

# Assemblages of Experts: The Caribbean Court of Justice and the Modernity of Caribbean Postcoloniality

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On 16 April 2005 the Caribbean Court of Justice (CCJ)—a hybrid judicial institution—was inaugurated and opened in Trinidad and Tobago. This was made possible with the 14 February 2001 signing of the agreement to establish the court. Housed in Port of Spain, Trinidad, the CCJ represents a new Caribbean judicial formation meant to consolidate particular political projects and end various postcolonial judicial constraints. A total of twelve states—Guyana, Antigua, Barbuda, Barbados, Trinidad and Tobago, St. Lucia, Belize, Grenada, Jamaica, St. Kitts and Nevis, Suriname, and later Dominica and St. Vincent and the Grenadines (the latter two signed on 15 February 2003)—are now signatories to the CCJ agreement and part of the burgeoning attempt to establish a regional constituency known as the “Caribbean Community.”<sup>1</sup> And while this judicial formation builds on earlier nationalist and panregional consolidation initiatives of the 1900s and 1960s, respectively, the establishment of the CCJ should be seen not as a mere outgrowth of regional initiatives but as part of a much broader rule of law regime being propelled by new global economic and military arrangements. The CCJ exists alongside a post-1989 regime that links particular circulations of

<sup>1</sup> Though the Bahamas and Haiti are full members of the Caribbean Community and Common Market (CARICOM), they are not signatories to the CCJ. Montserrat is still a British territory and is awaiting Instruments of Entrustment from the United Kingdom in order to ratify the CCJ agreement.

goods, services, capital, and labor, as well as the harmonization of particular corporate laws. And in that regard, understanding the meaning of the Caribbean today in the midst of ever increasing global engagements raises particular challenges for understanding Caribbean studies not as a territorial domain of contested boundary-making postcolonial projects but as a sphere of regional economic integration projects existing through a dialectical relationship to territorial and deterritorial regimes. In this essay, the example of the CCJ will serve to elucidate the workings of such dialectics in action, demonstrating how rethinking Caribbean studies involves a productive tension between the extranational management of postcolonial governance and discursive place-making in the social imaginary.

As both a municipal court of last resort and an international court with compulsory and exclusive jurisdiction (appellate and original jurisdiction), the CCJ is said to exercise authority similar to an international tribunal, but it is also a final court of appeal for Caribbean Community and Common Market (CARICOM) member states, where, for those states that have accepted its jurisdiction, it has replaced the Judicial Committee of the Privy Council.<sup>2</sup> But how do these judicial arrangements to establish such institutions and resolve cases operate, and who are the agents of change? How might understanding these processes in the twenty-first century allow us to make sense of the integration of the region now popularly referred to as the Caribbean Community, and, by extension, what do these new formations tell us about how Caribbean studies ought to be framed today?

To engage the latter question about Caribbean studies in relation to the forces of transnational changes in new economic arrangements and governance and geopolitical domains is to enter into one of the most challenging debates in area studies today. That is, despite the development of the Caribbean as islands for colonial extraction, or as geographical spaces designated for particular governance experiments, islands and their regional geographies were never stand-alone locations for constituting sovereign statehood. Rather, they have always been constellations of people and places, imaginaries and economic and hegemonic histories that exceeded geographical limits and sovereign control.<sup>3</sup> The post-1960s, postcolonial period of independence negotiations with England, France, and Dutch powers contributed to the formation of newly independent national states throughout the region.<sup>4</sup> In this regard, the project of nation building was foremost, even as these nation-building agendas eventually led to various forms of regional consolidation and economic alliance. Yet, it has been well established that the Caribbean was a project of national state making and unmaking, of colonial discovery and indigenous inscriptions. And, clearly, educational training projects, such as the formation of the University of the West Indies and the Caribbean Examinations Council; panregional projects like the Caribbean Development Bank; Caribbean island

2 The Privy Council is an advisory body composed of senior politicians (either current or former members of the House of Commons or the House of Lords) who advise the Sovereign in the United Kingdom. The role of the Privy Council includes the power to regulate certain public institutions, to issue executive instruments, and to manage those matters of government business that fall to ministers as Privy Counselors rather than as departmental ministers. See [privycouncil.independent.gov.uk](http://privycouncil.independent.gov.uk) (accessed 10 October 2012).

