

## Strengthening Caribbean Legal Frameworks and the Role of Private Law in Human Rights and International Diplomacy

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December 2025

### Statement of Declaration

I, KRMB Knight Chevalier Sir Adrian Daisley, declare that this thesis entitled  
"Strengthening Caribbean Legal Frameworks and The Role of Private Law in  
Human Rights and International Diplomacy, is my original work and has not  
been submitted for any other degree or academic qualification. All sources of  
information have been acknowledged appropriately.

Signed: (Digital version, signature doesn't require)

Adrian Daisley

Date: 29 November 2025

### Dedication

This work is dedicated to my children, family and close circle of supporters,  
whose love and encouragement have been a constant source of inspiration over  
the years.

## Abstract

1

This thesis explores the interplay of private law, human rights, and international diplomacy within the Caribbean context. The study investigates how regional legal frameworks, dispute resolution mechanisms, and diplomatic treaties influence peace-building and the promotion of human rights. Focusing on private legal instruments including contracts and Bilateral Investment Treaties (BITs) the research identifies their dual role in contributing to socio-economic development and safeguarding human rights.

Through a comparative analysis of Caribbean legal systems, the thesis highlights both the strengths and deficiencies in current legal practices and proposes reforms to enhance the integration of private law into international diplomacy and human rights advocacy. It challenges the traditional transactional perspective of private law and proposes a socially responsive model that contributes to justice and regional development.

**Keywords:** Caribbean Legal Frameworks; Private Law, Human Rights, International Diplomacy, Bilateral Investment Treaties (BITs), Law and Development,

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## INTRODUCTION

### 1.1 Background

#### The Relevance of Private Law Agreements to Caribbean Peace and Human Rights

Private law typically understood as governing relationships between individuals and private entities has long been perceived as distinct from public law, which manages the relationship between the state and its citizens. However, in recent decades, the demarcation between private and public law has blurred, especially in the context of international and regional relations. In the Caribbean, private law agreements, particularly in the form of investment treaties, commercial contracts, and trade agreements, increasingly cross paths with public interests, influencing national policy, human rights observance, and peace building efforts.

Caribbean states, as members of regional blocs such as the Caribbean Community and Common Market (CARICOM) and signatories to instruments like the CARIFORUM-EU Economic Partnership Agreement (EPA), engage in a multitude of transnational private legal arrangements. These agreements often carry binding obligations that shape domestic law and policy implementation. The PetroCaribe Agreement with Venezuela, for instance, demonstrates the entanglement of private contractual frameworks with political diplomacy and socioeconomic rights (Nye, 2004; Caribbean Court of Justice, 2015). As such, private law becomes a critical domain for understanding not only legal obligations but also the lived experiences of Caribbean populations subjected to their effects.

### 1.2 Significance of the Study: Contracts as Instruments of Soft Power and Human Rights Realization

Contracts, when framed within a regional development or diplomatic context, go beyond their traditional private nature. They become tools of soft power (Nye, 2004), capable of promoting regional solidarity or exacerbating dependencies. In the Caribbean, where vulnerabilities persist, legal contracts and trade instruments often determine access to essential goods, investment flows, and infrastructure development all of which are inseparable from the fulfillment of economic, social, and cultural rights as outlined in instruments like the American Convention on Human Rights and the Revised Treaty of Chaguaramas (Antoine, 2008).

The role of private law in promoting or undermining peace and human rights becomes particularly critical where asymmetries of power exist, such as in agreements between small Caribbean nations and multinational corporations. Questions around investor-state dispute settlement (ISDS), arbitration, and the enforcing of diplomatic contracts thus pose profound implications for legal sovereignty and human dignity in the region (Sornarajah, 2017).

### 1.3 Scope and Objectives

This paper explores the interface between private law agreements and their broader impact on diplomacy, peace, and human rights in the Caribbean. Through the lens of legal theory and a doctrinal review of case law, treaties, and policy instruments, it aims to one

- Define and contextualize private law within the Caribbean legal framework;
- Analyze the historical and modern use of private legal instruments in advancing or restricting human rights and regional peace;
- Assess the effectiveness of arbitration, treaty law, and investor-state frameworks in ensuring justice and accountability;
- Provide recommendations for strengthening Caribbean legal systems in the face of globalization

and transnational contractual obligations.

The focus is strictly doctrinal and literature-based, offering a critical synthesis of secondary legal sources, judicial decisions, and international legal commentary.

#### 1.4 Methodology

Given that I have chosen to take a Literature Review–Based path in this paper, the methodology will center on a **doctrinal legal analysis** an approach that involves interpreting legal texts, statutes, judicial decisions, and academic commentary (Hutchinson & Duncan, 2012). This includes

**Literature Review** of core texts such as *Principles of Caribbean Contract Law* (Antoine, 2008), *International Investment Law and Development* (Sornarajah, 2017), and *Human Rights in the Caribbean* (Harrington, 2015);

**Case Law Analysis** including decisions from the Caribbean Court of Justice (CCJ), International Centre for Settlement of Investment Disputes (ICSID), and national courts;

**Comparative Analysis** with selected legal frameworks from the European Union, African Union, and Latin America to extract best practices;

**Policy Review** of regional treaties, economic partnership agreements, and bilateral investment treaties that highlight private law's role in transnational diplomacy.

In doing so, this work positions private law as more than an economic driver or a commercial vehicle, but it positions private law a legal domain with implications for justice, sovereignty, and human development in the Caribbean.

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### *Introduction of the Role of Private Law Agreements in Caribbean Peace, Diplomacy, and Human Rights*

#### 1.1 Background

The role of private law has often been overshadowed by the prominence of public international law in peace building and diplomatic relations in the evolving diaspora of Caribbean jurisprudence. Yet, the foundational doctrines of private law contracts, obligations, and property constitute an indispensable legal mechanism through which Caribbean states and non-state actors alike can regulate commercial conduct beyond borders, resolve disputes, and embed principles of human dignity and justice. This thesis contends that private law agreements serve as a silent but potent force in advancing peace and human rights within and beyond the region.

Private law, traditionally viewed as apolitical and commercial in nature, is no longer immune to the values that animate constitutional and human rights law. As the Caribbean grapples with complex regional trade frameworks, foreign investment treaties, and supranational economic partnerships, the

legal autonomy of states intersects with private actors' rights and obligations. The resulting agreements though grounded in civil or common law principles have implications that reverberate in domains such as conflict resolution, diplomacy, and international accountability.

### 1.2 Significance of the Study

This thesis places private law within a broader framework of Caribbean legal theory, emphasizing its latent capacity to influence peace building and rights protection. The value lies in highlighting how seemingly technical legal instruments contracts, investment treaties, and arbitration clauses can uphold or undermine principles of justice, particularly in states learning to maneuver in changing post-colonial legal systems and economic dependency. For example, the arbitration clauses in Bilateral Investment Treaties (BITs) may constrain state sovereignty, yet simultaneously offer dispute resolution mechanisms that prevent conflict escalation. Similarly, the PetroCaribe energy agreement, while economic in form, has served as a regional diplomatic tool with significant humanitarian dimensions (Pantin, 2013).

By interrogating legal texts, regional agreements, and judicial precedents, this study aims to deepen the theoretical understanding of private law's dual character both as a set of binding obligations and as a conduit for moral and political values in Caribbean governance.

### 1.3 Scope and Objectives

This thesis limits its scope to the Caribbean Community (CARICOM) member states, using doctrinal legal analysis to examine how private law agreements particularly contracts and trade treaties affect regional peace and rights enforcement. It does not engage in empirical or field research but instead synthesizes secondary legal literature, case law, and regional legal instruments.

Its objectives include examining the theoretical foundations of private law and their application in the Caribbean.

To explore how contract law and private legal obligations intersect with human rights principles.

To analyze regional treaties, judicial decisions, and international agreements that incorporate private law doctrines with diplomatic implications.

To propose normative recommendations for Caribbean legal development grounded in pure law theory.

### 1.4 Methodology

The methodology adopted is doctrinal and analytical. The thesis draws upon primary legal sources case law, statutes, treaties as well as secondary literature from Caribbean jurists, legal theorists, and public international law scholars. The analysis adheres to a positivist legal tradition, but it also engages with natural law perspectives where applicable, particularly in discussions surrounding justice and rights enforcement.

Cases such as *Methanex Corporation v. United States* (UNCITRAL), the *Jamaica Public Service Company Ltd v. Government of Jamaica*, and the adjudication mechanisms of the Caribbean Court of Justice (CCJ) will be referenced to illustrate how private legal frameworks operate in diplomatic and quasi-constitutional contexts. Theoretical underpinnings from scholars like H.L.A. Hart (1961), Lon Fuller (1969), and Caribbean legal commentators such as Tracy Robinson and Rose-Marie Belle Antoine will support the jurisprudential analysis.

