

## **The Subjects of the Course and their Contents**

In addition to the core subjects of tort. Criminal law, contract, equity and trusts which are taught only in outline for purposes of revision the other subjects which are taught in detail are:

The law of evidence;  
Criminal procedure;  
Civil procedure;  
Construction of legal instrument and drafting; and  
Professional practice and Advocacy and Ethics.

The Course Contents are as follows:-

### **Criminal Law (Opinion Writing)**

#### **Part I**

The Nature and Classification of Crimes.  
The elements of a crime;  
Actus reus;  
Mens rea;  
Coincidence of actus reus and  
Mens rea;  
Strict, vicarious and Corporate Liability  
Parties to Crime  
General and Specific Defences

#### **Part II**

Inchoate Offences;  
Offences Against The Person;  
Non-Fatal Offences Against The Person;  
Consent as a defence to Offences against the Person;  
Sexual Offences;  
Offences Against Property;  
Offences Against The Security of the state, public  
order and morals and the administration of Justice;  
Drafting of indictment, information etc;  
Practical assignments and Case Studies

### **B. The Law of Contract**

The Essentials of a Contract;  
What Amounts to Agreement?  
Acceptance;

Intention to create legal relations;  
Considerations  
Capacity of Parties  
Factors, which render contracts unenforceable;  
Illegality;  
Exemption clauses in contracts;  
Discharge of contract

#### REMEDIES FOR BREACH OF CONTRACT

Opinion Writing

Identifying issues involved in contract cases and from those issues to draft

- (i) A Writ of Summons
- (ii) Defence
- (iii) Reply
- (iv) Motions and Affidavits
- (v) Drafting of Service Agreements

#### **The Law of Torts**

Nature of torts as compared with crime;  
Trespass to person, battery and false imprisonment;  
Trespass to goods; conversion; doctrine and repelling;  
Trespass to land;  
Negligence;  
Nuisance;  
Malicious prosecution;  
Defamation; slander of goods and titles;  
The rule in Ryland v Fletcher;  
Liability for animals;  
Remedies;  
Remoteness of damage and the measure of damages;  
Detinue;  
Proposals for Law Reform

#### **D. Equity and Trusts**

General equitable principles;  
Nature and history of equity, its development in England and its introduction in Sierra Leone;  
Equitable interest recognized in the early Chancery Courts, Equitable interest created by statute;

Relation between equity and common Law;  
Maxims of equity;  
The rule in Dearle v Hall;  
Equitable doctrines: conversion, election, satisfaction and performance;  
Equitable remedies: specific performance, rectifications;  
Nature and creation of trusts;  
Types of trust;  
Appointments, removal and retirement of trustees;  
Powers and duties of trustees;  
Rights and remedies of beneficiaries;  
Formation and administration of private and charitable trusts;  
Accounts and enquiries;  
Implied and constructive trusts;  
Trustees Act - use and enforcement in Sierra Leone;  
Drafting of the trust deed - appointment of new trustees;  
Originating Summons;  
Joinder of trustees;  
Practical assignments & case studies.

#### **E. The Law of Evidence**

Burden and standard of proof;  
Presumption;  
Judicial notice;  
Corroboration;  
Estoppel;  
Examination-in-Chief;  
Cross-examination;  
Re-examination;  
Refreshing memory in court;  
Previous consistent statements;  
Previous inconsistent statements;  
Opinion;  
Documents, things and facts;  
Relevance, admissibility and weight of evidence;  
Public interest immunity;  
Legal professional privileges;  
Privilege against self-Incrimination

Illegally obtained evidence;  
Confessions in criminal cases;  
Extrinsic evidence of the terms of documents  
Similar fact evidence;  
Identification evidence;  
Moots;  
Role play;  
Grounds of appeal based on the evidence;

## **F. Criminal Procedure**

Hierarchy and Composition of the courts;  
Qualifications of:

- (a) Justice of the Peace
- (b) Magistrate sitting alone
- (c) Judges of:-
  - The High Court
  - the Court of Appeal, and
  - The Supreme Court;

Commencement and discontinuance of proceedings in:

- (a) The Magistrate Court including Coroners and Juvenile Courts
- (b) The High Court,
- (c) The Court of Appeal; and
- (d) The Supreme Court;

Proceedings under Section 136 of the Criminal Procedure Act No. 32 of 1965 (as amended);

Offences not tried summarily the schedule;

Qualifications for Exemptions and disqualifications from serving as juror;

Types of verdicts, action upon verdict;

Trial by Judge alone and by Judge and jury;

Drafting of (a) Information (b) Indictment;

Sentencing;

Application for bail;

Reviews, appeals;

Plea in mitigation;

Preliminary investigations;

Committal proceeding;

Coroners' Act;

Special proceedings - Juvenile Court, court Martial;

Case Stated;

Power of Review by the Chief Justice.