3 Paul Gilroy, *The Black Atlantic: Modernity and Double-Consciousness* (Cambridge, MA: Harvard University Press, 1993); Lieba Faier, *Intimate Encounters: Filipina Women and the Remaking of Rural Japan* (Berkeley: University of California Press, 2011); Vicente Rafael, *White Love and Other Events in Filipino History* (Durham, NC: Duke University Press, 2000).

4 See Deborah A. Thomas, *Modern Blackness: Nationalism, Globalization, and the Politics of Culture in Jamaica* (Durham, NC: Duke University Press, 2004).

alliances, such as the Caribbean Agriculture and Development Institutions, have been—over the past fifty years—central to the formations of the newly developing postcolonial Caribbean states. However, the CCJ example demonstrates that the rise of new judicial institutions—like the rise of a range of other regional institutions—must be understood in the context of their corresponding multilateral reconfigurations, especially as they involve individual actors operating alongside larger global assemblages. Given this, the challenge today is to clarify a conception of Caribbean studies that acknowledges the affective processes of place- and nation making in relation to the realities of increasing deterritorialized multilateral alliances that are radically transforming the relationships between Caribbean people, the state, and new regulatory practices. In this light, this essay examines both the CCJ and related new treaties such as the Economic Partnership Agreements. Here I focus on how various actors in the Caribbean that are engaged in the paradox of building regionally interdependent institutions in the pursuit of national independence continue to be engaged in regional experiments that, of late, have incorporated a new domain of knowledge production on the global stage. The contemporary formation that interests me is the making of what many refer to as the “single market economy” alongside the transformation of the judicial and political conditions for Caribbean regional integration. I am interested in what this might tell us about the need to redraw our maps for conceptualizing the ongoing paradox of Caribbean studies in the contemporary world.

A range of Caribbean scholars have argued that Caribbean states have articulated discourses of both regionalism and internationalism throughout the mid-twentieth century and into the twenty-first and that such formations—such as CCJ regionalism—are not new. By insisting that panregionalism has been obvious in labor movements, in the spread of educational institutions (such as the development of the University of the West Indies), and in the development of regional law schools, scholars have insisted that Caribbean intellectuals, ordinary citizens, and politicians have paid serious attention to international alternatives and have long contributed to international debates and practices.<sup>5</sup> Here I explore how new judicial and multinational formations provide spaces for understanding the workings of various legal rights brokers as central to a project of Caribbean regionalism. With emphasis on an examination of the intermediary spaces in which these brokers—predominantly nationals of countries in the region—are part of the development of larger rule of law projects within which Caribbean regional unity is taking shape, I argue that the development of such formations further accentuates the need to understand the particularities through which new regional internationalization efforts are being inscribed in increasingly international spheres of engagement. But how are these transformations taking shape? And what does this mean for Caribbean studies?

The agents who are engaged in such spheres of international and regional governance are transforming juridical structures within the Caribbean. These changes are taking place not simply through the workings of national institutions, such as schools and cultural life, but also through the circulation of assemblages of judges and lawyers, leaders, international nongovernmental

5 See also Bridget Brereton, ed., *General History of the Caribbean*, vol. 5 of *The Caribbean in the Twentieth Century* (Paris: UNESCO-Macmillan, 2004); and Carl C. Campbell, *Endless Education: Main Currents in the Education System of Modern Trinidad and Tobago, 1939–1986* (Kingston: The Press University of the West Indies, 1997).

organizations (NGOs), and consultants—many trained both within and outside the Caribbean—who provide a certain level of expertise toward regional integration. What characterizes this formation is not simply its judicial structure but the politicians, experts, and judges who function in the advancement of a particular social, economic, or political cause. How are we to make sense of the emergence of these cosmopolitan brokers in relation to locations historically imagined as the Caribbean?