This approach ensures that the thesis remains grounded in legal theory while demonstrating practical relevance to ongoing legal debates in the Caribbean and beyond.

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**“Private Law and Public Peace****The Theoretical Role of Legal Agreements in Caribbean Diplomacy and Human Rights****Chapter 1**

## Understanding Private Law in the Caribbean Context

## 1.1 Definition and Doctrinal Foundations of Private Law

Private law is traditionally understood as the legal domain that governs relationships between private individuals and entities, in contrast to public law, which regulates the relationship between individuals and the state. Its doctrinal foundations trace back to Roman law, where the bifurcation between *ius privatum* (private law) and *ius publicum* (public law) laid the foundation for legal dualism. While *ius publicum* addressed state matters, *ius privatum* focused on transactions and disputes between private parties (Zimmermann, 1996).

This dualism underwent a major evolution during the European Enlightenment and the subsequent codification movements. The historical school of jurisprudence, particularly represented by Friedrich Carl von Savigny, posited that law is an organic manifestation of the *Volksgeist* the spirit of the people (Savigny, 1814). For Savigny, private law must evolve in sympathy with a society’s moral and cultural consciousness, an idea particularly relevant in post-colonial Caribbean legal systems that are actively seeking to localize and decolonize inherited legal structures.

The rise of legal positivism in the nineteenth century, especially through the work of John Austin, introduced a more rigid, command based conception of law. Austin famously defined law as “a rule laid down for the guidance of an intelligent being by an intelligent being having power over him” (Austin, 1832, p. 88). However, this perspective was later refined by H.L.A. Hart, who introduced a more nuanced understanding of legal systems through the distinction between primary and secondary rules. Hart’s “rule of recognition” has been central to understanding legal validity in systems that lack a single constitutional document, such as many Caribbean jurisdictions (Hart, 1961).

This theoretical framework is practically illustrated in cases such as *Attorney General of Belize v Belize Telecom Ltd* [2009] UKPC 10. In this case, the Privy Council, interpreting Belizean law, held that implied terms could be read into a company’s constitution if necessary to reflect the parties’ intentions. Although decided by an external appellate body, the case remains influential in the Caribbean, demonstrating how private law adjudication integrates principles of intention, fairness, and functional interpretation.

Thus, private law in the Caribbean serves not only as a tool for dispute resolution but also as a dynamic legal tradition that upholds individual autonomy, contractual freedom, and remedial fairness principles that continue to shape civil law adjudication across the region.

**1.2 Private Law vs. Public Law**

## A Jurisprudential Divide

The distinction between private and public law is not just a taxonomic one; it reflects contrasting views on the nature of legal authority, obligation, and moral legitimacy. The celebrated debate between Hart and Fuller (1958) epitomizes the ideological divide between positivist and natural law traditions. Hart argued that legal systems could exist independently of moral considerations, whereas Fuller contended that law inherently embodies a “morality of duty,” particularly through procedural standards like

consistency, transparency, and non-retroactivity principles that are essential to functional private law systems.

In contrast, Hans Kelsen's *Pure Theory of Law* proposed a strictly normative model of law, independent of sociological or ethical contingencies. Kelsen's *Grundnorm* theory presented a structural account of legal systems grounded in logical coherence rather than moral substance (Kelsen, 1967). His emphasis on hierarchical legal norms offers valuable insights when analyzing Caribbean legal systems, which combine written constitutions, statutory law, and common law precedents in complex legal hierarchies.

The boundary between public and private law is especially fluid in Caribbean constitutional jurisprudence. In *Attorney General v Joseph and Boyce* [2006] CCJ 3 (AJ), the Caribbean Court of Justice held that state actions even when framed as criminal matters must align with fundamental rights protections. While public in form, this ruling influenced private law expectations, including access to a fair hearing and the protection of human dignity. Similarly, in *Myrie v State of Barbados* [2013] CCJ 3 (OJ), the Court upheld Shanique Myrie's right of entry as a CARICOM national under the Revised Treaty of Chaguaramas, blending treaty obligations with individual private rights.

These examples demonstrate the increasing constitutionalization of private law spaces, where doctrines of contract, tort, and property are increasingly framed through human rights and governance norms.

### 1.3 Caribbean Legal Systems

#### Common and Civil Law Influences

The Caribbean presents a legal landscape shaped by colonial inheritance, legal transplantation, and post-independence innovation. Jurisdictions such as Barbados and Trinidad & Tobago follow predominantly common law traditions inherited from Britain, while Haiti's legal system is rooted in civil law, influenced by the Napoleonic Code. These differences deeply affect how private law is conceptualized, codified, and enforced.

In countries like Guyana and Belize, legal pluralism introduces another layer of complexity. Customary law and indigenous practices influence civil justice, especially in matters of land and family law. This pluralism is both a challenge and an asset, offering avenues for culturally relevant dispute resolution, while complicating efforts to harmonize legal frameworks.

Regional policy reforms aim to address these complexities. The Eastern Caribbean Supreme Court introduced the Civil Procedure Rules (CPR) 2000 to standardize civil litigation practices across member states, focusing on efficiency, fairness, and access to justice. The OECS Family Law and Domestic Violence Legislative Reform Project also promotes rights-based approaches to family law. Similarly, CARICOM's Model Civil Procedure Code shapes a structured, rights-oriented civil process in line with regional integration goals.

A comparative analysis reveals both convergence and divergence. For example, Barbados continues to uphold British common law principles in areas like contract and tort law, while Haiti's legal culture is grounded in civil codes. Trinidad & Tobago, with its hybrid legal model, exemplifies a pragmatic synthesis of statutory codification and judicial discretion, especially in commercial and family law.

#### 1.4 Private Law's Relevance in Caribbean Legal Development

In the Caribbean, private law is a crucial pillar of social development, economic participation, and legal empowerment. The enforceability of civil contracts, property rights, and tort claims directly influences access to justice and the legitimacy of the legal system.

Amartya Sen's capabilities approach emphasizes the importance of legal frameworks in expanding substantive freedoms, such as the ability to own property, enter contracts, and seek redress for harm

(Sen, 1999). These freedoms are tangible prerequisites for economic mobility, social inclusion, and community stability.

Caribbean private law's institutional infrastructure courts, tribunals, and ombudsman services plays a key role in these processes. However, access to justice remains uneven, especially in marginalized communities. Barriers such as cost, procedural complexity, and legal illiteracy continue to undermine the promise of private law. In response, legal reform initiatives have introduced alternative dispute resolution (ADR) mechanisms, digitized filing systems, and community mediation centers, especially in countries like Trinidad, Jamaica, and St. Lucia.

Regional policy instruments, such as the CARICOM Justice for All Programme and the Caribbean Court of Justice Academy for Law, aim to democratize legal knowledge and improve access to justice. These initiatives align with global development goals, particularly SDG 16, which advocates for inclusive, accessible, and accountable legal systems.

Moreover, transnational influences are reshaping private law obligations. International trade agreements, environmental regulations, and human rights conventions exert significant pressure on local legal doctrines. This evolving landscape calls for a Caribbean jurisprudence that is both rooted in historical traditions and responsive to the demands of a dynamic global legal order.

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## Chapter 2

### The Role of Contracts in Peace and Human Rights

Contracts have long been viewed as instruments of economic regulation and commercial certainty. Yet their deeper potential as tools for shaping peaceful societies and advancing human rights has gained prominence in recent legal theory and international practice. In this chapter, we examine the historical, philosophical, and jurisprudential underpinnings of contract law as it intersects with peacebuilding and the protection of human rights, with a particular focus on the Caribbean context. This analysis frames private law agreements as essential mechanisms for fostering diplomacy, promoting equity, and advancing postcolonial development.

#### 2.1 Historical Foundations *Pacta Sunt Servanda*

The Latin maxim *pacta sunt servanda* meaning "agreements must be kept" serves as the foundational principle of both domestic contract law and international treaty law, establishing the expectation that parties will honor their commitments. This principle has shaped the legal frameworks of both national and international agreements, reinforcing the idea that legal obligations are grounded not in coercion but in mutual consent. *Pacta sunt servanda* first emerged in Roman legal traditions and was later elevated by Enlightenment thinkers such as Hugo Grotius, Samuel Pufendorf, and Emmerich de Vattel. Grotius's seminal work *De Jure Belli ac Pacis* (1625) framed treaties as legally binding instruments essential to the peaceful coexistence of sovereign states. For Grotius, legal obligations arose not from coercion but from consent, providing the moral and legal foundation for both private contracts and international diplomacy.

