advice of the Bar Association
4. Service of process and execution of judgments are functions of: (A) registrars (B) bailiffs and marshals (C) magistrates (D) juries
5. Guyana's legal profession is: (A) divided into barristers and solicitors (B) fused — attorneys-at-law perform both roles (C) restricted to advocates (D) regulated by the DPP
6. The gravest disciplinary sanction against an attorney-at-law is: (A) a reprimand (B) suspension (C) a fine (D) striking off the Roll

B. Essay (Paper 02 practice). *"Self-regulation of the legal profession is a privilege the Caribbean public should no longer extend."* Discuss, with reference to the duties of attorneys and the machinery of professional discipline. (45 minutes.)

C. The two-hats question (discussion). Find one news story this month in which your country's Attorney General speaks, and one in which the DPP's office acts. For each, ask: is this office doing law, politics, or both? Could the story have gone differently if the two offices were one? (That last question is the whole reason they are two.)

Answers: Appendix I.

CROSS-REFERENCES

- The courts these officers serve: **Chapter Four**; the judges' final rung: **Chapter Five**.
- The jury — the lay participant among the professionals: **Chapter Seven**.
- "Legal Functionaries and Institutions" as the published Paper 032 topic for 2028: **Chapter Ten**.
- Judicial review of public officers' decisions: **Part Two**.

ENDNOTES — CHAPTER SIX

1. CXC A23/U2/17, Unit 1, Module 1, Specific Objective 5, Content 5(a).
2. Constitution of Guyana, Art 127 (appointment of the Chancellor and Chief Justice by the President acting after obtaining the agreement of the Leader of the Opposition).
3. Constitution of Guyana, Arts 128 (appointment of judges on the advice of the Judicial Service Commission) and 198 (the Commission).
4. Constitution of Guyana, Art 197 (tenure; removal only for inability or misbehaviour, upon the prescribed tribunal procedure).
5. Judicial remuneration is charged on the Consolidated Fund and a judge's terms of office may not be altered to his or her disadvantage: Constitution of Guyana, Art 197 and the financial provisions thereunder.
6. On the prolonged acting tenures in the offices of Chancellor and Chief Justice, see the public statements of successive CCJ Presidents urging substantive appointments; the critique is standard in regional commentary on judicial independence.
7. High Court Act, Cap 3:02 (the Registrar and the registry); Deeds Registry Act, Cap 5:01 (the Registrar of Deeds; transports — see Chapter Two, §4).
8. On marshals and bailiffs as officers of the Supreme Court and the magistracy respectively, see the High Court Act, Cap 3:02 and Summary Jurisdiction (Magistrates) Act, Cap 3:05.
9. Constitution of Guyana, Art 112 (Attorney General as principal legal adviser to the Government).
10. Constitution of Guyana, Art 187(1) (institute; take over and continue; discontinue).
11. Constitution of Guyana, Art 187(4).
12. Legal Practitioners Act, Cap 4:01 (Laws of Guyana).
13. Council of Legal Education (established by the Agreement Establishing the Council of Legal Education 1970); the Legal Education Certificate is the regional qualification for admission; Guyanese candidates ordinarily train at Hugh Wooding Law School, Trinidad.

14. Legal Practitioners Act, Cap 4:01 (the Code of Conduct made thereunder; the Legal Practitioners Committee; sanctions of reprimand, fine, suspension and removal from the Roll, with recourse to the courts).
15. *Forde v Law Society* (1987) 40 WIR 361 and *Re Niles* (1993) 47 WIR 38 — both on the syllabus's suggested-case list; both arise from the discipline of attorneys and reward the candidate discussing the enforcement of professional standards.

Chapter Seven — Twelve of Your Neighbours: The Jury

SYLLABUS MAP — This chapter completes Specific Objective 5 with Content 5(b): the Jury — eligibility and disqualification; advantages and disadvantages of the jury system.¹ CXC's own specimen Paper 02 for this Unit set its compulsory Module 1 question on precisely this topic — worked in full at Beat 3.

BEAT 1 • THE STORY — *why this matters in Guyanese life*

A brown envelope reaches a house in Rose Hall. Inside: a jury summons. The recipient — a shopkeeper, say, a woman who has never studied a page of law — is being ordered to the High Court in Berbice to sit in judgment on a murder trial. Not to watch. To *judge*.

Her first reaction is everybody's first reaction: *why me?* And the answer is one of the oldest and strangest ideas in our legal inheritance: that when the State reaches for its heaviest power — the power to condemn — the common law does not fully trust the State's own officials with the final word on facts. It stops the machinery, goes into the market and the backdam and the shop, and takes **twelve ordinary citizens**, strangers to the case, and says: *the professionals will run the trial, but you will decide the truth of it*.

Sit with how radical that is. The judge — learned, robed, constitutionally armoured (Chapter Six) — will direct the shopkeeper on the law, and then must *accept her verdict* on the facts. The most powerful officials of the justice system defer, at the decisive moment, to its least trained participants. Chesterton called the jury a recognition that some things are too important to be left to professionals; its critics call it

amateurism enthroned. Guyana keeps the jury for its gravest criminal trials at the High Court — and around the region, states have begun trimming or rethinking it, which is exactly why the syllabus asks you to weigh it rather than worship it.

One Guyanese texture before the law: our juries deliberate in a society of villages — where the accused's cousin might have sold the juror fish on Tuesday. Smallness makes the jury *more* representative and *more* vulnerable at once. Hold that thought; it is the spine of every evaluation question.

BEAT 2 • THE LAW OF THE TOPIC — *the core content, plainly*

1. What the jury is and where it sits

The **jury** is a panel of lay citizens — twelve, in the classic criminal form — empanelled to decide **questions of fact** in a trial, returning a verdict under a judge's direction on **questions of law**. The division of labour is the doctrine's core: *the judge is master of the law; the jury is master of the facts*; the judge sentences on conviction, but conviction itself belongs to the citizens.

In Guyana, trial by jury today lives in the **High Court's criminal assizes** — the indictable offences: murder, manslaughter, treason, the gravest violent and sexual offences (Chapter Four). Summary trials in the magistracy are by magistrate alone, and civil juries have effectively disappeared here as in most of the region.² Regionally, the jury's footprint is shrinking at the edges — judge-alone trial legislation, non-jury special courts (*Hinds'* Gun Court, Chapter Four) — a live reform current you should cite.

2. Eligibility — who may serve

The pool is meant to be the community, and the law builds it from the citizenry with basic filters. Across the region's Juries Acts the pattern (details vary by state — answer for a *named* state and check its statute) is:

- **Age band** — adulthood to a statutory ceiling (commonly 60 or 65), on the theory that service is a duty of the active years;
- **Citizenship/residence** — the jury judges its own community;

- **Basic capacity** — literacy/language competence sufficient to follow proceedings; soundness of mind;
- **Lists and summoning** — jurors are drawn from statutory lists (historically tied to electoral or property rolls), summoned, and empanelled by ballot in court, with challenges available to both sides.³

Exemptions excuse those whose offices would distort or be distorted by service: judges, magistrates, attorneys and court officers; police and defence forces; clergy; medical practitioners on duty grounds; and discretionary excusal for illness or hardship — the specimen paper's Sandie, a housewife with the flu, is a candidate for *excusal at discretion*, not disqualification of right.⁴

3. Disqualification — who may not serve

Distinguish exemption (may be excused) from **disqualification** (must not serve). The standard grounds:

1. **Criminal record.** Conviction of serious offences — across the region variously framed as conviction of an indictable/arrestable offence, or imprisonment above a threshold (the specimen mark scheme's tour: Jamaica — persons awaiting trial for an indictable offence, or convicted of treason, or imprisoned beyond six months; Antigua and Barbuda — conviction of an indictable offence; Barbados — convictions carrying imprisonment; Trinidad and Tobago — arrestable offences and crimes of dishonesty).⁵ The principle beneath the patchwork: one who has gravely broken the community's law does not, for the law's purposes, speak as the community.
2. **Incapacity** — unsoundness of mind; inability to follow the proceedings.
3. **Interest or connection to the case.** Not a list matter but a trial matter: a juror connected to a party — the specimen's Kerwyn, recently divorced from the defendant Ann — must be discharged, because **actual or apparent bias** poisons the verdict. The court's power to discharge a juror (or the whole panel) mid-trial is the safety valve; justice must not only be done but be *seen* to be done.⁶

4. Advantages of the jury system

Argue them as claims with reasons, not slogans:

1. **Democratic participation.** The verdict carries the community's own authority; the citizen judges the citizen, and state power is shared at its sharpest point.
2. **Protection against oppression.** Twelve strangers are hard to capture; a jury stands between the accused and any overzealous prosecutor — the historic reason the common law grew the institution.
3. **Fresh common sense and community standards.** "Reasonableness," "dishonesty," "provocation" are everyday moral judgments; twelve lived lives may measure them better than one professional habit.
4. **Legitimacy and public confidence.** Verdicts by peers are easier for a society to accept — especially in grave cases with heavy consequences.
5. **Safeguard of open, comprehensible justice.** Trials must be run so ordinary people can follow them; the jury keeps the law speaking a human language.