The mobility of these actors and the products of their knowledge mark an important change in the political organizing that has accompanied and facilitated the massive decentralization of capital accumulation worldwide. What distinguishes this seemingly Caribbean-basin form of regionalism from earlier nationalist and Pan-African forms is the difference in the place of knowledge and power and the way its brokers circulating on the world stage were shaping and were being shaped by neoliberal governance projects in the name of regionalism. These brokers, experts of sorts, travel from region to region and contribute to the expansion of these international and regional institutions. They operate in distinct spheres of regional judicial production through which they participate in a construction of *Caribbeanness* that tacks between intimacy and estrangement, the national and the international, the past and the future, tradition and modernity. This interplay finds its highest expression in turbulent politics: on the one hand, the judicial systems of the global North (adopted from former colonial governance regimes) are seen by some as universal, safe, and traditionally appropriate; on the other hand, experts and their interlocutors are working to cultivate a particular kind of Caribbean indigeneity seen as “traditionally Caribbean” in the contemporary present. These brokers are using new rule of law discourses to reshape the meaning of the region and to articulate a conception of *Caribbeanness* that transcends the territoriality of the region and that engages economic partnerships with a range of global corporate interests. Thus, analysis of the experts’ discourse allows us to consider what these deterritorial formations mean today and to ponder the analytic utility of retaining a conception of the Caribbean, despite its constantly moving lines of inclusion and exclusion.

Defining the Caribbean through the process of its *making*—in this case, as it relates to regimes of juridical knowledge—allows us to make sense of the ways people produce expert knowledge and the way others make sense of it and contest it. It also provides insights into the ways *Caribbeanness* operates as a performative domain—in which constituting a juridical Caribbean region through traveling in and out of the regions in which they are experts is part of the complex yet deterritorialized production of *Caribbeanness*. I suggest that such judicial formations are shaping consciousness about former and future state alliances and, through this process, are setting the terms for how we might make sense of the contemporary Caribbean as constantly reinscribing a particular modernity of postcoloniality through its contestations and negotiations.

### The Caribbean as the Modernity of Postcoloniality

In April 1967, only five years after Jamaica’s independence, then prime minister of Jamaica Hugh Shearer and opposition leader Michael Manley met at a United Nations Seminar on Human Rights. Over the course of that day, they took the opportunity to ponder concerns about the newly

independent country.<sup>6</sup> At that moment, Jamaica's public mission involved the establishment of a renewed commitment to the growing rights agenda in the Caribbean. This movement was aligned with the United Nations Declaration of Human Rights and connected to the establishment of new forms of constitutionalisms to manage social inequalities, violence, and the rising levels of transborder drug trafficking. But by 1989, the growing violence in Jamaica and Trinidad, and increasingly in the Caribbean basin, provided a reason to consider new solutions to some of these growing social problems. In response, A. N. R. Robinson, the former Trinidadian prime minister, worried about growing transnational drug-related violence tied to the region and turned to the United Nations to revive the idea of establishing an international body to manage international crimes against human rights and peace. Robinson is said to have requested that the International Law Commission consider the establishment of an international criminal court that would deal with various crimes of great magnitude that would warrant the concern of the world community.<sup>7</sup> However, the initiative was not immediately acted on; it was not until the 1991 genocide in the former Yugoslavia that the idea gained traction again. But while the need for an international criminal court was being deliberated, another related judicial formation aimed at addressing national and transnational problems, while also providing regional judicial autonomy from former colonial empires, was underway. This one was Caribbean-based and involved the regional establishment of the Caribbean Court of Justice.

The birth of the CCJ came after a long period of political deliberations and economic concessions. The Organization of Commonwealth Caribbean Bar Associations first raised the issue of replacing the Judicial Committee of the Privy Council as the court of last resort for the Commonwealth Caribbean in March 1970.<sup>8</sup> The following month in Jamaica, at the Sixth Conference of Heads of Government of Commonwealth Caribbean Countries, the leaders agreed to take action on removing the Privy Council as the anglophone Caribbean's last court of appeal. This involved creating a committee of CARICOM legal experts to explore the making of a Caribbean court. Today the CCJ is located in Port of Spain, Trinidad, and has replaced the Privy Council as the final court of appeal on civil and criminal decisions for member states of the Caribbean Community.<sup>9</sup>

The growth of new institutions that are reinforcing this notion of the Caribbean region can be seen through the creation of the Caribbean Community and Common Market, which continues its work to develop an economic community of trading partners. With the signing of the Treaty of Chaguaramas on 4 July 1973, ensuring the free movement of labor and capital and establishing foreign, agricultural, and industrial policies, the goal was to consolidate regional power in order to improve the labor and work standards of citizens and to promote economic development and the

6 Patrick Robinson, "The ICC and the Caribbean," *Gleaner*, 11 April 2010.

7 The International Criminal Court (ICC) is a permanent tribunal seated in The Hague that was established in 2002 with the signing of the Rome Statute of the International Criminal Court. The ICC was created to try individuals for genocide, crimes against humanity, and war crimes.