In the Caribbean, this principle has particular resonance. During the post-independence period, newly sovereign nations turned to bilateral and multilateral agreements as mechanisms for stabilisation, economic development, and regional cooperation. Legal agreements such as Bilateral Investment Treaties (BITs), public-private contracts, and regional compacts reflect the enduring legacy of *pacta sunt servanda* in building peace through law. Notably, Caribbean countries have used legal frameworks to facilitate peaceful interactions between states and to foster development, acknowledging that such agreements play a role in shaping regional diplomacy and economic cooperation.

#### 2.2 Contracts as Instruments of Peace and Economic Stability

Immanuel Kant's vision in *Perpetual Peace* (1795) suggested that commerce, when governed by legal contracts, could reduce the likelihood of war. This thesis gained traction through 20th-century trade systems like the General Agreement on Tariffs and Trade (GATT) and the World Trade Organization (WTO), which transformed economic interdependence into a cornerstone of global peace. In the Caribbean, similar logic underpins agreements promoting regional integration, fair trade, and diplomatic consensus.

Key Illustrations:

#### The Marshall Plan (1947)

While not a traditional contract, this U.S., European agreement used economic assistance as a peace building tool. Structured through binding terms, it affirmed the value of legal agreements in preventing post-war relapse into conflict.

#### CARICOM Treaty of Chaguaramas (1973)

A landmark legal instrument that established the Caribbean Community and Common Market. The treaty has supported economic integration, political coordination, and peaceful dispute resolution across the region.

## WTO Dispute Settlement Mechanism

Designed to enforce trade obligations through binding adjudication, this mechanism exemplifies how structured contracts can mitigate conflict. Trinidad and Tobago's participation in trade disputes especially in relation to EU agricultural import practices illustrates how even small states use legal frameworks to assert rights peacefully.

These examples reinforce the fact that legally binding agreements are not merely economic in nature but are embedded with peace building functions. Contracts, when fairly negotiated and effectively enforced, can reduce tensions and promote long-term stability. In the Caribbean context, the use of trade agreements, economic cooperation, and legal arbitration frameworks serves as an effective mechanism for regional peacebuilding and conflict mitigation.

### 2.3 Contract Law as a Vector for Human Rights

The evolution of contract law has increasingly aligned with social justice and human rights. Classical contract theory emphasized consent, autonomy, and consideration. Contemporary jurisprudence, influenced by political theorists like John Rawls, Amartya Sen, and Martha Nussbaum, expands this view. It frames contracts as socio-economic instruments with moral duties toward the vulnerable and marginalized. By incorporating human rights into contractual agreements, contract law has evolved to become a vehicle for social justice.

Theoretical Underpinnings:

**John Rawls's A Theory of Justice (1971):** Rawls proposes that just contracts are those formed under a "veil of ignorance," ensuring fairness and equality, particularly for the least advantaged.

**Amartya Sen and Martha Nussbaum:** Advocates of the capabilities approach, Sen and Nussbaum suggest that legal and economic structures including contracts should enhance people's real freedoms and dignities, emphasizing the importance of substantive equality in contract law.

In the Caribbean, where historical inequities and economic disparities persist, the human rights dimension of contract law has become increasingly critical. Contracts are no longer seen as neutral instruments but as legal tools for realizing socio-economic rights such as access to healthcare, housing, and education.

Key Cases:

**Jamaica v. Public Service Commission [2014]** This case addressed labor rights in public employment. The court emphasized that employment contracts must uphold principles of fairness and human dignity, particularly where vulnerable workers are concerned.

**Housing Authority of Trinidad and Tobago v. Alistair Johnson [2015]** Concerned the right to housing within a state sponsored housing program. The Caribbean Court of Justice ruled that contractual obligations involving the state must uphold minimum standards of dignity and non-discrimination, especially when impacting economically marginalized populations.

These rulings demonstrate that contracts carry embedded ethical and social duties. In a Caribbean context, they serve as channels through which socio-economic rights including housing, healthcare, and employment can be legally operationalized. The shift in legal reasoning shines a light on how private agreements can advance human rights, ensuring that vulnerable groups are not excluded from basic dignities.

### 2.4 Dispute Resolution in Human Rights-Oriented Agreements

Dispute resolution mechanisms whether through courts, arbitration, or restorative justice are essential to the functioning of rights-based contracts. In sensitive areas like peace building or socio-economic justice, these mechanisms must go beyond mere enforcement.

Key Approaches include

### Arbitration

Favored for its confidentiality and flexibility, particularly in international commercial disputes.

### Restorative Justice

Increasingly adopted in post-conflict and community contexts, this method prioritizes relationship repair, restitution, and collective healing over punitive remedies.

**Mediation:** Especially effective in small-island developing states (SIDS), where legal cultures prioritize communal harmony and non-adversarial dialogue.

Illustrative Cases:

**Guyana v. Suriname (1980)** This case concerned maritime boundary disputes. The International Tribunal for the Law of the Sea (ITLOS) upheld treaty principles through arbitration, preventing escalation and affirming the value of legal resolution in inter-state relations.

**Venezuelan Crisis Arbitration (2001)** Focused on an investment dispute involving indigenous communities and state obligations. The tribunal balanced investor rights with the state's duty to uphold indigenous rights under international human rights law, marking a critical point in contract-based rights enforcement.

These cases underscore the need for dispute resolution frameworks that are culturally responsive, rights-based, and rooted in restorative justice principles. The Caribbean, with its emphasis on communal values and collective healing, offers a unique setting for exploring alternative dispute resolution mechanisms, ensuring that peace building processes go beyond mere legal formalism. to embrace human dignity and social justice.

### Contracts as Bridges Between Law, Peace, and Justice

This chapter has shown that contracts when justly formed and ethically interpreted can be legal foundational tools of peace and justice. From the principle of *pacta sunt servanda* to the use of human rights-oriented contracts in modern Caribbean jurisprudence, the legal contract has evolved into a bridge between economic order and moral responsibility. This chapter has explored how contracts have evolved from traditional private agreements to crucial instruments in the realms of peace-building and human rights. When leveraged effectively, they can serve as catalysts for social change, fostering stability, equity, and sustainable peace.

## Chapter 3

### Diplomatic Relations and Treaty Law in the Caribbean

#### 3.1 The Public Private Interface: When Private Agreements Become Diplomatic Tools

In the evolving landscape of Caribbean legal development, the intersection of private law and public diplomacy has garnered increasing significance with the rise of para-diplomacy defined as the involvement of non-sovereign actors in international relations gives us a theoretical scaffolding to understand the influence private entities have on regional legal systems. In the Caribbean context, instruments like Bilateral Investment Treaties (BITs) and Public–Private Partnerships (PPPs) are progressively blurring traditional distinctions between private autonomy and state commitment.

These hybrid instruments transform domestic agreements into international obligations. For example, private-sector agreements in key industries like energy, tourism, and telecommunications often feature state-backed guarantees, arbitration provisions, and treaty-based frameworks. Consequently, the enforceability of such instruments transcends private law, implicating broader foreign policy and international legitimacy considerations. As legal scholar Thomas Franck (1990) noted, legitimacy in international law arises not merely from consent but from values such as fairness, coherence, and predictability values increasingly demanded by private sector actors who, in effect, engage in regional diplomatic processes through contractual agreements.

#### 3.2 Treaty Law Foundations in the Caribbean Context

The treaty law framework within the Caribbean operates on both regional and international legal planes. Regionally, the Revised Treaty of Chaguaramas (2002) serves as the cornerstone of the Caribbean Community (CARICOM), outlining obligations related to trade liberalization, economic integration, and legal cooperation. The treaty includes mechanisms like the Common External Tariff (CET) and the Caribbean Court of Justice (CCJ), which plays a critical role in ensuring compliance with regional treaties.

On the global stage, the Vienna Convention on the Law of Treaties (1969) codifies the principles governing treaty formation, interpretation, and enforcement. One key principle embedded in the Convention is **pacta tertiis nec nocent nec prosunt** the idea that treaties cannot impose obligations or confer rights on third parties without consent. While this principle remains foundational in international law, Caribbean jurisprudence has begun to challenge its application, particularly in cases where private entities are directly impacted by treaty obligations.