5. Disadvantages of the jury system

1. **Amateur fact-finding in complex cases.** Long fraud trials, scientific and DNA evidence, expert crossfire — comprehension is a genuine risk, and deliberations are secret and unreasoned: a verdict is given, never explained.
2. **Bias and prejudice.** Jurors carry the community's prejudices as surely as its wisdom — race, class, religion, gender, publicity. Pre-trial media saturation is the modern aggravator.
3. **Small-society pressures.** In compact societies — Guyana's villages, the Eastern Caribbean's islands — jurors may know parties, fear reprisal, or face interference and tampering; anonymity is a big-city luxury.
4. **Cost, delay and burden.** Jury trials are slower and dearer; summoned citizens lose wages; empanelment struggles feed the very backlog Chapter Four described.
5. **Perverse or inconsistent verdicts.** Juries can ignore law or evidence — celebrated when conscience defies a bad law, corrosive when sympathy or prejudice defies a good one.

6. **The reform current as evidence.** Cite the trend itself: regional moves toward judge-alone trials for specified offences and contexts show legislatures weighing these very costs — the debate is live policy, not classroom theory.⁷

The balanced verdict the examiner wants: the jury is strongest where the question is *moral-factual* (did this man intend to kill?) and weakest where it is *technical* (what do these ledgers show?); strongest as a shield against the state, weakest as an instrument of precision. Reform therefore trims rather than abolishes — and any state trimming it must mind *Hinds*: court structure is constitutional business.

BEAT 3 · WORKED RECEIPTS — *an exam answer, step by step*

Question — CXC's own specimen (Paper 02, Module 1, compulsory, 25 marks): *During jury selection, the prosecutor learns that Barney has spent five years in prison, and that Sandie, a housewife, applies for exemption because she has the flu. Two days into the trial, Justice King learns of the recent divorce between Kerwyn, a juror, and Ann, the defendant. (a) Outline the reason why Justice King could dismiss Kerwyn as a juror. [2 marks] (b)(i) Explain whether Barney and Sandie could be disqualified from serving on the jury in a named Commonwealth Caribbean state. [4 marks] (ii) Outline TWO disadvantages of a trial by jury. [4 marks] (c) Assess FOUR benefits of a trial by jury as against a trial by a single judge. [15 marks]*⁸

Step 1 — Read the marks: 2 + 4 + 4 + 15. Part (a) is two sentences. The essay lives in (c). Budget accordingly — this discipline is the difference between grades.

Step 2 — (a): name the principle, apply in one breath. Kerwyn was recently divorced from the defendant: a personal relationship raising a real risk of **bias** (for or against Ann), destroying actual and apparent impartiality — the judge may discharge him to protect the fairness of the trial. (The mark scheme wants exactly this: relationship » possible bias; clear explanation, 2 marks.)

Step 3 — (b)(i): NAME YOUR STATE, then apply the statute's logic. "In Guyana:" — then: **Barney**, five years imprisoned, falls squarely within the standard disqualification for persons convicted

and imprisoned beyond the statutory threshold — disqualified, because a serious conviction severs the claim to speak as the community. **Sandie is not disqualified:** illness is a ground for **excusal at the court's discretion**, not disqualification — she may serve another day. The distinction excusal/disqualification is the whole mark. (The specimen scheme accepts any named state's framework — Jamaica's imprisonment-beyond-six-months formula is the cleanest to memorise.)

Step 4 — (b)(ii): two disadvantages, outlined not argued. Comprehension risk in complex evidence; susceptibility to bias/outside influence, aggravated in small societies. Two marks each: point + one line of substance.

Step 5 — (c): four benefits, each assessed against the judge-alone alternative — that comparison is the question's engine. (1) Community participation and legitimacy — a single judge speaks for the state, twelve peers speak for society; verdicts gain acceptance. (2) Protection from oppression — one official can be pressured or captured; twelve randomly drawn citizens are structurally harder to reach. (3) Collective common sense — a judge brings one (case-hardened) perspective; twelve lived experiences test credibility and reasonableness from more angles. (4) Keeps justice open and comprehensible — proceedings must remain intelligible to lay minds, disciplining the professionals. For each: state the benefit, *weigh it against the single judge*, and concede the counter where honest (e.g., the judge gives reasons; the jury never does). Then a two-sentence conclusion taking a position. Fifteen marks reward four *assessed* benefits, not eight listed ones.

BEAT 4 • COUNSEL SAYS — *the strategy box*

Counsel says: the examiner's favourite trap on this topic is **exemption vs excusal vs disqualification**. Attorney: exempt (office). Flu: excusal (discretion). Five years' prison: disqualified (law). Sort every character in the fact pattern into the right bin *by name* — that sorting is the marks.

Counsel says: "in a named Commonwealth Caribbean state" is a command, not decoration. Choose your state before exam day, learn its numbers (age band, conviction threshold), and name it in your first line. An answer floating stateless above the region caps itself.

Counsel says: for the 15-marker, the comparator controls. "Benefits of jury trial *as against a single judge*" means every paragraph must contain the judge — a benefit asserted without the comparison earns half its value. Read the question's last five words twice.

Counsel says: I have addressed juries for the State of Guyana, and I will tell you what the textbooks whisper: twelve strangers taking an oath changes a courtroom's temperature. Counsel stops performing for the bench and starts *explaining* — to a shopkeeper, a farmer, a young teacher — and the law becomes, for an afternoon, the people's own language or it loses. Whatever the system's flaws, that discipline is precious. Argue both sides in your essay; but understand what would go quiet if the jury ever left.

BEAT 5 • TRY IT YUHSELF — *practice, with answers in the back*

A. Multiple choice (Paper 01 style)

1. In a jury trial, questions of law are decided by: (A) the jury (B) the judge (C) the registrar (D) the foreman
2. In Guyana, trial by jury is today found in: (A) all criminal matters (B) the High Court's trials of indictable offences (C) the Magistrates' Courts (D) civil trials generally
3. A practising attorney-at-law summoned for jury service is ordinarily: (A) disqualified (B) exempt (C) required to serve (D) fined
4. A juror discovered mid-trial to be closely connected to the accused should be: (A) permitted to continue if he swears impartiality (B) discharged because of the risk of actual or apparent bias (C) made foreman (D) prosecuted
5. Which is a standard ground of *disqualification* (not mere excusal)? (A) influenza (B) self-employment hardship (C) conviction and imprisonment for a serious offence (D) age 30
6. The strongest traditional argument FOR the jury is that it: (A) is cheap and fast (B) gives reasoned verdicts (C) interposes the community between the citizen and the power of the State (D) guarantees expertise in complex evidence

B. Essay (Paper 02 practice). *"In the small societies of the Commonwealth Caribbean, the jury system's disadvantages now*

outweigh its advantages." Assess. (Use the small-society point on both sides – representativeness and vulnerability; 45 minutes.)

C. The summons question (discussion). The brown envelope comes to *your* house on your eighteenth birthday: a murder trial, four weeks, your studies interrupted. Write honestly: what would you fear, what would you owe, and would you want twelve people like yourself deciding your own brother's case? (Every argument in this chapter lives inside that answer.)

Answers: Appendix I.

CROSS-REFERENCES

- The High Court assizes where the jury sits: **Chapter Four, §3.**
- The judge's protected role beside the jury's: **Chapter Six, §1.**
- Non-jury court structures and their constitutional limits (*Hinds*): **Chapter Four, §1.**
- The standards of proof the jury applies: **Chapter Three, §1.**

ENDNOTES — CHAPTER SEVEN

1. CXC A23/U2/17, Unit 1, Module 1, Specific Objective 5, Content 5(b).
2. Criminal Law (Procedure) Act, Cap 10:01 (Guyana) (trial on indictment with a jury); on the disappearance of the civil jury regionally see R.-M. B. Antoine, *Commonwealth Caribbean Law and Legal Systems* (2nd edn, Routledge-Cavendish, 2008), ch 14.
3. The regional pattern is drawn from the Juries Acts of the territories; for Guyana the machinery of jury lists, summoning, balloting and challenge is in the Criminal Law (Procedure) Act, Cap 10:01.
4. Ibid; the exempt classes (judicial and legal officers, police, defence forces, clergy, medical practitioners) are standard across the region's statutes.
5. CXC A23/U2/17, Unit 1 Paper 02 Specimen Mark Scheme, Question 1 (collecting the Jamaican, Antiguan, Barbadian and Trinidadian disqualification frameworks).
6. The discharge power is inherent in the trial judge's duty to secure a fair trial; the appearance-of-bias standard descends from *R v Sussex Justices, ex parte McCarthy* [1924] 1 KB 256 ("justice should not only

be done, but should manifestly and undoubtedly be seen to be done").