8 The Organization of Commonwealth Caribbean Bar Associations includes bar associations in the Commonwealth Caribbean and neighboring Commonwealth countries.

9 The establishment of the Caribbean Court is in keeping with regional formations around the world and follows the same jurisdictional struggles over legitimacy that characterizes the experiences of many international and hybrid tribunals, including the Special Court of Sierra Leone, the International Criminal Court, and the International Criminal Tribunal for Rwanda.

expansion of trade through the enhancement of competitiveness, productivity, and cooperation. By 1989, heads of states from the CARICOM member states—Bahamas, Belize, Antigua and Barbuda, Barbados, Dominica, Jamaica, Montserrat, Haiti, Guyana, Grenada, St. Lucia, St. Vincent and the Grenadines, Surinam, and Trinidad and Tobago—decided to transform the common market into a consolidated single market and engaged in another round of treaty revisions in order to expand on the terms of the Treaty of Chaguaramas.<sup>10</sup> Between 1993 and 2000 the intergovernmental task force revised the treaty, transforming the common market into a single market and economy and setting up the terms for production of goods and services that involved promoting full employment and internationally competitive production. Shortly after this period, a range of additional multilateral agreements were signed by member states and other regional trading blocs. Some of these treaties include the Cotonou Agreement, signed in June 2000, between the European Union and African, Caribbean, and Pacific Group states.

Alongside these consolidation and expansion processes, the CCJ was founded on the principles of the revised Treaty of Chaguaramas, the founding document of CARICOM. Its functions include advising CARICOM countries (and their citizens) of their rights and obligations, giving legal opinions, and ensuring that the laws of the CARICOM Single Market and Economy are correctly interpreted. First signed by the major anglophone Caribbean economic powers—Guyana, Barbados, Jamaica, and Trinidad and Tobago, all states that gained their political independence from Great Britain during the early 1960s—the Treaty of Chaguaramas played a central role in constituting the successor to the Caribbean Free Trade Association. One of the central visions of the CCJ was to achieve an integrated and prosperous Caribbean region whose political and judicial decision-making mechanisms would be driven by its own member states' citizens. The argument was that the CCJ would represent indigenous principles and incorporate them into law, and that through this process it would produce one of the most exciting examples of international cutting-edge jurisprudence. Furthermore, because it displaced the United Kingdom's Privy Council, the formation of the CCJ was hailed by some as an event of great magnitude. But how this apparently seamless move from regional principles to international cutting-edge jurisprudence will happen is unclear. How, in practical terms, one can disaggregate indigenous knowledge forms from other global assemblages is part of the challenge, especially because in its appellate jurisdiction, the CCJ is known to apply international case law in its decision making. This conundrum of searching for indigeneity in a space that has been so central to the development of the contemporary world and the contemporary world's part in the shaping of the Caribbean is what I refer to as the modernity of Caribbean postcoloniality and is part of the problem of remapping the Caribbean without attending to the ways the Caribbean was a crucible of European modernity and is today central to new rule of law cartographies.

<sup>10</sup> The following countries are associate members of the Caribbean Community: Anguilla, British Virgin Islands, Bermuda, and Cayman Islands.

## New Formations: The CCJ and the Twenty-First-Century Rule of Law Movement

With the precariousness of the Caribbean as a modern project, one of the analytic problems has involved not only the task of recasting the politics of independence and freedom as affective processes but also how to deal with the problems of political and judicial concessions as they relate to further concessions of sovereignty. With the revision to the Treaty of Chaguaramas, CARICOM was restructured to include political and judicial powers. Through this revision, the Bahamas, Haiti, and Suriname were added to the region and the common-market structure moved to a single-market economy. The addition of nonanglophone countries, such as Dutch-speaking Suriname (in 1995) and French- and Creole-speaking Haiti (in 2002), has produced more legal and cultural complexities as well. Today, the CCJ represents a new experiment in Caribbean adjudication, but it still competes with the older colonial system of appeal in many anglophone independent Caribbean states, where Great Britain's Privy Council Judicial Committee continues to function as the court of last resort.<sup>11</sup> These states include Antigua and Barbuda, Barbados, Belize, Dominica, Guyana, Jamaica, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Suriname, and Trinidad and Tobago. Though they are financially committed to the CCJ, state agents use the Privy Council as the adjudicator of their final appeals.