### **G. Civil Procedure and Practice**

Matters to be considered prior to commencement of action;

Legal advice and opinion;

Modes of commencement of action;

Issue of Writ and other Originating processes

Service of Originating processes

Appearance;

Default of appearance;

Summary Judgement

Parties;

Joinder of causes of action;

Action by or against the State, statutory corporations parastatals;

Pleadings;

Default of pleadings;

Interlocutory Proceedings; including Motions and other applications;

Matters to be disposed of in Chambers;

Affidavits and Depositions;

Discontinuance;

Summons for Directions;

Discovery and inspection of documents;

Interrogatories;

Setting down for trial;

Trial;

Judgment & Orders;

Enforcement of Judgements & Orders

Reciprocal enforcement of Judgements;

Interpleaders;

Setting down for trial;

Trial;

Judgement & Orders;

Enforcement of Judgment & Orders

Reciprocal enforcement of Judgments;

Interpleaders;

Costs;  
Matrimonial Causes Rules;  
Hierarchy and Jurisdiction of the Courts;  
Local Courts and Customary Law;  
Magistrate Courts;  
Appeals & The Court of Appeal;  
Supreme Court Practice;  
Arbitration;  
Commercial Court Rules;

## **H. Construction of Legal Instrument and Drafting**

General Principles of Legal Drafting

Legal Letter Writing

Deeds;

The law and practice relating to the drafting and Conveyancing of documents with particular reference to:-

Leases;

Mortgages;

Settlement and trusts;

The conduct of Conveyancing transactions including:

Preliminary inquiries;

Requisition of title;

Searches and completion;

Stamp duties;

Registration of instruments and of title;

The drafting of wills;

Principles of legislative drafting

Rules of Construction;

Drafting of international agreements and commercial agreements;

Consequences of bad drafting

Ambiguities in the light of litigation

Trust Deed

Registration of deed and other instruments

## **I. Professional Practice and Ethics**

Setting up of Chambers;

The Consultation leading on to the Brief;

Taking down of statements, interview and instructions;

Preparation of brief, interviewing witnesses,  
Examining exhibits, checking the statements of Plaintiff/Complainants;  
Appearance in Court. Knowing your brief.  
Preparation of case for presentation. Check your brief and documentary exhibits;  
Duties to: The Court, colleagues: witnesses, self, etc;  
Court Decorum: Dress code; stance, voice, Mannerisms;  
Presentation of case and or responses to the Plaintiff's case;  
Examination-in-chief, cross examination, re-Examination;  
The mode and purpose of understanding opponents case;  
Addresses when? and how?  
The Law Courts, brief historical knowledge of the building and effigies;  
Punctuality in Court: The reasons for adjournment or not;  
Council of Legal Education Act of 1989, Legal Practitioners Act 2000;  
Distinction between solicitor/barrister, counsel/advocate;  
Conflict of interest (duty to client);  
Contempt of Court;  
Drafting of fee notes and charges;  
Billing of Client;  
Contingency fee;  
Retainers;  
Trust accounts/Client Account.  
Optional Subjects Syllabus

#### **4.4 Structure of the Final Examination**

The final sessional examinations consist of Eleven 3 hour written paper covering the nine core subjects of the course as follows:

1. Law of Tort , Opinion Writing & Drafting
2. Equity & Trusts
3. The Law of Contract
4. The Law of Evidence
5. Construction of Legal Instrument and Drafting
6. Criminal Law Opinion Writing
7. Civil Procedure and Practice
8. Professional Practice Advocacy & Ethics
9. Criminal Procedure and two Optional Subjects
  1. International Criminal Law and Practice
  2. Domestic Relations Procedure & Practice

3. Succession & Administration of Estates

4. Commercial Law and Practice

(A) REVISION OF THE SUBSTANTIVE LAW UNDER THE FOLLOWING TOPICS:

- (1) Formation of Contract
- (2) Intention to create Legal relations
- (3) Unenforceable contracts
- (4) Consideration
- (5) Capacity of Parties
- (6) Reality of consent-Mistake
- (7) Reality of consent-Misrepresentation, Duress, and undue influence
- (8) Legality of Object- Void and Illegal Contracts
- (9) Limits of Operation and Scope of Original Contract-Voluntary and involuntary  
Assignment
- (10) Discharge of Contract-Performance, Agreement, Frustration, Breach
- (11) Remedies for Breach of Contract

**(B) OPINION WRITING**

**(C) IDENTIFYING THE ISSUES INVOLVED IN CONTRACT CASES**

**(D) FROM THE ISSUES INVOLVED TO DRAFTING AN OF THE RELEVANT DOCUMENT:-**

- (i.) A Write of Summons
- (ii.) Defence
- (iii.) Reply
- (iv.) Motions and Affidavits of Support

**E. DRAFTING OF SERVICE AGREEMENTS**

4. Criminal Procedure

5. Civil Procedure & Practice

6. Evidence

1. Presumption
2. Corroboration
3. Privilege
4. Public Policy
5. Opinion Evidence
6. Hearsay
7. Confession and Admission
8. Sections 65, 66, 67, 70 and 90 of the Criminal Procedure Act No. 32 of 1965
9. Defining Evidence Law
10. Applications of the Rules



11. Classifications of Evidence
  12. Sources of the Law of Evidence
  13. Materiality
  14. Admissibility
  15. Relevance
  16. Limited Liability
  17. Competence
  18. Testimonial/Documentary Evidence
  19. Exceptions to the General Rule
7. Construction of legal instruments & drafting
  8. Professional Practice & Advocacy & Ethics

Each paper features a compulsory question accounting for thirty (30) of the total of seventy (70) per cent available for the sessional examination

**Optional Subjects**

1. Domestic Relations Procedure & Practice
2. Succession & Administration of Estates
3. **Commercial Law Practice**

**LIKELY SYLLABUS**

Introduction to Commercial Law  
Basic Concepts of Commercial Law  
Law Agency  
Sale of Goods  
Hire Purchase  
International Sales  
Bills of Exchange and Banking  
Assignment of Choses in Action  
Principles of Insurance Law

**Cases**

African Law Reports Sierra Leone Series 1920 – 73  
Sierra Leone Bar Association Law Reports 1974 – 82  
Beresford Cole v Mendekia p32  
Osman Thomas v Hassan p113

#### **4. International Criminal Law and Practice Course Proposal: International Criminal Law Procedure**

**Tutor: Joseph F. Kamara, LL. M.**

##### **Introduction**

International Criminal Law, as a distinct body of international law is still in its infancy. However, since the end of the Cold War it is demonstrating an unprecedented growth at the normative, institutional and procedural levels. Events like the creation of the Tribunal for the Former Yugoslavia and for Rwanda, the first conviction by an international tribunal for crimes or genocide in September 1998, the creation of a Permanent International Criminal Court, and the Special Court for Sierra Leone, are all milestones in the progress toward an International Criminal Justice system focused on the international penal responsibility of individuals.

After an introduction to the fundamentals of international criminal responsibility, including issues relating to the exercise of criminal jurisdiction internationally, students will examine the impact of international law on domestic practice and national legislation. The course will introduce principles governing the modes of liability of war crimes, crimes against humanity, and other international crimes.

##### **Course Overview:**

This course introduces students to the procedure and practice that make up aspects of international criminal law: the general principles governing international criminal trials and stages of international proceedings. That is, the Course will examine criminal practice in an international context including issues relating to re-trial, trial, appellate and review proceedings. The course will also alert students to the impact of international criminal law and the main problems of international criminal proceedings.

##### **Course Content:**

International criminal law (ICL) is a relatively new branch of international law which has emerged particularly since the WW II by the international community determined to bring to justice those who have committed atrocious violations of human rights. One of the key justice those who have committed atrocious violations of human rights. One of the key responses to the propagation of major armed conflicts in many parts of the world since the 1990s, as well as the materialization of new threats of international terrorism, was the strengthening of the protection of fundamental values through the system of international criminal justice.