7. Judge-alone trial reforms have been enacted or debated in several CARICOM states in recent years; cite the trend generally and your named state's position specifically.
8. CXC A23/U2/17, Unit 1 Paper 02 Specimen Paper, Section A, Question 1 (reproduced in substance; © Caribbean Examinations Council), with the corresponding Mark Scheme.

Chapter Eight — Settling It Out of Court: Alternative Dispute Resolution

SYLLABUS MAP — *This chapter covers Specific Objective 6: assess alternative methods of dispute resolution — Content: alternative methods of dispute resolution (ADR): arbitration and mediation.*¹

BEAT 1 • THE STORY — *why this matters in Guyanese life*

Two rice farmers on the Corentyne fall out over a dam between their fields — one says the other's trench is drowning his crop. They could go to law: writ, lawyers, adjournments, appeals; years of planting seasons spent feeding a case instead of a family, and at the end, whatever the judgment says, two neighbours who must still share a dam and cannot share a greeting.

Or they could do what Guyanese have always done first: carry it to somebody. The senior rice farmer everybody respects. The pandit, the imam, the pastor. Sit down at the koker in the afternoon, talk it through, and walk home with an arrangement both can live with — and the neighbourly relationship still alive, which no court order can give back once it dies.

That second road now has a formal name — **alternative dispute resolution** — and modern legal systems, drowning in their own caseloads (Chapter Four told you why), have stopped sneering at it and started building it into the law itself. And Guyana has a very modern reason to take it seriously: when disputes worth billions arise under the petroleum agreements in the Stabroek Block, they do not go to the High Court in Georgetown at all — they go to **international arbitration**,

because that is what the contracts say. The biggest disputes touching your country's future are resolved by the very mechanism this chapter teaches. A citizen — and certainly a CAPE Law candidate — should understand the forum where the nation's largest quarrels are heard.

So this chapter takes the koker sit-down seriously, gives its two formal descendants their proper names — **arbitration** and **mediation** — and then does what the syllabus verb commands: *assesses* them, honestly, against the courtroom they offer to replace.

BEAT 2 • THE LAW OF THE TOPIC — *the core content, plainly*

1. What ADR is, and why it grew

ADR is the family of processes for resolving disputes **outside conventional court adjudication**. The two the syllabus names sit at different points on one axis — *who decides?*

	Mediation	Arbitration	(compare) Litigation
Who decides	The parties themselves	A private adjudicator the parties chose	A public judge the state assigns
Outcome	Agreement (binding as a contract once signed)	Award — binding , enforceable like a judgment	Judgment — binding, appealable
Process	Informal, flexible, without prejudice	Formal-ish, party-designed procedure	Fixed rules of court
Public?	Private and confidential	Private and confidential	Public hearing, public record
Third party's role	Facilitates; cannot impose	Hears evidence and imposes a decision	Hears and imposes, with full state power

The growth drivers — learn them as a set, they anchor every essay: **court congestion and delay** (the backlog crisis); **cost**; **privacy** (commercial parties will not wash accounts in public); **party control** (choose your decider, your procedure, even your law); **preservation of relationships** (the dam must still be shared); and — for cross-border commerce — **enforceability and neutrality** (no party wants the other's home courts).

2. Arbitration — private judging

The anatomy. Arbitration rests on an **arbitration agreement** — typically a clause signed before any dispute exists — by which the parties bind themselves to submit disputes to one or more **arbitrators** of their choosing, whose **award** is final and binding. The courts' role is deliberately trimmed to support, not supervise: staying court proceedings brought in breach of the clause, assisting with interim measures, and **enforcing the award** — with challenge confined to narrow grounds (bias, excess of jurisdiction, grave procedural unfairness), *not* a rehearing of the merits.²

Guyana's leap. For over a century Guyana ran on an Arbitration Act of the colonial era, Cap 7:03 — serviceable for the koker, hopeless for the oil age.³ In 2024 Parliament replaced it with a modern **Arbitration Act** built on the internationally standard **UNCITRAL Model Law** framework (via the CARICOM-region IMPACT Justice model bill): party autonomy, minimal court interference, arbitrator independence, and recognition and enforcement of foreign awards in line with the **New York Convention** system — under which an award made in one contracting state is enforceable in the courts of the many others, the feature that makes international arbitration the world's commercial court.⁴ The declared ambition — argue it in essays — is for Guyana to become a place where disputes *come to be arbitrated*, rather than a place whose disputes must always be arbitrated elsewhere.

Assess arbitration. *Strengths:* binding finality without the appeals ladder; expert deciders (a quantity surveyor for a construction fight, not a generalist judge); speed and procedural flexibility, at least in principle; confidentiality; international enforceability. *Weaknesses:* it has grown expensive — top arbitrators and institutions can out-price a courtroom; its privacy means **no precedent** is created, so the law itself stops learning from the dispute (contrast Chapter Two, §5); limited appeal means a wrong award usually stands; repeat commercial players may hold structural advantages; and it is consent-based — useless where no agreement exists, and troubling where "consent" hides in fine print a weaker party never truly negotiated.

3. Mediation — assisted agreement

The anatomy. In mediation a neutral **mediator** — trained, but deciding nothing — helps the parties negotiate their own settlement: separate sessions and joint sessions, interests explored behind positions, options built, and if it succeeds, a **settlement agreement** the parties sign, binding as a contract (and, in court-connected schemes, convertible into an order). If it fails, nothing said is admissible later — discussions are **without prejudice** — so parties can be candid without arming their opponent.⁵

The Caribbean build-out. The region has moved mediation from virtue to institution: **court-connected mediation** schemes attached to the courts (Guyana's High Court has operated court-connected mediation, with rules and trained mediators, since the 2000s, and modern case-management rules empower judges to direct parties toward it), specialised use in **family matters** (where preserving the relationship is not sentiment but the child's daily reality), and community mediation for the neighbour-scale disputes that otherwise clog the magistracy.⁶

Assess mediation. *Strengths:* cheapest and fastest of all; preserves relationships; the parties own the outcome (settlements are honoured more willingly than judgments); flexible remedies no court could order (an apology, a schedule for sharing the dam); relieves court lists. *Weaknesses:* it decides nothing — a party can waste the process in bad faith; **power imbalances** transfer straight into the "agreement" (the frightened spouse, the small contractor facing the giant); no precedent, no public vindication — some wrongs *need* a public finding, not a quiet accommodation; and success depends heavily on mediator skill.

4. The limits of ADR — when the courtroom must win

The Grade I move on any "assess ADR" question is knowing where it does **not** belong:

1. **Crime.** The State's justice is not a private bargain (though restorative-justice practices now borrow mediation's spirit *within* the criminal system, especially for juveniles — Chapter Four's 2018 Act).
2. **Constitutional and public-law rights.** *McEwan* could never have been mediated: the point was a public, binding declaration that a law was void. Rights against the State need judgments, not settlements.

3. **Precedent-setting questions.** Where the law is uncertain, society needs the court's answer on the record (Chapter Two, §5) — a thousand private awards leave the law as dark as before.

4. **Gross power imbalance or bad faith** — the protections of open court, rules of evidence and appeal exist precisely for the weak.

So the honest verdict is not *alternative* but **appropriate** dispute resolution — the modern system as a toolbox: mediation for the dam, arbitration for the drilling contract, the courtroom for the Constitution.

BEAT 3 · WORKED RECEIPTS — *an exam answer, step by step*

Question (Paper 02 style, 25 marks): (a) *Distinguish between arbitration and mediation.* [4 marks] (b) *GuyOil Contractors Ltd has a "disputes to be referred to arbitration" clause in its contract with a foreign operator; separately, two sisters are locked in a bitter dispute over occupation of the family home. Recommend, with reasons, an appropriate dispute-resolution process for each.* [6 marks] (c) *"ADR is not an alternative to justice; it is an alternative to the courtroom, and the two are not the same thing." Assess this statement.* [15 marks]

Step 1 — Marks: 4 + 6 + 15. Definitions fast, application cleanly, essay deep.

Step 2 — (a): the axis is *who decides*. Arbitration: parties choose a private adjudicator whose award binds and is enforceable; a decision is *imposed*. Mediation: a neutral facilitates the parties' own negotiation; any outcome is *agreed*, and the mediator can impose nothing. Add one secondary contrast (finality vs voluntariness) and stop — four marks, four sentences.

Step 3 — (b): match process to dispute, and give the reason its name. GuyOil: **arbitration** — the clause binds (courts will stay litigation brought in breach); the dispute is commercial, technical and cross-border, where expertise, neutrality, confidentiality and New York Convention enforceability control. The sisters: **mediation** — a continuing family relationship, interests deeper than the legal positions, privacy, and remedies (occupation schedules, buy-out terms) no judgment would craft; litigation would buy one sister a house and cost both a family. Six marks: two recommendations × (process + two

reasons).