Though the court has been in operation for six years, currently only Barbados, Guyana, and Belize have submitted to the jurisdiction of the CCJ and can, therefore, present cases. Many leaders have spoken of the need to undergo the expensive referendum requirement in order to domesticate the terms of the Chaguaramas Treaty. This reality has raised a few considerations about the logistical and financial steps involved in the making of a new regional adjudicatory body through which the notion of the Caribbean can cohere. Despite this, the judicial regional infrastructure is in place and is shaping the terms for future engagement; but the assemblages that tie these judicial and political brokers to a larger domain of international mechanisms are striking. For example, Trinidad and Tobago's former attorney general, Karl Hudson-Phillips QC, was the first candidate of the region to be elected as a judge of the International Criminal Court (ICC). Albert Ramdin was the former assistant secretary general of CARICOM, with responsibilities in Foreign and Community Relations, and he had also served as a special adviser to the former secretary general of the Organization of American States (OAS). Duke Pollard, one of the CARICOM drafters of the agreement and one of seven justices on the CCJ, was both the assistant secretary of the OAS and a former consultant on international law projects for the United Nations. He recently sought election to the ICC. These experiences and the intellectual reconceptualizations that are shaping these new institutions exist within assemblages of ideas about regions, democracy, and the rule of law and are propelled within an internationalist field of power. As Pollard notes, "The rights and obligations created by the Caribbean Single Market Economy (CSME) are so important and extensive, relating to the

11 Tracy Robinson, "A Caribbean Common Law," *Race and Class* 49, no. 2 (2007): 118–24.

establishment of economic enterprises, the provision of professional services, the movement of capital, [and] the acquisition of land for the operation of businesses, that there is a clear need to have a permanent, central, regional institution to authoritatively and definitively pronounce on those rights and corresponding obligations.”<sup>12</sup>

The Caribbean Court of Justice is intended to be such an authoritative institution. But it is also becoming clear that the CCJ, like the ICC, is not without its opponents.<sup>13</sup> Although a range of countries have not submitted to the jurisdiction, the public negotiations carried out by the political-legal brokers of the region are articulating a new form of regionalism that both includes and excludes the realities of the European colonial past. It highlights what David Scott has referred to as tragedies of modernity.<sup>14</sup> These public deliberations, seen as the tragic modernities of postcoloniality—the differing opinions and impossibilities of reclaiming what Caribbeanness is and should be—are playing key roles for the reimagining of the region.

### Fast Forward: New Political-Legal Brokers

On Thursday, 5 January 2012, Portia Simpson Miller was sworn in as Jamaica’s prime minister.<sup>15</sup> At her acceptance speech she promised her constituency that she would address deep poverty, jumpstart the economy, and sever colonial ties to Britain. She introduced the latter with a quite solemn nationalism, “I love the queen; she is a beautiful lady,” and then code-switched to Jamaican patois, “But, I think time come! . . . We need to complete the circle of independence. In this regard, we will therefore initiate the process of our detachment from the monarchy to become a republic with our own indigenous president as our head of state.”<sup>16</sup> She later referred explicitly to the need to replace the Privy Council with the CCJ. In doing this, Simpson Miller was not simply hailing the Caribbean court as an important regional institution to support on the eve of Jamaica’s fifty years of independence from Britain; she was signaling the need to transform an old colonial legal arrangement that has been in place since Jamaica’s independence that maintained London’s Privy Council as the final court of appeal for Jamaica’s unresolved cases. Such legal hierarchies are not simply symbolic; they are fundamentally tied to principles that shape legal decision making and shape how these principles will be applied in legal terms. Since Simpson Miller’s speech, the CCJ has been popularly described in Jamaica as a forum for allowing Caribbean indigenous values to shape legal decisions. Some of the issues have included Jamaica’s right to exercise capital punishment,

12 Duke Pollard, *The Caribbean Court of Justice: Closing the Circle of Independence* (Kingston: Caribbean Law, 2004).

13 Of similar significance was the formation of the ICC adjudicatory mechanism. Through participation with European countries and the renewal of human rights commitments, the draft proposal for the Rome Statute for the International Criminal Court went through multiple rounds of revisions. These revisions resulted in the 1998 signing of the Rome Statute by 120 states for the establishment of the ICC. But the ICC, like the CCJ, is not without its public critics as well as its sites of resistance. Member states have resisted submitting to ICC jurisdiction.