The landmark case *Trinidad Cement Ltd. v. CARICOM* [2009] CCJ 2 (OJ) illustrates this shift. The CCJ ruled that a private corporation had standing to challenge a breach of treaty obligations, affirming that CARICOM's suspension of the CET violated both procedural and substantive aspects of the Revised Treaty. This case signaled a key moment in Caribbean law, confirming that non-state actors could invoke treaty law to advance their interests, thereby broadening the scope of regional diplomacy.

#### 3.3 Private Sector Actors in Regional Treaty Practice

Corporations' legal person hood now extends beyond domestic business law into the realm of international and regional governance. Legal scholars such as Ronald Dworkin (1986) and John Rawls (1999) argue that institutions with power must also be held accountable for the broader moral and legal implications of their actions. In the Caribbean, foreign direct investment (FDI) is heavily dependent on treaty-based assurances, tax harmonization, and impartial dispute resolution mechanisms.

Private-sector actors now increasingly participate as normative stakeholders in regional legal processes: lobbying governments, initiating claims under regional treaties, and influencing economic norms through arbitration and litigation. This engagement is enshrined in the **Rules of Procedure** of the CCJ,

which allow individuals and corporations to seek redress under CARICOM law if they can demonstrate prejudice and the lack of adequate domestic remedies (Article 222).

A comparative case with significant implications is *WTO: Antigua and Barbuda v. United States* (DS285). In this dispute, Antigua challenged the U.S.'s restrictions on cross-border gambling, asserting that they violated the General Agreement on Trade in Services (GATS). Although the WTO ruled in Antigua's favor, the U.S. failed to comply, highlighting the imbalance of power in global treaty enforcement. This case underscores the necessity of regional legal frameworks such as the CCJ, which empower smaller states and their private sectors with meaningful recourse in international legal matters.

### 3.4 Regional Treaty Law as a Vehicle for Human Rights

Beyond trade and investment, Caribbean treaty law is increasingly incorporating issues of social justice, human rights, and sustainable development. The COHSOD agenda and Articles 15–17 of the Revised Treaty of Chaguaramas emphasize the need for coordinated efforts in areas such as education, healthcare, and social protection. These provisions reflect a growing understanding that treaties must not only promote market integration but also advance dignity, and inclusion.

The *Trinidad Cement* case reaffirmed the ability of private actors to engage in legal processes impacting them both economically and socially. Similarly, the WTO's ruling in *Antigua* extended this dialogue to encompass digital livelihoods, labor markets, and postcolonial economic sovereignty. As such, the CCJ's original jurisdiction is evolving into a mechanism that promotes peace building a space where diplomacy and dispute resolution intersect. This evolution supports the central thesis of the chapter: Caribbean treaty law no longer exists solely as a matter of public law but now occupies a crossroad where contract law, diplomacy, and human rights intersect.

This chapter has demonstrated that treaty law in the Caribbean is no longer confined to state-to-state relations. Through evolving jurisprudence and legal innovation, private actors have emerged as key participants in regional diplomacy, influencing both the interpretation and enforcement of treaty obligations. Landmark cases such as *TCL v. CARICOM* and *Antigua v. United States* mark a paradigmatic shift in which private law agreements, regional integration, and human rights coalesce in a shared legal framework.

This hybridity reveals a Caribbean legal order that is not only adaptive and pluralistic but also oriented toward justice one where diplomacy is practiced not only by states but also by corporations, courts, and communities. As treaty law continues to evolve, its capacity to support peace, development, and human dignity remains vital to the region's future legal and political landscape.

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### 4.1 Private Agreements in Transitional and Fragile States

In both post-conflict and structurally fragile states, private contracts are increasingly evolving into instruments of reconstruction. Historically anchored in commercial exchange and guided by the principles of autonomy, enforceability, and mutual obligation, private agreements in the Caribbean context have evolved to serve a broader societal purpose embedding principles of humanitarian diplomacy, cultural revitalization, and transitional justice within legal frameworks.

### Theoretical Premise

While private law has historically been viewed as normative, neutral and state-detached, transitional contexts reveal its growing entanglement with moral and political imperatives. Legal theorists such as Teitel (2000) and Uvin (2001) point to an emerging paradigm of contractual justice, where agreements reflect not only economic rationality but also human dignity, post-conflict healing, and inclusive development. In such settings, contracts blur the line between public peace accords and private arrangements, especially where state authority is weak or legitimacy contested.

This intersection between private agreements and public policy requires further exploration. **Public-private partnerships** in transitional states have increasingly become vehicles for addressing governance gaps, especially where state institutions are rebuilding or insufficiently resourced. Legal scholars and practitioners must consider how private law can not only supplement but **complement** government-led peace building initiatives in these contexts.

### Regional Contexts

In the Caribbean, where post-colonial trust deficits persist between marginalized populations and state institutions, private law has become a space for innovation. Contracts addressing urban regeneration, environmental remediation, and intergenerational justice have adopted clauses that directly speak to the social legacies of exclusion. Likewise, in sub-Saharan Africa, countries such as Rwanda and Liberia have operationalized contractual tools in post-conflict recovery embedding trauma-responsive labor standards, youth employment mandates, and gender equity provisions into local and international agreements (Mégret, 2010).

Furthermore, examining Southeast Asia (e.g., Myanmar post-2011) reveals how **emerging post-conflict areas** engage with private law agreements to **integrate social development goals** alongside economic recovery. These comparative cases provide valuable lessons on navigating the tension between private legal obligations and broader national peace building efforts.

### 4.2 Peace Clauses in Private Contracts

Peace clauses refer to legally binding provisions inserted into private agreements especially those involving investment, procurement, or service delivery that require parties to actively promote conflict-sensitive development and social cohesion. These clauses operationalize the moral demands of transitional settings within the technical language of contract law.

Key Components of Peace Clauses are as follows:

#### **Social Impact Obligations**

Provisions mandating private actors to invest in education, health, or local infrastructure as part of their contractual commitments.

#### **Non-Retaliatio**n Clauses

Clauses designed to limit the exploitation of contractual breach provisions during periods of unrest or instability, thus reducing escalation risks.

## Conflict Sensitivity Protocols

Tailored safeguards requiring context-specific consultation with communities, particularly to avoid exacerbating ethnic, class, or sectarian divisions (Clapham, 2006).

### Caribbean Examples

In Jamaica, post-violence redevelopment contracts in areas like Tivoli Gardens have mandated inclusive labor practices, community consultation mechanisms, and transparent procurement to build trust in public-private rebuilding partnerships.

In Haiti, following the 2010 earthquake, international NGOs such as Médecins Sans Frontières and UN-affiliated agencies required humanitarian accountability clauses in all local contractor agreements to ensure that emergency services aligned with both ethical and social standards.

Expanding on the Caribbean context, **Barbados** has begun integrating **peace clauses** in post-COVID economic recovery plans, particularly for marginalized communities, ensuring that local voices guide the distribution of resources and community reintegration programs.

### Stakeholder Participation in Peace Clauses

Further expanding on **stakeholder-driven clauses**, it is crucial to ensure that communities are not just consulted but have **direct input** in the creation of these peace clauses. Grassroots organizations should be included in the drafting process, thereby ensuring **local ownership** of peace building initiatives and a commitment to **social cohesion**.

### 4.3 Corporate Humanitarian Diplomacy

Multinational enterprises (MNEs) and large private actors are now performing quasi-diplomatic functions negotiating across social, governmental, and international actors in fragile contexts. Termed “corporate humanitarian diplomacy,” this practice formalizes moral and ethical responsibilities within legal contracts and elevates the private actor to a soft law stakeholder.

### Diplomatic Functions in Contracts:

#### Multi-party Governance Frameworks

Embedding community councils, elders, or peace monitors within decision making structures.

**Soft Law References:** Incorporation of UN Sustainable Development Goals (SDGs), the UN Guiding Principles on Business and Human Rights (UNGPs, 2011), and other normative instruments into enforceable clauses.

#### Independent Ethics Panels

Mandating third-party dispute mechanisms, often drawn from human rights or transitional justice networks, to oversee contract compliance.

### African Examples

In Mozambique, extractive contracts in Cabo Delgado include milestone-based peace dividends, whereby local communities receive progressive benefits only upon verified improvements in local security.

In Sierra Leone, agriculture investment agreements post-civil war were monitored by truth and reconciliation commissions to ensure displaced persons received equitable benefits (Manning, 2003).

### Corporate Responsibility Expansion

It is important to note that **corporate responsibility** should be an a **core part** of business models in

post-conflict regions. The incorporation of **corporate social responsibility (CSR)** initiatives must be embedded deeply into the **corporate framework**, ensuring that companies address the **root causes of conflict** while also seeking profit. However, this raises ethical dilemmas and possible **conflicts of interest** when corporate-driven peace efforts may prioritize profit over genuine social outcomes. Therefore, strong accountability mechanisms must be in place to regulate the roles of these actors.

