

THE AMERICAN & CARIBBEAN LAW INITIATIVE

Caribbean Law Clinic 2026

Problem Questions

Hosted by **the Norman Manley Law School**

Kingston, Jamaica

5 –7 November 2026

INSTRUCTIONS TO STUDENTS

1. Students are expected to identify and address all relevant issues of Jamaican law, Caribbean Community law and, where appropriate, comparative jurisprudence and public international law. They may raise additional issues reasonably arising from the facts, provided that such issues are relevant to the relief sought and are properly supported by legal authority.
2. Unless otherwise stated in the problem, students may make reasonable assumptions of fact that are consistent with the scenario but shall not introduce new facts or alter the agreed factual matrix.
3. Each team will be assigned one problem and will have 45 minutes before the panel.
4. The legal sources listed in each problem are a starting point only. Students are expected to conduct further research and to cite all authorities accurately.
5. Students are expected to maintain professional conduct and etiquette throughout.

PROBLEM 1

Peter was born in Jamaica in 1986 and has dual citizenship, being a national of both Jamaica and USA. Peter and Pablo are a same-sex couple living together in Florida, USA since 2018. Pablo is an American citizen which is his only nationality. In 2024, using the services of surrogate in Florida, the couple welcomed a baby girl, Sammi, however they chose not to do a paternity test, so they do not know who the biological father is. Sammi's birth certificate has both Peter and Pablo registered as her fathers.

Peter and Pablo wish to get married in Jamaica in 2027, but was informed by Jamaica's Office of the Registrar-General that marriage in Jamaica is only permitted between a man and woman.

At the same time, Peter applied for Jamaican citizenship for Sammi and requested that Peter's gender in their Jamaican passport be amended from "male" to "X".

Unhappy with being told that they are unable to marry in Jamaica, Peter and Pablo submitted a message to a messaging programme on Radio JamDown, a fully private radio station in Jamaica, on the right to marry. Radio JamDown declined to air the message stating that the message contained an explicit "curse" word and may incite public discord.

The Claimants seek declarations and constitutional redress under the Charter of Fundamental Rights and Freedoms, which the Defendants oppose.

The team will divide into counsel for the Claimants and counsel for the Defendants and present arguments to the Court on the following issues:

- 1) Whether the right to marry is a human right in Jamaica, regardless of gender, with reference to Jamaican law and customary international law.
- 2) Whether Sammi can obtain Jamaican citizenship under Jamaican law.
- 3) Whether the gender field in Peter's Jamaican passport can be changed from "male" to "X".
- 4) Whether Peter and Pablo can bring an action in the Supreme Court of Jamaica against Radio JamDown for infringement on their freedom of speech and ability to disseminate information. If so, whether their claim should succeed and what remedies are available.

Peter and Pablo have also indicated that they wish to pursue their complaints against Jamaica before the Inter-American Commission on Human Rights or the Inter-American Court of Human Rights. Advise them on the following:

- 5) Whether they can file a petition or claim against Jamaica before the Inter-American Commission on Human Rights or the Inter-American Court of Human Rights on the above issues, and what is the likelihood that their petition or claim would be deemed admissible.

Primary Legal Sources

1. The Constitution of Jamaica
2. The American Convention on Human Rights
3. Passport Act and Regulations
4. The Jamaican Nationality Act

5. The Interpretation Act

6. *Jamaica Public Service Company Limited v Dennis Meadows et al.* [2015] JMCA
Civ 1

7. *Dennis Meadows v The Attorney General of Jamaica, the Jamaica Public Service
Company Ltd. et al* [2012] JMSC Civ 110

PROBLEM 2

Stacey, 15 years old, is a rising football star and attended JamRock High School in St. Mary, Jamaica. Her high school coach, Anthony, approached Stacey's unmarried parents, Mikey and Janice, and convinced them and Stacey that he had arranged a football scholarship for Stacey at a New York high school. At the same time, Mikey (a dual citizen of Jamaica and the USA) decided to move to, and work in, New York as a long-haul trucker. Janice, unable to leave her parents and job in Jamaica, agreed to Stacey travelling and living with Mikey in New York.

Stacey's mathematics teacher, Ms. Gordon, suspecting that Anthony was abusing Stacey, and having heard rumours that he belonged to a gang, tried to convince Janice and Stacey to have Stacey remain in Jamaica. However, as she had no proof of her suspicions, Ms. Gordon did not give any reasons to Janice and Stacey. Stacey was excited and willing to live and go to school in the USA.

Unknown to Janice and Stacey, Anthony and Mikey "sold" Stacey to a criminal gang in New York. On arrival in New York, Mikey took Stacey's passport and identification, beat her and told her that she had to pay back all the money he had spent on her. Stacey was not allowed to go to school or go anywhere without Mikey, and was forced to clean and cook for Anthony's cousin, who is a member of the criminal gang in New York. Stacey was also repeatedly forced by the gang to have sex with several men.