14 See David Scott, *Conscripts of Modernity: The Tragedy of Colonial Enlightenment* (Durham, NC: Duke University Press, 2004).

15 “Portia Simpson Miller, President, People’s National Party, Jamaica: Background Information,” Jamaican Information Service, [www.jis.gov.jm/special\\_sections/election\\_2007/portia.html](http://www.jis.gov.jm/special_sections/election_2007/portia.html) (accessed 10 October 2012).

16 “Portia Simpson Miller Sworn In Second Time as Jamaica’s PM,” Associated Press–CTV News, 5 January 2012.



which is widely supported in the Caribbean region, as well as whether gay rights are human rights deserving of constitutional protection. In Jamaica, as in most Caribbean islands, there are laws that criminalize consensual male sexual acts (otherwise known as “buggery laws”). This antigay position is characteristic of laws throughout the region, but the potential shift to regional decision making puts the CCJ on the brink of enabling a new space for the exercise of public deliberations. Relevant here are the ways conceptualizations of “local” and “national” values, and of “indigenous” versus international values, are seen as being able to more effectively reflect national/regional worldviews. This compares with the potential that external bodies, like the Privy Council, may not reproduce locally relevant values as well as the widespread perception that they could never reflect locally relevant values. Yet, despite the predominance of antigay and pro-death-penalty sentiments in Jamaica, and the sense of wanting to control one’s own judiciary, it is also true that the popular element of Simpson Miller’s speech was less about the regional decision making and more about an anti-imperial insistence that the “time has come.”

But to other nations in the region, economic stability and political objectivity trumped colonial independence and served as a driving force for anti-CCJ mobilizations.<sup>17</sup> Only seven months earlier in Port of Spain, the prime minister of Trinidad, Kamala Persad Bissessar, insisted that her administration was not going to ditch the Privy Council in the near future. She argued that her administration had other more urgent matters to attend to and that the Privy Council as it exists now has the benefit of what she articulated as “objectivity”—the idea that its geographical location in the United Kingdom, and thus distance from locally charged issues, enables it to focus on the legal facts of the case. “We have seen many judgments overturned by the Privy Council . . . because there is that distance in a small nation, a small island there could be contagion especially in cases that deal with governmental action, administrative law cases, judicial review cases, the constitutional motions,” Bissessar indicated. “You see them going up to the Privy Council, a totally different kind of outlook because there is no contagion.”<sup>18</sup>

In the same speech she also insisted that the problem with those who support the urgent submission of all Caribbean states to the CCJ is that they are not really interested in legal and judicial questions but are more concerned with being independent and sovereign. She articulated their support for the CCJ as a form of regional nationalism:

The whole argument about the CCJ is not about justice. The argument was if you want to be a sovereign nation, you want to be independent, you know the world is not like that anymore. This world is a global village, so what’s wrong if judgments are being made by the Privy Council.

In my respectful view, yes there is a place and a time for the CCJ but it is not an area of priority for my government at this point in time. We have the crime fighting to do, we have the

17 Prior to the viability of the CCJ, it was the collapse of the Federation of the West Indies (1958–62) that furthered the anticolonial activists’ goal of ending the political subjugation of the West Indian colonies in the Caribbean. With the formation of the Caribbean Free Trade Association on 1 August 1973, and the later signing of the Treaty of Chaguaramas, the founding text of CARICOM, various state actors expressed the desire to continue their economic alliances with the United Kingdom for the purposes of economic stability.

18 “Colonial Ties: Trinidad PM in No Rush to Ditch Privy Council,” CANANEWS, 23 March 2011, [cananewsonline.com/news/68868-colonial-ties-trinidad-pm-in-no-rush-to-ditch-privy-council.html](http://cananewsonline.com/news/68868-colonial-ties-trinidad-pm-in-no-rush-to-ditch-privy-council.html), paras. 6–7.

social development to do, we have the infrastructure to do, and I don't see that we are suffering as a result of having the Privy Council.