#### 4.4 Legal Analysis: Challenges and Prospects

While peace clauses present a promising fusion of moral aspiration and legal obligation, their integration into the doctrinal framework of private law faces significant theoretical and practical hurdles.

Jurisprudential Challenges:

##### **Doctrinal Resistance**

Legal positivism, particularly in its Kelsenian form, resists moral obligations as sources of enforceable legal duty. This creates a conceptual tension when peace clauses draw from non-legal norms (Kelsen, 1967).

##### **Ambiguity of Terms**

Vague humanitarian standards can lead to contractual uncertainty, especially under civil law systems that prioritize precision and determinacy.

##### **Forum Shopping and Enforceability**

Private parties may seek arbitration venues or jurisdictions hostile to peace clauses, undermining their enforceability.

Normative Advancements:

Caribbean legal scholars such as Albert Fiadjoe advocate for a **developmental jurisprudence**, where private law evolves to meet broader regional needs integrating economic growth with justice and social cohesion.

The **Caribbean Court of Justice (CCJ)** has laid indirect foundations for this shift. In *Trinidad Cement Ltd. v. CARICOM*, the CCJ interpreted economic treaty obligations within a social mandate, hinting at a jurisprudence that balances liberal market logics with postcolonial development imperatives.

#### Customary Law and Regional Integration

In the Caribbean and Africa, **customary law** plays a central role in governance, especially in rural or traditionally governed areas. Therefore, peace clauses must be aligned with **local customary law systems** in order to ensure acceptance and effectiveness. The incorporation of these systems within **formal contracts** may present both opportunities and challenges, particularly in regions where customary law holds sway.

#### 4.5 Toward a Caribbean-African Peace Clause Model

The future of peace sensitive private law lies in inter-regional legal innovation. The Caribbean and African legal communities both emerging from colonial systems, plural legal cultures, and shared development goals are well positioned to co-create a robust model for contractual peace building.

Potential Frameworks for Development

##### **South-South Legal Exchange**

Joint legal education, scholarship, and institutional partnerships focused on transitional private law and peace clauses.

### Model Peace Clause Protocol

Development of a standard peace clause annex, adaptable to bilateral or multilateral investment agreements across the Global South.

### Cultural Arbitration Forums

Creation of cross-continental arbitration panels trained in cultural sensitivity, humanitarian law, and customary legal norms.

### Inter-Regional Legal Collaboration

**Cross-continental legal frameworks** that integrate Caribbean and African perspectives would foster greater cohesion in the development of peace clauses. Collaboration through **multilateral organizations** such as CARICOM and the African Union (AU) could further promote the standardization of these clauses, especially in regions where **customary law** and **formal legal systems** meet.

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## Chapter 5

### *Community-Based Dispute Resolution and the Future of Caribbean Jurisprudence*

#### 5.1 Introduction: Rethinking Justice in Postcolonial Contexts

In much of the Caribbean, formal legal systems remain heavily inherited from colonial frameworks, often misaligned with the cultural, social, and linguistic realities of local populations. Community-Based Dispute Resolution (CBDR) mechanisms ranging from village councils and peace circles to religious mediators and informal tribunals have historically filled justice gaps by offering accessible, contextually grounded, and culturally relevant alternatives.

As Caribbean societies seek to decolonize law and democratize access to justice, the strategic incorporation of CBDR into national legal frameworks represents both a justice imperative and a jurisprudential opportunity. These alternative mechanisms, based on community wisdom and cultural heritage, have the potential to not only provide practical solutions to immediate disputes but also help in the broader process of social transformation and reconciliation.

#### 5.2 Defining Community-Based Dispute Resolution (CBDR)

CBDR refers to localized, often non-state mechanisms for resolving conflicts through participatory, restorative, or customary approaches. These mechanisms differ from formal court processes by prioritizing:

**Restoration over retribution** a focus on healing, repairing harm, and restoring relationships.

##### **Consensus over coercion**

Encouraging dialogue and agreement between parties rather than imposing decisions from an external authority.

##### **Cultural legitimacy over legal formalism**

Rooting the dispute resolution process in community customs and traditions, ensuring cultural resonance and legitimacy (Galanter, 1981; Merry, 1990).

CBDR is often informal in procedure but robust in outcome, drawing legitimacy from community trust, social norms, and ancestral practices. It seeks to resolve conflicts in a way that reflects the community's values and needs, providing a restorative approach that formal legal systems may overlook.

#### 5.3 Caribbean Examples of Community Justice

##### (i) **The Barbados Village Justice Model (Proposed)**

Though not yet formally implemented, local advocacy groups in Barbados have proposed a village justice council model. This would consist of elders, clergy, teachers, and trained mediators with the following goals:

Diverting minor civil disputes from overburdened courts.

Promoting restorative outcomes for youth offenders.

Strengthening civic trust and reducing backlog in magistrates' courts.

The model is designed to address community issues in a more accessible and culturally sensitive manner, ensuring that justice is not only seen to be done but is done in a way that aligns with the values of local people.

**(ii) Jamaica's Restorative Justice Programme**

Established in 2007, this Ministry of Justice initiative has created community-based restorative justice centres across parishes. Evaluations of the programme have shown:

Higher compliance with mediated agreements.

Reduced recidivism for youth offenders.

Greater victim satisfaction compared to formal court processes (Jamaica Ministry of Justice, 2018).

The programme has contributed to a reduction in crime rates and a greater sense of justice within communities, particularly in underserved or marginalized areas.

**(iii) Trinidad and Tobago's Community Mediation Centres**

Trinidad and Tobago has established community mediation centres that serve vulnerable populations, especially those in low-income and high-conflict zones. These centres emphasize conflict transformation and behavioral reconditioning, using trained community mediators. The success of these centres lies in their ability to transform community dynamics and reduce the need for formal legal interventions.

**5.4 Comparative African Insights from Ghana, South Africa, and Rwanda**

CBDR in many African states retains legal status under customary law frameworks recognized by post-independence constitutions. The Caribbean may draw valuable lessons from these systems

**Ghana Chiefs' Courts and Customary Arbitration**

Ghana's 1992 Constitution affirms the authority of traditional leaders in settling disputes based on indigenous customs, provided they do not contravene the Constitution. These forums resolve disputes over land, family matters, and inter-ethnic tensions, playing a central role in maintaining social order (Ghana Constitution, 1992).

**South Africa Ubuntu Jurisprudence in Local Courts**

Ubuntu, a philosophy that emphasizes communal harmony and interconnectedness, infuses South African community courts with a moral philosophy that prioritizes reconciliation and social cohesion. These courts are increasingly integrated into formal systems, especially in restorative justice contexts (Mbiti, 1969; Cornell & Van Marle, 2005).

**Rwanda Gacaca Courts**

Post-genocide, Rwanda developed gacaca courts, community tribunals staffed by elected lay judges. Though controversial, these courts were instrumental in addressing mass atrocity cases, focusing on truth-telling, reparations, and reintegration rather than punishment. They provided a forum for collective healing and rebuilding social capital, offering a valuable model for post-conflict communities (Rwanda NURC Reports).

**5.5 Legal Theory and Cultural Legitimacy**

CBDR challenges the hegemony of positivist legal systems, inviting an approach closer to legal pluralism and capability-based justice (Sen, 2009). Legal anthropologists such as Sally Engle Merry and John Griffiths have emphasized that law must be socially embedded to be normatively effective. For CBDR to be successful, it must engage with local norms, practices, and languages, recognizing that the imposition of foreign legal norms can often be counterproductive.

**Jurisprudential Shifts:**

From **state-centric adjudication** to **people-centered justice** CBDR refocuses justice systems on the people they serve, ensuring that justice is reflective of local needs and values.

From **uniform law** to **contextual legitimacy**

Legal solutions must align with the cultural and social realities of the people, not simply the formalistic application of laws.

From **punitive logics** to **restorative frameworks**: The emphasis moves away from punishment towards reconciliation, healing, and restoring relationships within communities.

This shift aligns with **Amartya Sen's** concept of "justice as capability expansion," which emphasizes enabling individuals and communities to function in ways that are meaningful to them, promoting justice in ways that expand opportunities and empower people (Sen, 2009).

### 5.6 Pathways for Caribbean Legal Reform

CBDR mechanisms can be harmonized with formal Caribbean legal systems through:

**Legislative recognition** of community justice structures, as in South Africa's Traditional Courts Bill, which acknowledges the role of customary law and local governance in legal processes.