This Course will look at the criminal responsibility of individuals under international law, and the mechanisms provided by international law for the enforcement of these offences and the prosecution of those accused. It will specifically address the procedures and practice mechanisms of international criminal law, inclusive of pre-trial, trial, sentencing, appellate and

review proceedings and examine and explore the main weaknesses international proceedings. Students will also study a series of judgements on the substantive criminal law rendered by the International Criminal Tribunal for the Former Yugoslavia, that for Rwanda and the Special Court for Sierra Leone. In addition, the course will critically assess the legal impact and future development of international criminal law in domestic legal practice, including the non-legal obstacles that impede the effective prosecution of international criminal offences. The Course will cover a range of specific topics, including but not limited to:

- The general principles governing international criminal trials
- Stages of international proceedings
- Criminal responsibility under international criminal justice
- International criminal procedures and practices
- Practical and conceptual challenges to international criminal justice
- Impact of international criminal law in the domestic context

### **Learning outcomes**

- Demonstrate knowledge of the nature and context of international criminal law procedure and practice.
- Be familiar with the main issues of the pre-trial, trial, post-trial, appeals and review procedures of an International Criminal Tribunal;
- Be able to analyze international criminal law problems and identify the relevant rules and issues;
- Use of international legal materials, and legal reasoning;
- Appreciation of law in its context;
- Evaluation and criticism of law;
- Legal research, in part so that the knowledge and understanding gained may be applied and adapted in future, and;
- Transferable skills: (a) communication skills, oral and in writing; (b) intellectual skills, of collecting, organizing, evaluating, synthesizing and presenting material and arguments; (c) general skills, in managing time, working independently, and taking responsibility for their work.

### **Methods of Teaching/Learning**

Lectures in this Course will be interactive, involving exercises as well as discussions. Seminars involve all students taking the option and are also designed to be interactive and promote student-centered learning. Students will be asked to prepare presentations on particular topics at seminars. Tutorials will run on a fortnightly basis to offer the opportunity of more detailed discussion into topics in smaller groups. The presentation program as a

whole is designed to promote skills in critical analysis as well as improve oral presentation skills.

### **Selected Texts/Journals:**

1. Cassese, A. *International Criminal Law* (Oxford: OUP) 2003
  2. Bankole Thompson *The Criminal Law of Sierra Leone* (Oxford, UPA 1998)
- John R.W.D. Jones, J. Powels S. (eds) *International Criminal Picture: the International Tribunal for the Former Yugoslavia, the International Criminal Tribunal for Rwanda, the International Criminal Court, for Sierra Leone, the East Timor Special Panel for Serious Crimes, war crimes prosecutions in Kosovo* (Oxford: OUP) 2003.
- Jergensen, N., *The Responsibility of States for International Crimes* (Oxford: OUP) 2000

### **Electronic Sources:**

- <http://icc-cpi.int> (International Criminal Court)
- <http://www.un.org/icty> (International Criminal Tribunal for the Former Yugoslavia)
- <http://ictro.org> (International Criminal Tribunal for Rwanda)
- <http://sc-sl.org> (Special Court for Sierra Leone)
- <http://www.un.org> (United Nations)

## **5. Shipping Law Practice**

### **(A) INTRODUCTION TO SHIPS & SHIPPINGS**

- Types of Shipping
- Parties in the Shipping Scene
- Legal Disputes Involving Ships
- Arbitration
- Jurisdiction of the Courts - Commercial and Admiralty Division
- Action In Rem
- Action In Personam
- Warrant of Arrest - obtaining security before judgment for the claim
- Issuance of Writ

### **(B) REGISTRATION OF SHIPS**

- Effect of Registration
- Nationality of Ships
- Open Registry
- Close Registry
- Flag of Convenience

Flag State Control

Port State Control

Regional Port State Control

### **(c) INTERNATIONAL LAW AND SHIPS**

The United Nations Convention on the Carriage of Goods by Sea (UNCLOS III)

International Law of the Sea

Maritime zones of Sierra Leone

Relevant Maritime Conventions

### **(D) STATUTORY PROVISIONS**

High Courts Rules 2007 - Admiralty Proceedings

The Merchant Shipping Acts 2003 Act No. 3

The Sierra Leone Maritime Administration Act 2000 Act No. 11

The United Nations Convention

The United Nations Convention on the Carriage of Goods by Sea 1978 (Ratification) Act 1988