Step 4 — (c): take the quotation apart before agreeing with it. *Sense in which it is true:* justice includes public vindication, precedent, protection of the weak, and rights against the State — things ADR structurally cannot give (*McEwan*; the power-imbalance critique; no precedent). *Sense in which it is unfair:* for masses of disputes, the courtroom's "justice" is theoretical — priced and delayed out of reach (the backlog) — while a mediated settlement or swift award is justice a real person can actually hold; party consent is itself a form of justice. *Synthesis:* the question is allocation, not rivalry — appropriate dispute resolution; the state's modern duty is to build both well (Guyana's 2024 Act; court-connected mediation) and to police the boundary (crime, constitutional rights, imbalance stay in court).

Step 5 — Conclude by answering. *"The statement is right that the courtroom and justice are not synonyms — but it cuts both ways: for the citizen the courts cannot reach in time, ADR is not the alternative to justice; it is the only justice on offer. The mature system keeps courtrooms for what only courtrooms can do."*

BEAT 4 • COUNSEL SAYS — *the strategy box*

Counsel says: the syllabus verb is **assess** — every feature you name must carry a *for-whom-and-compared-to-what*. "Arbitration is private" earns nothing; "privacy serves commercial parties but starves the law of precedent" earns twice.

Counsel says: learn the table at §1 cold. Paper 01 items on this objective are nearly always definition-swaps — a stem describing mediation with "binding award" hidden in one option. The axis *who decides* detects every counterfeit.

Counsel says: Guyana's Arbitration Act 2024 is your freshness mark. Most candidates will cite nothing regional at all on ADR; you can cite a brand-new Guyanese statute, its UNCITRAL pedigree, and the oil-economy reason it exists. One sentence of that in an essay announces a candidate reading her own country's Official Gazette, and examiners feel it.

Counsel says: in practice I settle more than I fight — hear that from counsel plainly. The courtroom is where I was trained, and some matters

belong nowhere else; but the finest afternoons of a lawyer's life include the ones where two people who arrived enemies leave through the same door, talking. Do not let the drama of the trial blind you to the craft of the settlement. The exam rewards the balanced mind; so does the profession; so does the village.

BEAT 5 • TRY IT YUHSELF — *practice, with answers in the back*

A. Multiple choice (Paper 01 style)

1. The decision of an arbitrator is called: (A) a verdict (B) an award (C) a settlement (D) a decree
2. In mediation, the mediator: (A) imposes a binding decision (B) facilitates the parties' own agreement (C) prosecutes the weaker party (D) sets a precedent
3. A party sues in court despite a valid arbitration clause. The usual response is: (A) the action continues, clauses cannot oust the court (B) the court stays the proceedings and holds the parties to arbitration (C) the judge becomes the arbitrator (D) the clause is void as against public policy
4. Which dispute is LEAST suitable for ADR? (A) a commercial quality dispute over rice shipments (B) a boundary quarrel between neighbours (C) a constitutional challenge to a statute's validity (D) a partnership dissolution
5. Guyana's Arbitration Act 2024 is modelled on: (A) the Roman-Dutch law (B) the UNCITRAL Model Law framework (C) the Judicature Acts 1873–75 (D) the Privy Council's rules
6. "Without prejudice" protection in mediation means: (A) the mediator is unbiased (B) statements made in the mediation cannot be used later in court (C) the settlement cannot bind (D) no lawyer may attend

B. Essay (Paper 02 practice). *"Court-connected mediation should be a compulsory first step in all civil proceedings in the Commonwealth Caribbean."* Assess. (Weigh access and backlog against voluntariness and power imbalance; 45 minutes.)

C. The koker question (discussion). Recall a real dispute from your own village, street or family that was settled *without* law — and one

that went to court. For each: who decided, what was preserved, what was lost? Write three sentences on which process delivered more justice, and to whom. (You have just performed the syllabus verb — *assess* — on your own life.)

Answers: Appendix I.

CROSS-REFERENCES

- The congestion that drives ADR — the courts under strain: **Chapter Four, §5.**
- Arbitration legislation as modern statutory reform (sources of law in action): **Chapter Two, §3.**
- Why *McEwan*-type claims cannot be mediated — constitutional redress: **Chapter One, §4(d)** and **Part Two.**
- Restorative approaches for juveniles: **Chapter Four, §2.**

ENDNOTES — CHAPTER EIGHT

1. CXC A23/U2/17, Unit 1, Module 1, Specific Objective 6 and corresponding Content.
2. On the anatomy and court-support model of modern arbitration: Redfern & Hunter, *International Arbitration* (7th edn, OUP, 2023), chs 1–2; A. Britton, "Alternative Dispute Resolution" (1999) 1 Guy L R 108 — a syllabus resource.
3. Arbitration Act, Cap 7:03 (Laws of Guyana) — the pre-2024 regime.
4. Arbitration Act 2024 (Guyana), enacted May 2024 on the IMPACT Justice Model Arbitration Bill (UNCITRAL-endorsed), aligning Guyana with the UNCITRAL Model Law framework and the enforcement architecture of the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York, 1958).
5. On mediation practice and the without-prejudice principle: H. Brown & A. Marriott, *ADR Principles and Practice* (3rd edn, Sweet & Maxwell, 2011), chs 7–8.
6. Guyana's court-connected mediation operates under rules of the Supreme Court with rosters of trained mediators; the Civil Procedure Rules 2016 embed judicial case-management powers to promote settlement. Regional court-annexed schemes are surveyed in

Antoine, *Commonwealth Caribbean Law and Legal Systems* (2nd edn), ch 12.

Chapter Nine — The People's Protector: The Ombudsman



SYLLABUS MAP — *This chapter covers Specific Objective 7: evaluate the role and function of the Ombudsman.¹ It is the Module's final content head — and a Guyanese story before it is anyone else's, because Guyana brought the institution to the Caribbean.*

BEAT 1 • THE STORY — *why this matters in Guyanese life*

An old man in Region Six worked for the state all his life. Now his pension file has vanished into a ministry. Not refused — *vanished*. Sixteen months of letters unanswered, three minibus trips to Georgetown, a clerk who says "come back Friday" on Tuesdays and "the officer is out" on Fridays. No law has visibly been broken that a court could bite on; there is no crime, no contract, no tort — only a citizen being slowly ground down by the indifference of the machine that exists to serve him.

Sue? On what, and with what money? This is the gap in the legal map: **maladministration** — the wrong too small, too procedural, too money-starved for litigation, and too big for the citizen to swallow. Delay, rudeness, lost files, bias in small decisions, rules applied without sense.

The Swedes built an answer two centuries ago and gave it their word: **Ombudsman** — the people's agent. An independent officer, armed not with the power to punish but with the power to *investigate and expose*: to walk into the ministry, demand the file, ask the officer to explain himself, and report what he finds — to the complainant, to the ministry, and, if ignored, to Parliament and the public.

Now the part that should straighten your back in the exam hall: when this idea jumped from Scandinavia to New Zealand in 1962 and the Commonwealth began to adopt it, **the first country in the Caribbean to write an Ombudsman into its constitution was Guyana — at independence, 1966.**² Before Britain itself had its Parliamentary Commissioner in operation, this small new republic-to-be decided its citizens needed a protector against their own administration. The office lives today in Articles 191 to 196 of our Constitution. Whether it has been *allowed* to live up to its promise — that is the evaluation the syllabus demands, and this chapter will not flinch from it.

BEAT 2 · THE LAW OF THE TOPIC — *the core content, plainly*

1. What the Ombudsman is

The **Ombudsman** is an independent, high-ranking public officer — in Guyana, a constitutional officer appointed by the President after consultation with the Leader of the Minority (Opposition), holding office with protections modelled on a judge's — whose function is to **investigate complaints of administrative injustice** against government departments and authorities.³ The classic definition to open an essay with: *an officer of Parliament and of the public who investigates maladministration in the executive branch, reports findings, and recommends redress — armed with powers of investigation, not powers of decision.*

Fix the institution's location on your mental map of this whole Module: courts (Chapters Four and Five) police *legality*; the Ombudsman polices *administration* — the vast territory of government conduct that is lawful but shabby, slow, careless or unfair.

2. Jurisdiction — what may be investigated

The Guyanese model (Arts 191–196, fleshed out by the Ombudsman Act, Cap 19:04) is the regional pattern:⁴

- **Who can complain:** any person claiming to have sustained injustice in consequence of administrative action — and the Ombudsman may also act on referral or, in defined cases, on his own motion. Access is direct, free and informal: a letter, a visit. No lawyer

needed — that is the design.

- **What is covered:** administrative action of government ministries, departments and specified authorities — the pension file, the licence delayed, the allocation denied.
- **What is excluded** (learn these; they are Paper 01 bait): matters where the complainant has a remedy in a **court of law** (the Ombudsman is a gap-filler, not a rival judiciary — though discretion may allow investigation where the legal remedy is not reasonably available); **judicial decisions** (you appeal a judge, you do not report her to the Ombudsman); and the classic state-craft exclusions — matters certified to affect defence, foreign relations, the exercise of the **prerogative of mercy**, prosecutorial decisions (Chapter Six's DPP is answerable to the Constitution, not the Ombudsman), and personnel matters of the public service with their own machinery.⁵

3. Powers — and the famous lack of teeth

Investigative powers are real: the Ombudsman may summon persons, require the production of documents, and enter premises; obstruction is an offence. Ministries must open the file.⁶

Coercive powers are — deliberately — absent. The Ombudsman cannot quash the decision, order compensation, or discipline the officer. The output is a **report:** findings, and recommendations to the department; if injustice was done and nothing is remedied, a **special report to the National Assembly**, plus the annual report that puts the year's maladministration on the public record.⁷ The theory: sunlight and parliamentary pressure move administrations that citizens cannot. Whether theory survives practice is your §5.