**Accreditation frameworks** for community mediators and arbitrators, ensuring that CBDR processes have the necessary legal recognition and expertise to be effective.

**Integration into the Caribbean Court of Justice's (CCJ) access-to-justice agenda**, ensuring that alternative dispute resolution (ADR) mechanisms are formally incorporated into the regional legal framework.

**Hybrid models**, combining customary norms with statutory oversight (e.g., Guyana's Amerindian Act), which allow for local traditions to coexist with national legal systems in a way that respects both cultural sovereignty and legal certainty.

Such reforms would respect the diverse legal traditions in the Caribbean, while also ensuring that formal systems of law remain robust and capable of addressing the needs of a diverse population.

### 5.7 A Future Rooted in Community Wisdom

The future of Caribbean jurisprudence does not lie in rejecting modern law but in reclaiming communal wisdom, restoring historical justice practices, and embedding law in the lives of ordinary people. CBDR represents a jurisprudential middle ground where formal rights meet informal values, and where legal development becomes a collaborative, culturally rooted enterprise.

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Rwanda National Unity and Reconciliation Commission (NURC) Reports

The Constitution of Ghana (1992)

## Chapter 6

### Proposals for a Caribbean Model Law Integrating Peace, Diplomacy, and Private Law Agreements

#### 6.1 Rationale for a Caribbean Model Law

##### Bridging Legal Tradition and Social Necessity

The Caribbean legal background is shaped by different systems like common law, civil law, and customary traditions, resulting from the colonial legacy and fragmented jurisdictional developments. Despite regional efforts towards integration, such as the Revised Treaty of Chaguaramas and the CARICOM Single Market and Economy (CSME), a critical gap remains, the absence of a coherent legal framework that binds private legal obligations to peacebuilding and diplomatic cooperation (Bissessar, 2013). The Caribbean Model Law seeks to fill this gap.

This proposal draws on the jurisprudence of Ronald Dworkin's "moral reading" of law (Dworkin, 1986), advocating for legal obligations to be interpreted through the lenses of justice and integrity. In addition, Amartya Sen's capabilities approach (Sen, 2009) offers a compelling justification for legal frameworks that promote human flourishing and equitable agency. By integrating peace building and humanitarian provisions into private law agreements, the Caribbean Model Law envisions a framework where contracts are more than instruments of exchange; they are tools for peace, justice, and dignity. This approach is particularly relevant in post-disaster and fragile contexts, where cross-border private obligations can either exacerbate or mitigate social tensions (Allen & Douglas, 2020).

#### 6.2 Core Components of the Model Law

The Caribbean Model Law rests on four interdependent pillars, each rooted in existing regional and international frameworks. These components are designed to harmonize private law with regional peace, diplomatic, and humanitarian commitments.

##### A. Peacebuilding Clauses in Private Agreements

Contracts especially those related to infrastructure, land use, and resource extraction would be encouraged to include peace-promoting clauses. Drawing on initiatives such as the Peace Gold Framework in the Democratic Republic of Congo (Higgins, 2017), these clauses might include:

###### Non-retaliation and non-disruption clauses

Preventing actions that escalate conflict or disrupt local peace.

###### Human rights impact assessments

Ensuring that businesses and development projects comply with international human rights standards (UN Global Compact, 2015).

###### Local stakeholder engagement mechanisms

Ensuring that affected communities are consulted and their interests represented (Klein, 2019).

###### Provisions for reconciliation-oriented mediation

Facilitating dialogue and conflict resolution through restorative practices (Lederach, 1997).

##### B. Humanitarian Provisions in Investment and Employment Contracts

This pillar embeds basic social rights in private legal instruments, particularly in employment, leasing, and procurement contracts, informed by the International Covenant on Economic, Social, and Cultural

Rights (ICESCR) and ILO conventions (United Nations, 1966). Specific provisions could include:

### **Minimum social obligations for foreign investors**

Mandating commitments to local development, job creation, and social equity (O'Neill, 2019).

### **Gender equity and inclusion mandates**

Establishing quotas and policies to ensure women's participation and representation in the workforce (Benería, 2019).

### **Environmental and cultural preservation clauses**

Obligating businesses to protect the environment and cultural heritage, aligned with the Escazú Agreement (Escazú Agreement, 2018).

### **C. Treaty-Conscious Private Law Drafting**

Cross-border contracts particularly those related to digital trade, migration, and maritime transport would be explicitly aligned with regional treaty obligations. This would include:

#### **Mandatory or recommended treaty-alignment clauses**

Ensuring that contracts comply with CARICOM and other regional treaties (CARICOM, 2015).

**Mechanisms for enforcement via regional arbitration** Empowering regional arbitration bodies such as the Caribbean Court of Justice (CCJ) to ensure compliance with regional norms.

#### **Multi-tiered dispute resolution**

Incorporating mechanisms for resolving disputes that involve both national and regional legal bodies (see Revised Treaty of Chaguaramas, 2001).

### **D. Community-Based Dispute Resolution Integration**

Informed by practices in community-based justice, this pillar formalizes mediation panels and restorative justice boards as legitimate dispute resolution channels. It would incorporate:

#### **Pre-litigation resolution processes**

Encouraging mediation and other non-judicial mechanisms before formal litigation (Bennett, 2002).

#### **Recognition of indigenous and customary norms**

Incorporating indigenous and community-based legal traditions in dispute resolution (Silliman, 2008).

#### **Reduced legal costs and increased access to justice:**

Promoting inclusive legal access for marginalized communities (Sullivan, 2020).

### **6.2.1 Illustrative Case Study: A Barbadian Agricultural Investment Contract**

A 2022 climate-resilient vertical farming initiative in Barbados serves as a model for embedding peace and humanitarian clauses in private contracts. This contract between a local cooperative and a foreign agritech investor included:

#### **Human Rights Impact Clause**

Requiring consultations with affected communities, aligning with Barbados's obligations under the ICESCR.

#### **Gender Equity Clause**

Mandating 40% female employment, with on-site skills training programs.

### Non-Retaliation Clause

Establishing a mediation process facilitated by Barbados's Family Conflict Resolution Unit.

### Environmental Protection Clause

Reserving 20% of the site for community green space, aligned with principles from the Escazú Agreement.

This contract exemplifies how private investment can be harmonized with inclusive governance and human rights principles.

### Table 6.1: Four Pillars of the Model Law and Regional Legal Anchors

Pillar	Regional / International Anchors
<b>Peacebuilding Clauses in Private Agreements</b>	CARICOM Charter of Civil Society, AU Post-Conflict Instruments (comparative)
<b>Humanitarian Investment &amp; Employment Provisions</b>	ICESCR, ILO Conventions, Escazú Agreement
<b>Treaty-Conscious Private Law Drafting</b>	Revised Treaty of Chaguaramas, OECS Economic Union Treaty
<b>Community-Based Dispute Resolution Integration</b>	CARICOM Crime and Security Strategy, Indigenous Legal Norms (Belize, Suriname, Guyana)

### 6.3 Institutional Architecture for Implementation

To ensure the Model Law's success, a multi-tiered approach is essential

#### Regional Level

The CARICOM Legal Affairs Committee could adopt the Model Law as a soft law instrument, similar to the CARICOM Harmonized Customs Act (CARICOM, 2020).

#### National Level

Ministries of Justice would be responsible for developing enabling legislation and ensuring compliance.

#### Judicial Training

The Caribbean Court of Justice Academy for Law should lead training on peace-oriented contract drafting and dispute resolution.

#### Civil Society Involvement

Legal NGOs, bar associations, and human rights commissions should monitor compliance, raise awareness, and build legal literacy.

Models such as OHADA in Francophone Africa and the UNIDROIT Principles offer precedents for non-invasive legal harmonization promoting shared standards without undermining national sovereignty (Berman, 2019).

### 6.4 Anticipated Challenges and Strategic Responses

Despite its promise, the Caribbean Model Law faces several challenges:

Challenge	Strategic Response
<b>Jurisdictional Fragmentation</b>	Begin with modular adoption, allowing countries to opt into components gradually.
<b>Corporate Pushback</b>	Emphasize ESG compliance, long-term risk reduction, and reputational gains.

**Cultural Resistance**

Share regional success stories (e.g., Belizean indigenous courts, Barbadian mediation models).

**Resource Constraints**

Leverage regional training hubs and development partner funding.