### **(E) PROPRIETARY INTEREST IN A SHIP**

Sale and purchase - The Sales Form Agreement

Judicial Sale

Capture

Transmission and Transfer of a Ship

## **PART TWO - THE CARRIAGE OF GOODS BY SEA**

### **Course: PART TWO: THE CARRIAGE OF GOODS BY SEA.**

#### **Introduction**

This Part of the Shipping Law Course is concerned mainly with Carriage of Goods by Sea whereby cargo is transported by a ship owner on behalf of the ultimate owner of the cargo when it reaches its destination. The ship owner may be the person actually owning the ship or a person who charters the ship for the carriage and the cargo owner may be the manufacturer, a seller, an agent, a person to whom ownership has been transferred during the voyage or thereafter or the consignee. However, events may happen during the voyage that may give rise to loss sustained by one or some of the cargo owners and even the ship owner which may necessitate the sharing of the loss among the interested parties which becomes the subject of general or particular average sacrifice. Furthermore, a collision may take place between two ships which may also raise the question as to which ship should bear the loss occasioned. All these issues will be considered in this Part. Because of the technical nature of this Part, it is necessary to begin with a knowledge of some of the terms used in the Glossary.

## **Substantive Course**

In order to give rise to duties, liability and rights of the parties, there must be a contract of affreightment between the ship owner and the cargo owner. Such contract may have the form of either a bill of lading or a charter-party. Their duties, liabilities and rights of parties are contained primarily in the respective contract of affreightment. These are supplemented by Municipal Laws and by International Law. The relevant International Law is contained in Conventions namely, the International Convention for the Unification of Certain Rules Relating to Bills of Lading adopted in Brussels in 1924 (the Hague Rules), the amendment of the said Rules is Visby, Sweden in 1964, adopted in Brussels in 1968 with further amendments again in Brussels in 1979 (the Hague/Visby Rules). The United Nations Convention on the Carriage of Goods by Sea, 1978 adopted in Hamburg (the Hamburg Rules) and the Rotterdam Rules 2009 the last of which is yet to become International Law because it is still open for signature and ratification by states. THE York Antwerp Rules which is a document optional for many States deals with the allocation of liability in the event of loss shared by interested parties in the common venture will also be considered.

## **Course Content**

As a policy, the course is supposed to concentrate on the practice of the law. However, since the students may have very little, if any, knowledge of the substantive law, the relevant substantive law may be considered before delving into practice, the substantive part will include the provisions of the Hague Rules, Hague practice. The /Visby Rules and the hamburger Rules relating to the rights, liabilities and duties of the ship-owner and cargo` – owner under the contract of carriage, containerisation, persons who may bring an action for loss of or damage to the goods or delay in their delivery and general or particular average sacrifice.

## **Literature:**

**For the substantive law:** The carriage of Goods by Sea Act, 1926 Cap 147 of the 1960 Edition of the Laws of Sierra Leone; The United Nations Convention on the Carriage of Goods by Sea, 1978 (Ratification) Act 1988; The Maritime Zones (Establishment) Decree 1996, (Decree No. 11 of 1996) delimiting Sierra Leone Territorial Sea (12 miles): The Contiguous Zone (24 miles); The Exclusive Economic Zone (200 miles) and The Sierra Leone Maritime Administration Act, 2000.

**For practice:** The High Court Rules, 2007, in particular order 56; the appropriate Forms for shipping law contained in Volume 2 of the English Supreme Court Practice, 1999 with such modifications as may be necessary or as the particular circumstances may require; The Merchant Shipping Act, 2003, Act No. 3 of the Laws of Sierra Leone.

**Texts:** Shipping Law 4<sup>th</sup> Edition by Simon Baughen 2009, published by Routledge-Cavendish, London and New York; United Nations Convention on the Carriage of Goods by Sea, 1978 (Hamburg Rules); Explanatory Document prepared for Commonwealth Jurisdictions by Prof. H.M. Joko-Smart published by Commonwealth Secretariat, London, 1989; 'From the Hague to Freetown via Hamburg: Towards Modern Uniform Rules for International Sea 'Transport ' being the First Foundation Day Lecture of the Sierra Leone Law School delivered by Prof. H.M. Joko-Smart, on 23<sup>rd</sup> February 1993.