4. Why the office exists — the case for

1. **Access.** Free, informal, no pleadings, no costs risk — the exact opposite of litigation (Chapter Eight's cost critique answered by a different route).
2. **Reach.** Maladministration is mostly *lawful* — outside judicial review's grounds; the Ombudsman reaches where courts cannot.
3. **Inquisitorial method.** The Ombudsman *investigates* — goes and finds the file — where a court must wait for parties to prove; a poor

complainant is not outgunned by the state's lawyers.

4. **Systemic medicine.** One pension complaint can expose a broken system; recommendations fix the *process* for the ten thousand citizens who never complained.
5. **Constitutional dignity (the Guyana point).** Entrenchment in the Constitution, judicial-grade tenure protections, and the 1966 pedigree signal that protecting citizens from their own administration is a permanent, not optional, state function.

5. The honest evaluation — the case against, Guyana included

The syllabus verb is **evaluate**; a Grade I answer wounds the institution accurately before defending it:

1. **No enforcement.** Recommendations can be shelved; a determined ministry can absorb a special report and change nothing. The office's power is exactly as large as the political cost of ignoring it — which small-society politics can make very small.
2. **The vacancy scandal.** An office is only as real as its occupant, and Guyana's Ombudsman's chair has stood **empty for years at a stretch** — most notoriously for roughly a decade before a 2014 appointment revived it — during which every complaint letter fell into precisely the kind of administrative void the office exists to cure. An entrenched office left unfilled is a constitutional promise unperformed; make this point with the confidence of a candidate whose own Constitution is at stake.⁸
3. **Resources and profile.** Underfunded, understaffed, under-publicised — many citizens have never heard of the office they most need; the machinery for taking complaints from the hinterland regions is thin.
4. **Jurisdictional moats.** The exclusions (courts, prosecutions, certified matters, service commissions) wall off much of what citizens actually complain about.
5. **The modern-competitor question.** Judicial review has grown; specialised commissions (human rights, procurement, children) crowd the field; some argue a well-resourced, enforceable rights commission would serve better than a report-writing generalist. The

counter: the Ombudsman's informality and breadth remain unduplicated — the answer is resourcing, not replacement.

The evaluative verdict to practise: *design sound, delivery starved*. The institution's weakness in the Caribbean has rarely been its concept and usually its **neglect** — vacancies, budgets, ignored reports. Which yields the examiner's favourite twist: the Ombudsman, guardian against maladministration, has itself been a *victim* of maladministration.

BEAT 3 · WORKED RECEIPTS — *an exam answer, step by step*

Question (Paper 02 style, 25 marks): (a) Outline TWO matters an Ombudsman is typically precluded from investigating. [4 marks] (b) Explain TWO powers available to the Ombudsman in conducting an investigation, and the principal limitation on the office's authority. [6 marks] (c) "The Ombudsman is the Caribbean citizen's most accessible protector — and the least effective." Evaluate this statement with reference to a named Commonwealth Caribbean state. [15 marks]

Step 1 — Marks: 4 + 6 + 15. Precision, precision, then judgment.

Step 2 — (a): two exclusions, one line of *why* each. Judicial decisions — the appeal structure, not the Ombudsman, corrects judges (separation of functions). Matters with an available court remedy — the office fills the justice gap; it does not duplicate the courts. (Also acceptable: certified defence/foreign-affairs matters; prosecutorial decisions.)

Step 3 — (b): powers, then the limitation, named as such. Powers: to summon persons and compel production of documents; to enter and inspect premises — investigation with legal force, obstruction punishable. The principal limitation: **no coercive remedy** — the Ombudsman recommends and reports (ultimately to the National Assembly) but cannot quash, compensate or discipline. Say the word "recommendatory"; it is the concept the marks sit on.

Step 4 — (c): take each limb of the quotation seriously. *Most accessible*: free, informal, lawyer-less, inquisitorial — compare litigation's cost and ADR's consent requirement (Chapter Eight); for the pensioner, the only door that opens. *Least effective*: no teeth; the Guyana vacancy years as the devastating exhibit — an office that cannot act when

filled is weak, an office left unfilled is theatre; resource starvation; walled-off jurisdiction. *Then the balance:* effectiveness measured rightly — systemic corrections, quiet resolutions that never make news; the counterfactual (without the office, the maladministration gap has no institution at all); and the reform direction (fill it, fund it, publicise it, strengthen parliamentary follow-up — not abolish it).

Step 5 — Conclude by answering. *"Both limbs are true and causally linked: the office is most accessible by design and least effective by neglect. The indictment lies not against the institution but against the states that entrenched it and then starved it — Guyana, its Caribbean pioneer, being both the best and the worst example."*

BEAT 4 · COUNSEL SAYS — *the strategy box*

Counsel says: the contrast table you must be able to produce from memory: Ombudsman vs court. Trigger (maladministration vs illegality) — process (inquisitorial vs adversarial) — cost (free vs priced) — outcome (recommendation vs binding order). Four lines; half the marks on any Ombudsman question live in them.

Counsel says: Paper 01 will test the exclusions. If the stem says "a citizen dissatisfied with a magistrate's decision complains to the Ombudsman," the answer is that the complaint fails — judicial decisions are excluded. Ombudsman items are gift marks *only* for candidates who learned the fence lines.

Counsel says: own the 1966 fact. "Guyana was the first Commonwealth Caribbean state to establish the office, at independence" is a home-ground receipt that elevates any evaluation — and pairs devastatingly with the vacancy critique two sentences later. Pride and honesty in the same paragraph: that is what *evaluate* means.

Counsel says: the Ombudsman's file is full of pensioners, and I want you to notice whom this whole Module has been circling: the small citizen against the big machine. The Constitution (Chapter One), the courts (Four and Five), the DPP's independence (Six), the jury (Seven), mediation (Eight), and now an office whose entire job is the lost file of one old man. The law you are studying is not an abstraction — it is the sum of a society's devices for making power answer politely. Judge each device by that standard and you will never write a hollow evaluation

again.

BEAT 5 • TRY IT YUHSELF — *practice, with answers in the back*

A. Multiple choice (Paper 01 style)

1. The Ombudsman's principal function is to investigate: (A) criminal offences (B) maladministration by government departments (C) judicial misconduct (D) breaches of contract
2. The Ombudsman's findings result in: (A) binding orders (B) fines (C) recommendations and reports (D) imprisonment
3. The first Commonwealth Caribbean state to establish an Ombudsman was: (A) Jamaica (B) Trinidad and Tobago (C) Guyana (D) Barbados
4. Which complaint is within a typical Ombudsman's jurisdiction? (A) an appeal against a High Court judgment (B) a two-year unexplained ministry delay in processing a pension (C) the DPP's decision to prosecute (D) a sentence considered too harsh
5. In Guyana the Ombudsman is provided for by: (A) an ordinary Act alone (B) Articles 191–196 of the Constitution, with the Ombudsman Act, Cap 19:04 (C) the Arbitration Act 2024 (D) the Revised Treaty of Chaguaramas
6. The standard scholarly criticism of the Ombudsman institution is that it: (A) is too expensive for complainants (B) lacks enforcement powers (C) requires legal representation (D) creates binding precedent

B. Essay (Paper 02 practice). *"Give the Ombudsman enforcement powers, or abolish the office." Discuss. (Consider what coercive power would do to the office's informality and its relationship with the administration; 45 minutes.)*

C. The lost-file question (discussion). Draft, in half a page, the actual letter the Region Six pensioner might write to the Ombudsman: the facts, the injustice, the remedy sought. Notice what the exercise teaches — no citations, no forms, no fee. Then answer: what single reform would most improve the chance that his letter changes anything?

Answers: Appendix I.

CROSS-REFERENCES

- Judicial review — the court-shaped remedy for *unlawful* administration: **Part Two** (and note "Judicial Review" recurs as a Paper 032 topic — **Chapter Ten**).
- The DPP's excluded domain: **Chapter Six, §4**.
- Why courts alone cannot fill the justice gap: **Chapters Four and Eight**.
- Constitutional entrenchment and its meaning: **Chapter One, §5**.