Janice, having been unable to communicate with Stacey since she left Jamaica, asked her sister, Lisa, who also lives in New York, to "check on" Stacey. Lisa discovered that Stacey was not going to school and reported the matter to the New York police. The New York police rescued Stacey and arrested Mikey and other gang members, while the Jamaican police arrested Anthony.

Before Anthony was arrested, Luke (Stacey's 17-year-old boyfriend) attacked and stabbed Anthony in the leg. Anthony insisted that the police charge Luke with "grievous bodily assault" and arrest him. In retaliation, Anthony also claimed that Luke had engaged in "illegal sex" with a minor, Stacey. Luke explained to the police that Stacey was his girlfriend and that they had consensual sex.

Stacey, traumatised, refuses to return to Jamaica and is now living with her aunt, Lisa, in New York.

You are members of the Office of the Director of Public Prosecutions ("ODPP") and have been asked to brief the Director of Public Prosecutions on the following:

- 1) The possible criminal charges against Anthony and Mikey, the scope of charges, possible defences, any unique criminal processes and possible sentencing under Jamaican law.
- 2) Whether any charges or other actions should be taken against Janice and Ms. Gordon, and if so, what the scope of those charges or actions would be.
- 3) Whether Jamaica can and should request the extradition of Mikey to Jamaica to stand trial, and the factors to consider.
- 4) What measures can be pursued by the ODPP under Jamaican law and processes to secure the evidence of Stacey in the criminal proceedings in Jamaica, and the factors to consider.
- 5) The possible criminal charges and measures that can be taken against Luke, including any possible alternatives to criminal proceedings and/or imprisonment as well as the factors to consider.

Primary Legal Sources

1. The Constitution of Jamaica
2. Child Care and Protection Act
3. Offences Against the Person Act
4. Sexual Offences Act
5. Trafficking in Persons (Prevention, Suppression and Punishment) Act
6. Child Diversion Act
7. Extradition Act
8. Special Measures (Evidence) Act
9. Mutual Assistance (Criminal Matters) Act

PROBLEM 3

IN THE CARIBBEAN COURT OF JUSTICE Original Jurisdiction

CCJ Application No

BETWEEN

THE COMMONWEALTH OF DOMINICA

Claimant

AND

THE STATE OF JAMAICA

Defendant

Background

Pacifica Beverages Co-operative (“Pacifica”) is a company incorporated in Dominica. It manufactures fruit-based beverages in non-returnable polyethylene terephthalate (“PET”) containers and exports its products throughout the CARICOM Single Market and Economy (“CSME”). Pacifica’s beverages qualify as goods of Community origin within the meaning of Article 84 of the Revised Treaty of Chaguaramas (“RTC”).

Pacifica also manufactures PET resin; the principal input used in the manufacture of non-returnable PET beverage containers. Following a significant expansion of its production capacity in 2017, Pacifica is presently capable of supplying approximately 77% of total regional demand for PET resin. Several manufacturers within the Community nevertheless continue to import PET resin from extra-regional suppliers.

Jamaica is a More Developed Country and a Member State of the Caribbean Community. In 2020, Jamaica enacted the Environmental Sustainability and Waste Reduction Act

2020 (“ESWRA”). Section 12 of the ESWRA imposes a Container Recovery Contribution (“CRC”) of JMD \$25.00 per unit for every non-returnable beverage container imported into Jamaica. No CRC or equivalent environmental charge is imposed on like beverage containers manufactured and filled in Jamaica.

The stated purpose of the CRC is to finance a national recycling programme and discourage the proliferation of single-use plastic packaging. Since the enactment of the ESWRA, Jamaica has not imposed any equivalent environmental levy on domestically produced beverage containers.

Separately, for the past two years Jamaica has admitted extra-regional PET resin without applying the 20% Common External Tariff (“CET”) prescribed by the applicable determination of the Council for Trade and Economic Development (“COTED”). Jamaica has had no authorisation from COTED during that period to suspend or reduce the CET applicable to PET resin.

COTED proceedings

At Dominica’s request, the CRC was considered by COTED on four occasions between 2021 and 2023. At its Forty-First Meeting, COTED formally called upon Jamaica to bring the CRC into conformity with its obligations under the RTC within twelve months.

In response, the Government of Jamaica introduced legislation in Parliament which would have extended the CRC to domestically produced non-returnable beverage containers and thereby removed the differential treatment between imported and domestically produced containers. The Bill was rejected by Parliament.

At the Forty-Sixth Meeting of COTED, Jamaica stated that it remained committed to addressing the matter but had been unable to secure the parliamentary approval

necessary to amend the ESWRA. Jamaica contended that, because the executive could not amend the legislation without Parliament, further compliance with COTED's decision was constitutionally beyond the unilateral control of the executive. COTED noted Jamaica's position but adopted no further decision on the matter.