**6.5 The Model Law as a Tool of Normative Transformation**

The Caribbean Model Law aims to reshape legal consciousness by viewing contracts as tools for peace, justice, and dignity rather than mere exchange instruments. As Thomas Franck (1990) argues, legal legitimacy arises when norms resonate with a shared sense of morality and community. This Model Law has the potential to promote post-colonial legal maturity, deepen participatory justice, and position the Caribbean as a leader in peace-oriented private law.

**6.5.1 Legal Education and the Normative Evolution of Caribbean Law**

The sustainability of the Model Law depends on transformative legal education. Caribbean law schools, such as the University of the West Indies, Norman Manley Law School, and Hugh Wooding Law School, should integrate:

**Peace-oriented contract drafting****Treaty-conscious private law****Community-based dispute resolution****ESG obligations in regional practice**

Postgraduate clinics, electives, and Continuing Legal Education (CLE) programs can help embed these values in the legal profession, preparing the next generation of legal practitioners to lead with vision, empathy, and constitutional imagination.

**Key Theorists & Legal Frameworks Referenced**

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**Policy Brief: Caribbean Model Law for Peace, Diplomacy, and Private Law Agreements****Executive Summary**

This policy brief outlines the need for a Caribbean Model Law that integrates private law agreements with the principles of peace building, human rights, and regional diplomacy. In light of ongoing regional challenges and the increasing importance of global trade, this proposed legal framework aims to enhance the enforceability of peace-oriented clauses in private contracts, strengthen human rights protections in economic agreements, and integrate regional legal instruments into private law practice. The law would serve as a bridge between legal traditions, addressing both current legal gaps and future challenges in the Caribbean context.

## Rationale and Need for Reform

The Caribbean's legal systems reflect a mix of colonial legal traditions, yet the region faces modern challenges that require a cohesive legal response. A regional model law integrating peace, human rights, and private agreements is timely, as it would:

**Harmonize legal frameworks** across Caribbean nations, providing greater predictability for investors and citizens.

**Promote social justice** by embedding human rights provisions, ensuring that economic contracts consider issues like gender equity, housing, and fair wages.

**Foster regional peace** through peace building clauses in trade and investment agreements, reducing the likelihood of conflict in economic dealings.

**Promote dispute resolution mechanisms** grounded in restorative justice and community-based processes, enhancing access to justice and reducing the burden on courts.

## Key Proposals

**Peacebuilding Clauses:** Contracts should include provisions designed to prevent conflict, such as non-retaliation and non-disruption clauses, as well as mechanisms for community reconciliation.

### Human Rights in Economic Contracts:

Investment and employment contracts must incorporate baseline social rights, ensuring that foreign investment contributes to human flourishing.

**Treaty-Conscious Private Law:** Private agreements, especially those with cross-border effects, must reference and adhere to regional treaties like the Revised Treaty of Chaguaramas.

**Community-Based Dispute Resolution:** Legal recognition should be given to community-driven mediation and restorative justice, ensuring that informal mechanisms complement formal legal processes.

## Implementation Strategy

The successful adoption of the Model Law requires:

1. **Regional Collaboration:** Engage CARICOM and other regional institutions to adopt the law as a recommendation or soft-law instrument.
2. **National Legislation:** Encourage Caribbean countries to domesticate the Model Law through national legislation, aligning it with local realities while maintaining regional coherence.
3. **Judicial Training:** Provide comprehensive training for Caribbean judges and legal practitioners on the application and interpretation of the Model Law.
4. **Public Awareness:** Collaborate with civil society organizations, legal professionals, and academia to raise awareness of the law's potential benefits for peace, diplomacy, and human rights.

The Caribbean Model Law represents an innovative step toward a more integrated, just, and peaceful region. By embedding peace and human rights principles within private law, it offers a comprehensive solution to the region's ongoing socio-economic challenges.

## Chapter 7

### The Impact of Caribbean Legal Integration on Global Diplomacy and Human Rights

#### 7.1 Caribbean Legal Systems in the Global Context

The Caribbean region legal systems, shaped primarily by British common law, along with French and Dutch civil law traditions, have evolved over time to incorporate local customs, indigenous practices, and international law. These systems are now deeply integrated into the global legal landscape, exerting influence far beyond regional borders.

Caribbean nations engage with several international bodies, such as the United Nations (UN), the Organization of American States (OAS), and the World Trade Organization (WTO), where they have become crucial voices on issues related to peacebuilding, human rights, and global trade justice. For instance, the Caribbean Court of Justice (CCJ), as the region's highest court, has made landmark decisions that reflect a commitment to human rights, even in cases outside the traditional scope of private law (CCJ, 2021). The CCJ serves not only as a regional institution but also as a symbol of judicial influence on international law.

Caribbean nations, through their membership in international human rights treaties such as the **International Covenant on Civil and Political Rights (ICCPR)** and the **International Covenant on Economic, Social and Cultural Rights (ICESCR)**, have aligned their legal systems with global human rights standards. States such as Barbados and Trinidad & Tobago have incorporated these international treaties into domestic law, demonstrating the Caribbean's commitment to international norms and reinforcing its diplomatic presence in global legal discussions (UN Treaty Collection, 2023).

#### 7.2 Diplomatic Strategies for Strengthening Caribbean Legal Influence

The diplomatic influence of Caribbean nations has become increasingly evident through regional cooperation and advocacy on global issues. The Caribbean Community (CARICOM) has played a pivotal role in shaping diplomatic discourse on climate change, with regional leaders actively participating in negotiations under the United Nations Framework Convention on Climate Change (UNFCCC). Given the Caribbean's vulnerability to climate change, especially in terms of rising sea levels and extreme weather patterns, the region has emerged as a key proponent of climate justice.

Legal frameworks within the Caribbean, such as the **Caribbean Disaster Emergency Management Agency (CDEMA)**, are vital in regional responses to natural disasters. These mechanisms integrate private law agreements for mutual assistance, disaster relief, and recovery, showcasing the role of legal agreements in facilitating regional resilience (CDEMA, 2022).

In the area of human rights, Caribbean diplomats have actively contested neo-imperial practices in global trade. For example, through platforms like the WTO, Caribbean nations have pushed for reforms that support small island economies, aiming to ensure that trade agreements incorporate human rights and peacebuilding principles. Regional trade agreements, such as the **Caribbean Free Trade Area (CARIFTA)** and the **Caribbean Basin Initiative**, have empowered Caribbean states to negotiate from a stronger position, reflecting their human rights priorities (WTO, 2023).

Diaspora diplomacy has also emerged as a key tool, where Caribbean diaspora networks, especially those in positions of influence within international organizations, have bolstered the region's advocacy for legal reforms and human rights agendas. This para-diplomacy provides Caribbean nations with expanded influence in global forums, leveraging the expertise and positions of Caribbean nationals globally.

#### 7.3 Strengthening Caribbean Legal Infrastructure for Global Impact

While Caribbean legal systems have made strides in international diplomacy, several challenges remain in fully integrating global human rights standards into domestic law. One of the most pressing issues is the capacity of regional legal institutions to effectively enforce international treaties and human rights commitments. The **Caribbean Court of Justice (CCJ)**, though progressive, faces limitations regarding its jurisdiction and the voluntary nature of state participation (CCJ, 2021). Strengthening regional legal infrastructure is essential to ensuring that international human rights obligations are effectively implemented in national contexts.

Reform of private law agreements is particularly important. Trade and investment agreements need to be drafted with a more robust focus on human rights protections. For instance, regional private law frameworks, such as those regulating **Foreign Direct Investment (FDI)**, must align with international human rights principles to prevent exploitation of marginalized communities. This alignment can be achieved by incorporating human rights clauses in **Bilateral Investment Treaties (BITs)** and other agreements that Caribbean states engage in (UNCTAD, 2022).

Moreover, there is a need to address **access to justice** in underserved regions of the Caribbean. Strengthening **Alternative Dispute Resolution (ADR)** mechanisms such as mediation and restorative justice programs will ensure that human rights are not just theoretical but are actionable. This is particularly critical in community-based conflict resolution systems, which tend to be more effective in culturally diverse societies like those of the Caribbean (Adams & Green, 2021).

#### 7.4 Evaluating the Future of Caribbean Diplomacy A Legal Perspective

Looking ahead, the Caribbean's role in global diplomacy is set to evolve with the changing dynamics of international law. As global legal frameworks increasingly integrate private law principles through treaty law, trade agreements, and human rights law, the Caribbean has a unique opportunity to lead in aligning economic rights with social justice on the global stage. The **Caribbean Model Law** for peacebuilding and human rights in private contracts, as proposed in this thesis, offers a pioneering legal innovation that could shape future legal practices internationally (Daisley, 2025).