ENDNOTES — CHAPTER NINE

1. CXC A23/U2/17, Unit 1, Module 1, Specific Objective 7 and corresponding Content.
2. The office originated in Sweden (1809); New Zealand's Parliamentary Commissioner (Ombudsman) Act 1962 began its Commonwealth career; Guyana's Independence Constitution of 1966 made it the Caribbean's pioneer, and the office was carried into the 1980 Constitution, Arts 191–196.
3. Constitution of Guyana, Arts 191 (appointment) and 192–196 (functions, restrictions, reports); tenure protections assimilate the office to judicial standards.
4. Ombudsman Act, Cap 19:04 (Laws of Guyana).
5. Constitution of Guyana, Arts 192–193 and the Act's schedules (jurisdiction and excluded matters).
6. Ombudsman Act, Cap 19:04 (powers of investigation; offences of obstruction).
7. Constitution of Guyana, Art 196 (reports to the National Assembly); Ombudsman Act, Cap 19:04.
8. The office stood vacant from the mid-2000s until the appointment of a new Ombudsman in 2014, and has experienced further vacancy periods since — a standing subject of civil-society and press criticism in Guyana.

Chapter Ten — The Private Candidate's War Room: Paper 032



***SYLLABUS MAP** — This chapter serves no single content head; it serves you, the private candidate. It teaches the **Regulations for Private Candidates (Paper 032)** exactly as the syllabus states them, reproduces the published topic list to 2030, and builds the preparation method — because Guyana has always had private CAPE Law candidates, working by day and studying by night, and no imported textbook has ever once acknowledged that they exist.¹*

BEAT 1 • THE STORY — *why this matters in Guyanese life*

Not every candidate walks into CAPE from a sixth-form classroom with a teacher, a timetable and a School-Based Assessment shepherded term by term. Some of you are reading this after work. Some of you left school years ago and are coming back for the qualification the law degree requires. Some of you live where no school offers Law at all — and you have decided, with nothing but a syllabus, this book, and your own discipline, to sit the examination anyway.

I want you to hear something from me before the strategy: **the private candidate is not the second-class candidate.** I sat my examinations from a public school in Berbice that the knowing people said could not produce a national top student, and the certificates on my wall answer them quietly every day. The examination does not ask where you studied. It asks what you know and how you argue. On those two questions, a disciplined private candidate armed with the actual syllabus and honest practice stands level with anyone in the country.

But you must fight your battle, not the schoolchild's. School candidates earn 20 per cent of this qualification through Paper 031, the School-Based Assessment — a project done over months with a teacher's guidance. You cannot. Instead, CXC sets you **Paper 032**: one compulsory question, on a topic **published years in advance in the syllabus itself**, sat in ninety minutes — **with your own prepared notes beside you**.

Read that again. The examining council tells you the battlefield *years early* and lets you carry your own map into the hall. No other paper in the examination offers such terms. Prepared properly, Paper 032 is not your weakness as a private candidate — it is the most predictable 20 per cent on the certificate. This chapter is how you prepare it properly.

BEAT 2 • THE LAW OF THE TOPIC — *the regulations, plainly*

1. What Paper 032 is — the rules as the syllabus states them

From the Regulations for Private Candidates:²

- **Duration:** 1 hour 30 minutes.
- **Composition:** ONE compulsory question, based on **the published topic for that year**; the question **may be divided into parts**.
- **Form of answer:** extended essay or short paragraphs, as the question directs.
- **Notes:** *"The candidates may refer to their prepared notes on the topic for that year."*
- **Skills tested:** the same skills as the SBA — **Conceptual Knowledge** and **Use of Knowledge**.
- **Marks:** 30 raw marks, **weighted to 60**, contributing **20 per cent** of the final Unit grade. Marks are awarded for **content, organisation (logical coherence) and expression**.

And the machinery around it: private candidates register through the Local Registrar or an approved centre; resit candidates rewrite Papers 01 and 02 and may reuse a moderated SBA score within two years of the first attempt.³

2. The published topics — the battlefield map to 2030

The syllabus publishes the Paper 032 topic per year. For Unit 1:⁴

Year	Unit 1 topic	Where it lives in this book
2018	Sentencing	Part Three (Criminal Law)
2019	Hierarchy and Appeal Process	Chapters Four and Five
2020	Judicial Review	Part Two
2021	Child Sexual Abuse	Part Three; Chapter Four §2
2022	Sexual Offences	Part Three
2023	Sources of Law	Chapter Two
2024	Child Maltreatment	Part Three; Chapter Four §2
2025	Judicial Review	Part Two
2026	Common Law and Equity	Chapter Two, §4
2027	Stare Decisis	Chapter Two, §5
2028	Legal Functionaries and Institutions	Chapters Six and Seven
2029	Judicial Review	Part Two
2030	Sentencing	Part Three

Study the pattern like counsel reading an opponent: topics repeat (Judicial Review three times in a decade; Sentencing returns); topics cluster in Module 1 and Module 3; and every topic maps onto syllabus content you must study anyway for Papers 01 and 02. Paper 032 is not extra syllabus — it is the same syllabus, with the year's spotlight announced.

Always verify your year's topic against the current syllabus PDF on cxc.org before you begin preparing — amendments happen (this very syllabus was amended in 2025), and the candidate who prepares last year's battlefield has volunteered for the only ambush this paper allows.

3. The prepared-notes pack — built to be used in ninety minutes

The regulation says you may refer to prepared notes; the skill is building notes you can actually *deploy* under time. The Christie Method pack is **six sides, five sections**, for any topic:

1. **Definitions (half a side).** Every key term, one crisp sentence each, quotable verbatim. For 2026: common law (three senses — Chapter Two §4), equity, maxims, fusion.
2. **The law, structured (two sides).** The topic's content as numbered points in logical teaching order — your essay's skeleton pre-built. Headings big enough to find in five seconds.
3. **Authorities table (one side).** Two columns: name + citation | one sentence of *what it proves*. Ten to fifteen entries, no more — a note you cannot scan in an exam is a decoration. For 2026: *Earl of Oxford's Case* (equity prevails), *Walsh v Lonsdale* (fusion administered), Cap 6:01 (Guyana's reception), the maxims, Judicature Acts.
4. **Evaluations (one side).** Every "assess/discuss" angle the topic supports, each as *claim » counter » verdict* in three lines. Examiners' questions are built from these hinges.
5. **Skeleton plans (one and a half sides).** Three full essay plans for the three most likely question shapes (a "trace the development" question; a "compare/assess" question; a "problem/apply" question) — each: opening sentence, five paragraph points with authorities, conclusion line.

Handwrite the pack yourself — the writing is the revision — and rebuild it once from memory before exam day. The pack you built is the pack you can navigate with your pulse up.

4. The ninety minutes — how the paper is actually fought

1. **Minutes 0–5: read the whole question twice.** It is compulsory and may be in parts — note the mark split per part and convert it to minutes (30 raw marks in ~85 working minutes $\approx$ 2.5 minutes per mark; a 15-mark part earns ~40 minutes, a 5-mark part earns ~12, not 25).
2. **Minutes 5–10: plan on paper,** matching question parts to your pack's sections. The specimen paper's shape teaches the standard pattern: "*With reference to THREE decided cases, explain THREE*

ways in which..." — counted demands.⁵ **Count what the question counts:** three cases means three, named, used; two ways earn two-thirds of nothing if you give one brilliantly.

3. **Write to the three mark heads.** *Content* (the law + authorities), *organisation* (numbered or clearly paragraphed points, in the order the question asks), *expression* (plain, exact sentences — Chapter One's rule: open with the point). The notes are beside you; the marks are for what reaches the page.
4. **Use the notes as a map, not a mine.** Look up citations and your skeleton; never copy prose paragraphs — transcription eats your ninety minutes and reads like what it is. Conceptual Knowledge and Use of Knowledge are the tested skills; *use* is demonstrated by applying law to the question's exact terms.
5. **Last five minutes: audit the count.** Every counted demand met? Every part attempted? An unattempted 10-mark part is a grade dropped in silence.

5. The private candidate's full campaign

Paper 032 is 20 per cent; the war has three fronts. **Papers 01 and 02 are 80 per cent**, and this book's Chapters One to Nine, with their Worked Receipts and Try It Yuhself drills, are your classroom for them. The campaign calendar that works for a working candidate: the syllabus objectives spread across the months (tick them on the syllabus PDF itself, as Chapter One commanded); one timed past-paper essay per week from the term before the examination; the 032 pack built two months out, rebuilt from memory two weeks out; and past papers under true examination clock — phone in another room, ninety unforgiving minutes — at least three times before the real morning. Discipline, not genius. The map, walked street by street.

BEAT 3 · WORKED RECEIPTS — *building the 2026 pack, step by step*

Watch me build the **2026 Unit 1 pack — "Common Law and Equity"** — so you can build any year's.

Step 1 — Harvest the syllabus. The topic maps to Objective 2, Content 2(c) (common law) and 2(d) (equity — origin and development

in the Caribbean). Those objective words go at the top of the pack: the question will be built from them.

Step 2 — Section 1, definitions. Common law: (i) judge-made law developed in the royal courts from custom and precedent; (ii) the law common to England after the Conquest; (iii) as against equity: the stricter stream administered at law. Equity: the body of doctrine grown from the Chancellor's conscience-based jurisdiction to relieve the common law's rigidity. Fusion: the administrative union of the two streams (Judicature Acts 1873–75) — *administered together, doctrinally distinct*.