At the same meeting, Jamaica submitted an application pursuant to Article 83 of the RTC seeking COTED's authorisation to suspend the 20% CET on PET resin for two years. Jamaica stated that "regional supply is inadequate to meet manufacturing requirements". The application was accompanied by a short statement from Jamaica's Ministry responsible for trade. It contained no market data concerning regional production and consumption, no technical assessment of Pacifica's capacity to supply the regional market, and no information concerning alternative sources of PET resin within the Community or measures explored before seeking the suspension.

Pacifica was notified of Jamaica's application by the CARICOM Secretariat. It objects to the proposed suspension and maintains that its existing production capacity, together with PET resin supplied by other Community producers, is capable of satisfying substantially all regional requirements. Pacifica has indicated that it is considering commencing proceedings before the Caribbean Court of Justice ("CCJ").

Mr. Kendel—CEO and director of Pacifica

Separately, David Kendel is a citizen of Dominica and the Chief Executive Officer and a director of Pacifica. Following the dispute concerning the CRC and PET resin, Pacifica's Board decides that the company should establish a wholly owned subsidiary in Jamaica to manufacture and distribute beverages locally and to serve as a regional distribution centre.

Mr Kendel travels from Dominica to Jamaica for an intended stay of four months to identify premises, negotiate contracts, complete the incorporation of the subsidiary and oversee the commencement of its operations.

Upon arrival in Jamaica, Mr Kendel informs an immigration officer of the purpose of his visit. He produces a valid Dominican passport, proof of accommodation and a letter from Pacifica confirming his position as its Chief Executive Officer. He is admitted into Jamaica, but his passport is endorsed “visitor — no employment or business activity”. The immigration officer informs him that although CARICOM nationals may visit Jamaica without a visa, Mr Kendel may not participate in negotiations, execute documents on behalf of Pacifica or manage the establishment of the Jamaican subsidiary unless he first obtains a Jamaican work permit. Mr Kendel is informed that breach of the condition may result in the cancellation of his permission to remain in Jamaica.

Nevertheless, Mr Kendel submits the necessary documents to the Companies Office of Jamaica for the incorporation of a wholly owned Jamaican subsidiary of Pacifica. He is informed that, in addition to the ordinary incorporation fee, Pacifica is required to pay an administrative fee of JMD \$50,000 because its parent company is incorporated in another CARICOM Member State. No equivalent fee is imposed where the parent company is incorporated in Jamaica.

Mr Kendel enquires as to the legal basis for the additional fee and is informed that it is an administrative fee imposed by the Companies Office in respect of applications involving CARICOM companies. Neither the Companies Act nor any regulations or other applicable statutory instrument provides for the additional fee. The Companies Office advises Mr Kendel that Pacifica’s application will not be processed unless the fee is paid.

Issues for the Court

Dominica has commenced proceedings against Jamaica in the original jurisdiction of the Caribbean Court of Justice. Jamaica contests the claim. You will divide into counsel for Dominica and counsel for Jamaica and present arguments to the Court on the following issues:

- 1) Whether Jamaica's imposition of the CRC on non-returnable beverage containers imported from other CARICOM Member States, while imposing no equivalent charge on like domestically produced containers, is consistent with Jamaica's obligations under the RTC, having regard to the nature and stated environmental purpose of the measure and the applicable jurisprudence of the CCJ.
- 2) Whether Jamaica's inability to secure parliamentary approval for the amendment of the ESWRA constitutes a sufficient legal justification for its failure to comply with the decision of COTED requiring the CRC to be brought into conformity with the RTC.
- 3) Whether the condition placed upon Mr Kendel's entry into Jamaica is consistent with his rights as a national of a CARICOM Member State, having regard to the applicable decisions of the Conference of Heads of Government, the RTC and the jurisprudence of the CCJ concerning the movement of Community nationals, and whether Mr Kendel's proposed activities in Jamaica fall within or are connected to Pacifica's exercise of the right of establishment under the RTC.

Questions 4 and 5 (Advice)

Pacifica objects to Jamaica's application to COTED and has also asked whether the administrative fee can be challenged in the Jamaican courts. Advise Pacifica on the following:

- 4) Whether Jamaica's application for a two-year suspension of the 20% CET on PET resin is likely to succeed. Your advice should consider:
 - (a) the requirements governing the alteration or suspension of the CET under the RTC;
 - (b) the evidential basis that should support an application based on inadequate regional supply;
 - (c) Pacifica's existing production capacity and the relevance, if any, of the fact that it can supply approximately 77% of regional demand;
 - (d) Jamaica's previous admission of extra-regional PET resin without COTED authorisation; and
 - (e) the applicable jurisprudence of the CCJ.
- 5) Whether the Companies Office's decision and the imposition of the administrative fee are amenable to judicial review before the Supreme Court of Jamaica.

Primary Legal Sources

CARICOM/Community Law

- The Revised Treaty of Chaguaramas

https://caricom.org/documents/4906-revised_treaty-text.pdf

Jamaican Law

- The Constitution of Jamaica
- Caribbean Community Act

<https://laws.moj.gov.jm/library/statute/the-caribbean-community-act>