Therefore, why fix something that doesn't need fixing right now?<sup>19</sup>

In response to such nonsupporters, and prior to his departure as outgoing president of the CCJ, Michael de la Bastide expressed disappointment that Trinidad, Jamaica, and other islands within the Caribbean court's potential jurisdiction had not yet submitted to it by ratifying the protocol:

I leave this court with the conviction that we have a quality court and I think it would be a catastrophe to destroy it or endanger it or not to use it. . . . If you have a good thing available for which you have paid, why in Heaven's name don't you use it. . . .

When I think of the possibility that people might let this court slip under the waves, I think it's tragic. . . . I really think it would not only be a national catastrophe but a regional catastrophe, this is how strongly I feel about it.<sup>20</sup>

These statements from Simpson Miller, Persad Bissessar, and de la Bastide highlighting the pros and cons of the new CCJ regional formation point to the ongoing debates over how the Caribbean is to be judicially constituted and, by extension, what the judicial independence of Caribbean states means today in relation to the reconfiguration of postcolonial cartographies. The discussion includes questions about how, in the midst of various regional concerns, such independence is to be best put into practice in this contemporary period. Such public debates over national island relationships are increasingly central to the ways new Caribbean social imaginaries are being conceptualized. In that regard, they show that the insistence on maintaining Privy Council relationships has less to do with the Caribbean depending on its colonial association to define its identity and more with perceptions of achieving judicial impartiality and submitting to its authority. These dueling sentiments are productive of the key role that these experts are playing in the making of the social imaginaries of region. The brokers of judicial change are key to this process, for whether they are jurors from the Caribbean or non-Caribbean jurors working in courts in the United Kingdom or the Netherlands, the knowledge domain that is being imparted and used to standardize decision making is similar. Yet the challenge remains an age-old problem of cultural nationalism and invention, in which both sides are inventing what they each claim has its roots in a Caribbean cultural tradition worth preserving. Neither is engaged in a tradition that is, in and of itself, intimately *Caribbean*. Instead, even as what might be otherwise identified as being *intimately Caribbean* is being made and remade through historically contingent maps, new and far-from-settled regional struggles to clarify the scope of independence and international interdependence are being enacted daily with populist clarity. For while the popular discussions about Caribbean indigeneity are actively engaged in the production of the Caribbean, it is the deliberations themselves—embodied discursive engagements—that are shaping the meaning of Caribbeanness.

“The Caribbean” and “Caribbean studies” must necessarily be defined by a dialectic of invention and improvisation, alongside deep historical regimes of extraction and a hegemonic order that

19 Ibid., paras. 8–10.

20 Ibid., paras. 12–13.

both invites engagement and, at times, forecloses engagement because of its presumptions of uniformity. And, in this context, what takes shape is propelled by both a significant class of cosmopolitan brokers and a domain of discursive engagement concerning the centrality of its historical presence and the limits of postcolonial membership in the new world order.

In his well-known essay “Cosmopolitans and Locals in World Culture,” Ulf Hannerz argues that world cultural formations are created through the increasing interconnectedness of people in varied localities.<sup>21</sup> Insisting that contemporary globalization has brought a large number of people into contact, and that territorial cultural practices that were once distinct are today increasingly entangled, Hannerz uses the term *cosmopolitans* to describe persons who travel around the world and possess “a willingness to engage with the Other.”<sup>22</sup> The willingness to become thus involved and to achieve competence in navigating the cultural practices, values, institutions, and languages of “the Other” is central to the cosmopolitan elite who become international rule of law brokers working to establish the rule of law as the basis for international justice. These players include politicians, diplomats, activists, legal advisers, and consultants. For political brokers such as Portia Miller Simpson and Kamala Persad Bissessar, and legal brokers such as Michael de la Bastide and A. N. R. Robinson, the interests that tie them to their elite enterprises are varied and are shaped by professional ambitions, corporate economic interests, affective personal desires for travel, idealistic aspirations for world peace, and general commitments to the moral project of human rights through rule of law mechanisms, or any combination of these.

Another example of a key broker directly engaged with Caribbean regional integration is the new (as of August 2011) president of the CCJ, Sir Dennis Byron, who replaced outgoing president of the court Michael de la Bastide. A native of St. Kitts with extensive juridical experience, Byron is no stranger to the region or to international courts. Prior to joining the CCJ, he was not only the chief justice of the Eastern Caribbean Court of Appeal and the former president of the International Criminal Tribunal for Rwanda (ICTR) housed in Arusha, Tanzania, but he had also been knighted by Queen Elizabeth II in 2000 and was appointed to the Privy Council in 2004. His experience in both jurisprudence and administration convinced many court advocates that he was the ideal person to succeed de la Bastide. The East African region where he served as president of the ICTR was undergoing the same regional integration projects as the Caribbean, though the context is different.