Step 3 — Section 2, the law structured. (1) Origin of common law: circuit judges, custom unified, writ system, precedent hardening. (2) The rigidity problem: no writ, no remedy; damages the only relief. (3) Equity's rise: petitions to the King » Chancellor » Chancery; the trust, injunction, specific performance. (4) Conflict » *Earl of Oxford's Case*: equity prevails. (5) The maxims (list five with one-line meanings). (6) Fusion 1873–75; *Walsh v Lonsdale*. (7) **The Caribbean development** (the syllabus's own phrase — this is where regional marks live): reception of both streams into Caribbean law; Guyana's double story — Roman-Dutch base, then Cap 6:01 adopting English common law in 1917 with land-law survivals; concurrent administration in the High Court; equity alive in Caribbean practice (injunctions, trusts, family land).

Step 4 — Section 3, authorities table. *Earl of Oxford's Case* (1615) — conflict resolved for equity. Judicature Acts 1873–75 — fusion of administration. *Walsh v Lonsdale* (1882) — equity's view prevails in the fused court. Civil Law of Guyana Act, Cap 6:01 — reception, 1917. High Court Act, Cap 3:02 — concurrent administration. The maxims — deploy two, not ten.

Step 5 — Section 5, one skeleton (the "trace and assess" shape). *Opening*: "Equity was born from the common law's success — a system so consistent it became rigid, and so rigid it required a conscience." *Five points*: origin of common law » rigidity » Chancery's answer » conflict and fusion » Caribbean development (Guyana's 1917 choice as centrepiece). *Conclusion*: "In the Caribbean the two streams arrived in one colonial vessel and run today in one court — distinct in doctrine, joined in administration, and both still growing in Caribbean hands." Build the other two skeletons yourself — that is this chapter's Try It.

BEAT 4 • COUNSEL SAYS — *the strategy box*

Counsel says: the topic is published; the ambush is the *verb*. "Explain," "assess," "with reference to THREE cases" — your pack must be built for every verb the topic can carry, which is why Section 4 (evaluations) and Section 5 (skeletons) exist. Candidates who prepare only *content* meet a question asking for *judgment*.

Counsel says: ninety minutes, 30 marks, one question — this paper punishes beautiful irrelevance more than any other. Every paragraph must serve the question's exact words. If the question says "in a named Commonwealth Caribbean state," your pack's Guyana column is already the answer — name it in line one.

Counsel says: do not neglect the 80 per cent. I have seen private candidates polish 032 to a shine and walk unready into Paper 02. The published topic is the *known* battle; Papers 01 and 02 are the war. This book's other nine chapters are that war's training ground — the 032 pack method works for Paper 02 revision too. Build packs for everything.

Counsel says: you, working by lamplight after your shift, with the syllabus ticked and your six sides handwritten — you are not behind. You are exactly where I was, in a place the knowing people had written off, with a map and a method and a stubbornness they could not grade. The examination is anonymous. Your script will not say "private candidate." It will say what you made it say. Make it say Grade One.

BEAT 5 • TRY IT YUHSSELF — *practice, with answers in the back*

A. The regulations (quick drill)

1. Paper 032 consists of: (A) three optional essays (B) one compulsory question, possibly in parts (C) 45 multiple-choice items (D) an interview
2. During Paper 032, candidates may: (A) consult any textbook (B) refer to their prepared notes on the year's topic (C) confer quietly (D) bring no materials
3. Paper 032 contributes: (A) 50% (B) 30% (C) 20% (D) 10% of the Unit grade

4. Marks in Paper 032 are awarded for: (A) content only (B) expression, organisation and content (C) handwriting (D) length
5. The Unit 1 topic published for 2027 is: (A) Judicial Review (B) Sources of Law (C) Stare Decisis (D) Sentencing

B. Build-your-own (the real practice). Construct the full six-side pack for **2027: "Stare Decisis"** using Chapter Two, §5 (and Chapters Four and Five for the hierarchy it depends on). Then write, under a true ninety-minute clock: *"With reference to decided cases, explain the operation of the doctrine of stare decisis in a named Commonwealth Caribbean state, and assess THREE advantages and TWO disadvantages of the doctrine."* [30 marks]

C. The calendar question (planning). Draw your own campaign calendar backward from your examination sitting: 032 pack built (2 months out), rebuilt from memory (2 weeks out), weekly timed essays, the syllabus PDF's objectives distributed over your true available weeks. Pin it where you study. (An outline model appears in Appendix I.)

Answers and models: Appendix I.

CROSS-REFERENCES

- The 2026 topic in full: **Chapter Two, §4**. The 2027 topic: **Chapter Two, §5**. The 2028 topic: **Chapters Six and Seven**.
- Judicial Review (2025, 2029): **Part Two** of this book.
- Sentencing (2030) and the offences topics: **Part Three**.
- The five-step essay method every 032 answer should ride on: **Chapter One, Beat 3**.

ENDNOTES — CHAPTER TEN

1. This chapter's regulatory content is drawn entirely from CXC A23/U2/17 (Revised 2017, Amended 2025): Regulations for Private Candidates; Regulations for Resit Candidates; Assessment Grid; Topics for Paper 032.
2. CXC A23/U2/17, Regulations for Private Candidates, Paper 032 (composition; question type; mark allocation; award of marks).
3. CXC A23/U2/17, Regulations for Resit Candidates; registration for private candidates is through approved institutions or the Local Registrar's office (in Guyana, via the Ministry of Education's

examinations machinery).

4. CXC A23/U2/17, "Topics for Paper 032" (Unit 1 column, 2018–2030). Verify against the latest amendment at www.cxc.org before preparing.
5. CXC A23/U2/17, Unit 1 Paper 032 Specimen Paper (topic: Fundamental Rights; two 15-mark parts, each demanding three decided cases and three explained ways).

BACK MATTER



Appendix I — Answers to "Try It Yuhself"



Multiple-choice keys are definitive. Essay and discussion answers are model outlines — the shape of a strong response, not the only one. Measure your own script against the outline's structure: point first, authority per paragraph, judgment at the end.

Chapter One

A. Multiple choice: 1-B · 2-B · 3-C · 4-B · 5-C.

B. Model outline — *"The debate is of merely historical interest."*
Discuss. Open: the debate looks settled because we entrenched the natural lawyers' minimums into supreme constitutions — but entrenchment relocated the debate; it did not retire it. **Body:** (1) Define both theories briefly (Aquinas; Austin/Hart). (2) The "historical" case: Art 8 supremacy means validity questions are now textual, positivist exercises. (3) The living case: interpreting open-textured rights (dignity, equality) forces moral reasoning — *McEwan* is natural-law work done with positivist tools. (4) Savings clauses: where the Constitution shields old law, the old quarrel returns undiluted — *Nervais*. (5) Outside constitutional law: *Shaw/Knuller*-type questions (should courts police morals?) recur in every generation. **Conclude:** the debate is not history; it is infrastructure — invisible until a hard case makes it load-bearing.

C. Discussion guide — Austinian analysis: the codes were commands of a habitually-obeyed sovereign backed by sanctions — valid law; the analysis is coherent and morally silent, which is precisely its indictment. Fuller: the codes fail the inner morality less obviously than you might hope (they were public, prospective, applied as written) — Fuller's test catches *lawless* regimes better than *wicked but orderly* ones; be honest about this. Art 8 reasoning: with entrenched dignity and equality, the codes are void ab initio — but note the anachronism: the

framework that voids them is the one their victims' descendants built. Strongest honest answer: each framework illuminates a different failure — positivism describes the machine, Fuller tests its workmanship, constitutionalism finally judges its purpose.

Chapter Two

A. Multiple choice: 1-B · 2-C · 3-B · 4-B · 5-C · 6-B.

B. Model outline — *precedent: certainty vs rigidity*. **Open:** the doctrine's defenders and critics describe the same feature — bindingness — from opposite banks. **Body:** (1) The certainty case: like cases alike; planning of affairs; judicial discipline; efficiency. (2) The rigidity case: error perpetuated (*Kneller* following doubted *Shaw*); slow correction; law trapped behind facts. (3) The safety valves: distinguishing; overruling; Practice Statement 1966. (4) The Caribbean answer: final courts freeing themselves — *Persaud v Plantation Versailles* (Guyana CoA as final court); CCJ not bound by Privy Council (*Joseph and Boyce*); *Nervais* rethinking inherited doctrine. (5) Weigh: rigidity is the *price* of certainty, and the system has learned to pay less of it. **Conclude:** the price is real but discounted — a hierarchy with honest escape routes buys certainty without embalming the law.

C. Discussion guide — The 1917 choice teaches that sources serve people, not symmetry: wholesale anglicisation served commerce and court administration; keeping the transport served a century of settled landholding built on Roman-Dutch forms. A "pure" system would have unsettled every title in the colony. Defensible either way — but the strongest answers notice who was *not* consulted: the ordinary landholder lived the consequences of a choice made for administrative convenience. Sources of law are biographies of power.