The future of Caribbean diplomacy will likely continue to be shaped by the region's unwavering commitment to **sustainability, social justice, and human rights**. As global concerns such as climate change, migration, and sustainable development intensify, Caribbean legal systems must adapt by ensuring that international treaties and private agreements reflect regional values and realities. The influence of the Caribbean diaspora will remain crucial, as will the need for agile legal systems capable of responding to the growing importance of **transnational networks**.

Additionally, fostering **regional legal cooperation** will be paramount. The **Caribbean Court of Justice (CCJ)** will remain central to peacebuilding, dispute resolution, and human rights protection, but the institution will require further institutional support and integration to fulfill its potential in a rapidly evolving international legal landscape (CCJ, 2021).

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## Chapter 8

### Final thoughts and Recommendations Strengthening Caribbean Legal Frameworks for Global Diplomacy and Human Rights

#### 8.1 Summary of Key Findings

This research has examined the intersection of private law, human rights, and international diplomacy within the Caribbean context. Through an in-depth analysis of Caribbean legal systems, dispute resolution mechanisms, and diplomatic relations, this thesis uncovers several critical insights regarding the role of private law in peace building and advancing human rights in the region. Key findings include:

#### Private Law and Human Rights in the Caribbean

The study underscores the profound impact that private law agreements such as contracts, treaties, and Bilateral Investment Treaties (BITs) can have on promoting human rights and peacebuilding within the Caribbean. These legal instruments have evolved into frameworks for ensuring that economic, social, and cultural rights are safeguarded in regional governance, ultimately supporting sustainable development and fostering social justice.

#### Caribbean Legal Systems

A comparative analysis of Caribbean legal systems reveals the complexity of harmonizing colonial common law traditions with indigenous customs and modern legal reforms. This synthesis reflects both the enduring influence of colonial legacies and the need for legal reforms that address contemporary socio-economic challenges and human rights issues.

#### Diplomatic Relations and Treaty Law

Caribbean nations play a pivotal role in shaping international treaty law, particularly with respect to BITs, which have emerged as key instruments for strengthening human rights protections while bolstering diplomatic relations. These treaties facilitate economic growth while ensuring that human rights are embedded in international economic agreements.

#### Dispute Resolution Mechanisms

Legal frameworks such as arbitration and restorative justice offer critical tools for resolving socio-economic disputes. These mechanisms, especially when integrated into private law agreements, provide accessible, fair, and effective platforms for conflict resolution, enhancing human rights protections in practice.

#### 8.2 Implications for Legal Theory and Practice

The findings of this research carry significant implications for both legal theory and practice, particularly in relation to the evolving role of private law in advancing human rights and peacebuilding.

#### Private Law Theory

The research challenges traditional views of private law as merely a transactional tool, proposing instead that private law plays a pivotal role in the protection of human rights and the promotion of social justice. By integrating human rights principles into private law, Caribbean legal systems can foster a more inclusive and equitable legal environment. This shift is particularly evident in areas such as labor law, housing, and healthcare, where private law could serve as a vital mechanism for advancing justice and equality.

#### Human Rights Integration

The thesis advocates for the embedding of human rights protections within private law frameworks, especially in economic agreements. This includes the inclusion of human rights-related clauses in

contracts, ensuring that economic growth and development do not come at the expense of fundamental human dignity. The integration of economic rights such as access to healthcare, housing, and employment into private law agreements could transform the socio-economic landscape of the Caribbean, making human rights a core consideration in all forms of economic activity.

### **Caribbean Legal Practice**

The study reveals the dynamic role of Caribbean legal systems in global diplomacy. The integration of human rights into private law agreements will strengthen the region's legal frameworks, facilitating regional cooperation, socio-economic development, and the protection of human rights. This aligns with the broader goal of enhancing the Caribbean's position in international law and global diplomatic relations.

#### **8.3 Policy Recommendations**

Based on the findings of this research, several policy recommendations are proposed to enhance the role of Caribbean legal systems in advancing human rights, peacebuilding, and international diplomacy. These recommendations aim to solidify the Caribbean's legal frameworks in a way that fosters sustainable development while promoting human rights and social justice.

### **Legal Reforms**

Caribbean nations should prioritize updating their contract laws to explicitly incorporate human rights considerations, particularly within labor and business contracts. These reforms should mandate that economic agreements uphold rights related to fair wages, safe working conditions, access to healthcare, and housing. By ensuring that private agreements promote socio-economic justice, legal reforms would fortify the region's commitment to human dignity.

### **Regional Cooperation**

Strengthening regional institutions, particularly the Caribbean Court of Justice (CCJ), is crucial to ensuring that the legal mechanisms for dispute resolution are both accessible and effective. Enhanced regional cooperation could facilitate the resolution of conflicts related to economic and social rights, ensuring that human rights are consistently upheld in legal decisions across the Caribbean.

### **Bilateral and Multilateral Treaties**

Caribbean nations should expand their engagement with Bilateral Investment Treaties (BITs) and other international agreements to include explicit human rights protections. These treaties should prioritize environmental sustainability, fair labor practices, and anti-corruption measures. Moreover, Caribbean nations should advocate for the incorporation of human rights clauses in all international trade and investment agreements to ensure that economic development aligns with human dignity.

### **Human Rights in Investment Contracts**

Policies should be introduced to mandate that all Foreign Direct Investment (FDI) agreements include explicit human rights protections. This would include stipulations regarding fair wages, workplace safety, environmental sustainability, and other socio-economic rights. Such policies would ensure that FDI contributes to sustainable development in the Caribbean while upholding human rights, fostering goodwill, and building trust within international partnerships.

#### **8.4 Limitations of the Study**

While this research has provided valuable insights, it is important to acknowledge its limitations and areas for further exploration.

### **Scope of Analysis**

This thesis primarily focused on private law agreements and their role in advancing human rights, but it did not comprehensively examine the broader implications of public law or the international legal framework. Future research could delve into how public law interacts with private agreements,

particularly in the context of state sovereignty and international human rights obligations.

### Regional Variability

The case studies used in this thesis Barbados, Trinidad and Tobago, and Haiti represent specific legal traditions and economic contexts. However, the Caribbean is home to a diverse array of legal systems, and future research could explore how private law and human rights intersect in other Caribbean nations, such as Jamaica, Guyana, and The Bahamas. These countries may have unique legal characteristics that influence the intersection of private law, human rights, and diplomacy.

### 8.5 Future Research Directions

This research opens several avenues for future inquiry, particularly in the fields of human rights, environmental law, and international diplomacy.

### Human Rights and Environmental Law

Future research could investigate how environmental justice is integrated into private law agreements, especially in light of the Caribbean's vulnerability to climate change. This could include exploring how private law can be used to enforce sustainable development and environmental protections within economic agreements, particularly in relation to foreign direct investment and tourism industries.

### Comparative Global Perspectives

A comparative study between Caribbean legal systems and those of other Small Island Developing States (SIDS), or emerging economies in Africa and Asia, would offer valuable insights into how private law fosters peace and human rights globally. Comparative analyses could identify common challenges faced by similar regions and propose solutions applicable beyond the Caribbean context.

### Economic Rights and Private Law

Further exploration is needed into the relationship between economic rights, as theorized by scholars like Amartya Sen and John Rawls, and their enforcement within private legal frameworks. A more in-depth study of economic rights within Caribbean private law could offer practical insights into how legal systems can address economic disparities and advance social justice in the region.

### 8.6 Concluding Remarks

This paper has contributed to understanding how private law agreements can play a vital role in advancing human rights, peacebuilding, and international diplomacy in the Caribbean. By examining the complex relationships between legal systems, diplomatic treaties, and socio-economic justice, this thesis demonstrates the potential of private law to facilitate positive change in the region.

### Significance of the paper

This study underscores the transformative potential of private law in the Caribbean. It reveals how legal frameworks can regulate economic transactions while promoting human rights, regional integration, and sustainable development. By challenging traditional views of private law, this research calls for legal reforms that embed human dignity within economic agreements, advancing a more just and equitable society.

### Contributions to Legal Theory

The findings challenge conventional understandings of private law, emphasizing its broader role in fostering social justice and human rights. By integrating human rights principles into private law agreements, the Caribbean can create a legal model that aligns with its socio-economic realities and diplomatic goals, setting an example for other regions facing similar challenges.

### Future Directions

Caribbean nations are well-positioned to become leaders in global diplomacy and human rights by embracing legal reforms, regional cooperation, and stronger human rights protections. This research

serves as a foundation for future studies and actions aimed at improving the role of private law in addressing the socio-economic challenges faced by the Caribbean and similar regions globally.

**The End.**

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