Chapter Three

A. Multiple choice: 1-B · 2-C · 3-C · 4-B · 5-C.

B. Model outline — *procedural law as servant*. **Open:** the servant metaphor flatters substance and misleads: rights exist only as procedure delivers them. **Body:** (1) The servant case: procedure exists *for* enforcement; substance defines the ends. (2) The rebellion: limitation periods extinguish live rights; burdens and standards (*Woolmington*)

decide outcomes; an unenforceable right is rhetoric. (3) Due process/protection of the law elevates procedure to constitutional substance (Art 144). (4) Procedural injustice as substantive injustice: a fair rule unfairly tried is unfairness, full stop. **Conclude:** better metaphor — substance and procedure are the two blades of one scissors; nothing is cut with one.

C. Discussion guide — Expect: stall licence (public/regulatory; subject-matter: administrative; substantive), sale of goods (private, contract, substantive), inspected scale (public, regulatory, procedural-ish enforcement machinery), bag snatched (public, criminal, substantive + procedural on arrest), wage paid (private-ish, labour law — the hybrid that resists boxes; that resistance is the lesson).

Chapter Four

A. Multiple choice: 1-B · 2-C · 3-B · 4-B · 5-B · 6-B.

B. Model outline — *specialised courts as the future*. **Open:** specialisation is triage refined — but a system can refine itself into fragments. **Body:** (1) The case for: expertise (commercial lists), protection of the vulnerable (juvenile — JJA 2018; family — 2016; sexual offences — 2017 court), speed. (2) The record in the named state (Guyana): each specialised forum answered a documented failure of the generalist list. (3) The caution: fragmentation, resource rivalry, two-tier justice if specialised courts are funded and the magistracy starved; *Hinds* — structural change must respect constitutional architecture. (4) The deeper point: specialisation succeeds when it changes *procedure and personnel*, not just the sign on the door. **Conclude:** the future, yes — as renovation of the ladder, not replacement.

C. Discussion guide — No fixed answer; strong responses name one operational bottleneck (adjournment culture, absent witnesses, unrepresented parties, listing chaos) and cost the fix honestly (personnel, technology, procedure change — and whose budget).

Chapter Five

A. Multiple choice: 1-B · 2-C · 3-B · 4-B · 5-C · 6-C.

B. Model outline — *"the best final court is a distant one."* **Open:** distance purchases detachment with the same coin that purchases

ignorance — the question is the exchange rate. **Body:** (1) The case for distance: insulation from small-society pressure; depth of bench; *Pratt and Morgan* as distant protection of local rights. (2) The costs: access (price of a London appeal); context (*McEwan*'s local understanding); sovereignty. (3) The CCJ's rebuttal-by-design: distance replaced with *insulation* — Trust Fund, RJLSC, tenure; nearness with fearlessness (*Nervais, McEwan* against governments' positions). (4) Guyana's triptych (London » alone » regional) as the empirical test. **Conclude:** the argument for distance was always an argument for *independence*; once independence is engineered directly, distance is a cost with no remaining purchase.

C. Discussion guide — Interview answers will vary; the analytical target is to connect lived memory (did ordinary people ever reach the final court?) with the institutional argument, and to name one case (*McEwan, Pratt, Joseph and Boyce*) as the deciding weight.

Chapter Six

A. Multiple choice: 1-B · 2-C · 3-C · 4-B · 5-B · 6-D.

B. Model outline — *self-regulation of the profession*. **Open:** self-regulation is the bargain by which a monopoly polices itself; the question is whether the bargain is being kept. **Body:** (1) The case for withdrawal: peer protection instincts; opacity; delay in disciplinary machinery; public confidence. (2) The case for retention: independence of the Bar from the state is a rule-of-law asset (a government-disciplined profession cannot fearlessly sue the government); expertise in judging professional conduct. (3) The middle institutions: statutory codes, lay participation on disciplinary bodies, judicial oversight (*Forde v Law Society; Re Niles* as the machinery working in public). (4) Named-state reality: Guyana's Legal Practitioners Act structure. **Conclude:** mend, not end — publicity, lay members and judicial appeal give the public the guarantees without handing the Bar to the state.

C. Discussion guide — The exercise succeeds when the student can label each story: AG speaking = government's lawyer (policy/legal defence); DPP acting = prosecutorial independence. The counterfactual (one office) should produce a concrete danger: prosecution decisions defending government interests.

Chapter Seven

A. Multiple choice: 1-B · 2-B · 3-B · 4-B · 5-C · 6-C.

B. Model outline — *small societies: disadvantages now outweigh advantages?* **Open:** smallness sharpens both edges of the jury's blade.

Body: (1) Sharpened advantages: genuine peers, community legitimacy where state trust is thin. (2) Sharpened disadvantages: jurors known to parties; intimidation and tampering; publicity saturation in one-newspaper societies. (3) The safeguards audit: challenges, discharge for bias, sequestration, contempt law — do they scale down to villages? (4) The alternatives: judge-alone options and their own small-society problem (the judge is a neighbour too — one neighbour instead of twelve). **Conclude:** the balance has tightened but not tipped: the answer to vulnerable juries is protected juries, because the alternative concentrates the same vulnerability in fewer hands.

C. Discussion guide — Honest answers will hold both fears at once (judging and being judged); the pedagogical target is discovering that every argument in the chapter is an answer to "would you trust twelve people like yourself?"

Chapter Eight

A. Multiple choice: 1-B · 2-B · 3-B · 4-C · 5-B · 6-B.

B. Model outline — *compulsory court-connected mediation.*

Open: "compulsory mediation" is not a contradiction if what is compelled is attendance, not agreement — but the distinction must survive practice. **Body:** (1) For: backlog relief; settlements parties keep; cost; the evidence of court-annexed schemes. (2) Against: voluntariness is mediation's engine — conscripts settle badly; power imbalance transfers into coerced "agreements"; delay added where mediation fails; access-to-court concerns. (3) Design answers: exemption categories (violence, urgency, public-law), judicial discretion, good-faith attendance only. (4) Named-state fit: Guyana's rules and mediator capacity. **Conclude:** compulsory *consideration*, judicially screened — mediation as the default door, never the locked one.

C. Discussion guide — The comparison should surface: who decided (elder vs magistrate), what was preserved (relationship vs precedent/vindication), what was lost. There is no wrong conclusion,

only an unexamined one.

Chapter Nine

A. Multiple choice: 1-B · 2-C · 3-C · 4-B · 5-B · 6-B.

B. Model outline — *enforcement powers or abolition*. **Open:** the ultimatum assumes toothlessness is failure; but the office's power was designed to be borrowed — from Parliament and publicity — not owned. **Body:** (1) The case for teeth: ignored recommendations; vacancy-era impotence; citizen cynicism. (2) What teeth would cost: adversarial procedure (natural justice for accused officials), lawyers, delay — the office becomes a slow tribunal, losing the informality that is its whole advantage. (3) The middle path: enforceable *procedural* duties (mandatory ministerial response within set time; parliamentary committee follow-up; publication), guaranteed budget and appointment deadlines. (4) The abolition test: name the institution that would inherit the maladministration gap — none exists. **Conclude:** neither horn: keep the recommendatory core, armour the follow-up, and criminalise the true scandal — leaving the chair empty.

C. Discussion guide — The letter should be plain facts + injustice + remedy sought; the reform answers to credit: filled office, response deadlines, regional outreach, publicity. The meta-lesson: the exercise took ten minutes and no fee — that accessibility is the institution's case for itself.

Chapter Ten

A. Quick drill: 1-B · 2-B · 3-C · 4-B · 5-C.

B. Model expectations for the 2027 practice question — Named state: Guyana. *Operation:* define stare decisis and ratio/obiter; the hierarchy (magistracy » Full Court » High Court » Court of Appeal » CCJ) with bindingness flowing down; escape routes (distinguish, overrule); final-court freedom (*Persaud v Plantation Versailles*; CCJ's *Joseph and Boyce*); cases used, not named. *Three advantages:* certainty/planning; equality of treatment; efficiency and accumulated wisdom. *Two disadvantages:* rigidity/perpetuated error (*Kneller on Shaw*); complexity and volume of case law. *The assessed verdict* in two sentences. Organisation: numbered parts mirroring the question's

structure; expression: plain and exact — the three mark heads served visibly.

C. Model campaign calendar (outline) — Working backward from the examination: **Week 0** (exam); **–2 weeks:** rebuild 032 pack from memory; full past-paper under clock. **–1 month:** second timed past paper; weakest-module drill. **–2 months:** build 032 pack; begin weekly timed essays. **–4 months:** Modules 2–3 objectives completed and ticked. **–6 months:** Module 1 completed with this book; syllabus PDF printed and ticking begun. Adjust the spine to your true start date; keep the weekly essay unbroken — it is the habit the grade is made of.

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For my parents — long nights and sacrifice of love.

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- **Monuments and Memory** — A Museum Guide to the National Landmarks & Monuments of Guyana.

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