The ICTR is an international court that was established in 1994 by the UN Security Council in order to review cases for people responsible for the Rwandan genocide between 1 January and 31 December 1994. With over seventy-seven nationalities represented at the court over the past ten years, the tribunal has completed fifty cases and is awaiting the resolution of an additional eleven.<sup>23</sup> It has jurisdiction over three crimes—genocide, war crimes, and crimes against humanity—and, as of 2012, had succeeded in convicting twenty of those accused. Having straddled the judicial system in East Africa as well that of the Caribbean and the United Kingdom, Byron was one of the pioneers in the prosecution and conviction of the crime of genocide:

21 Ulf Hannerz, “Cosmopolitans and Locals in World Culture,” *Theory, Culture, and Society* 7, no. 2 (1990): 237.

22 *Ibid.*, 238.

23 The court was expected to complete all work in 2012.

I have really enjoyed working with exceptional judges and staff as well as the opportunity provided to me to interact with representatives of UN member states who constantly impress me with their interest with the work of the tribunal and the way in which they engaged the problems that we had to overcome during this period.

. . . The issues of investigating international crimes by investigators who do not have police powers require new investigative strategies and techniques. Almost every aspect of the tribunal's work requires some groundbreaking innovative approaches.<sup>24</sup>

As he reflected on his work with the ICTR, he pondered the newness of this moment: “Even now as we are in the [tribunal's] completion strategy, we are actually addressing that problem again because the court would not really mean to shut down. We have very little experience on how to close the court. . . . Some of the challenges involved in winding up the tribunal include how to cope with the challenges of staff retention. . . . Most staff are looking for more secure jobs in other organizations.”<sup>25</sup>

In the end, Byron insisted that thanks to many of those engaged in ICTR work, “justice has been served to Rwandan genocide victims.” He observed: “The judgments of ICTR have created already judicially verified statements of the historical occurrences of the genocide which outline not only what actually occurred but address the course for it. I think that the judgments therefore have played a very important role in establishing factual basis for understanding and moving up. . . . The establishment of the international court, I think, has been an expression of goodwill and an expression of support for the reconciliation process.”<sup>26</sup>

Clearly, Byron, like other ICTR advocates, is a pioneer in the establishment of the formation of a new domain of international justice. And, like others engaged in that work, there are also critical spaces for socialization. Reflecting on his seven years spent in Arusha, he described his participation in sports, traveling, new musical appreciation, and especially being hosted by a few key social clubs in the region: the Gymkhana Club and the Golden Rose Club. Membership in these local social networks and his central role in the world of international justice highlight the ways that brokers like Byron, regardless of national identity, are critical to making new rule of law projects globally.

Today, Byron's new appointment to the CCJ represents just one more mechanism for linking CCJ regionalism to new knowledge networks for the adjudicatory management of the contemporary postcolony. These knowledge networks are part of a rule of law movement that insists that governance bodies—whether national or regional—are to be made by applying standardized principles that emerge from an independent, objective domain of law. Here the presumption is that no one is above the law, thus everyone should be subjected to the same principles, and that regionally or nationally specific interpretations that incorporate different cultural values have no place in the life of the law. Unlike national courts in places like Jamaica and Trinidad which gain symbolic power through their claims to indigeneity, such rule of law projects gain power through a discourse of

24 Nicodemus Ikonko, “Judge Byron Completes Tour of Duty,” *Arusha Times*, 16–22 July 2011.

25 Ibid.

26 Ibid.

justice in the defense of the victim.<sup>27</sup> The discourse of the rule of law offers the legal and political brokers who espouse its principles a legal framework for articulating compliance with law and a moral statement about objectivity regardless of geographical or social location. And the reality of diversity and complexity in our contemporary social world make rule of law discourses an attractive set of narratives for articulating the terms of the new world order. The postcolonial mobilizations of ethnic and national groups have fundamentally reorganized global political spaces in which representatives from governmental spheres, NGOs, and community-based organizations in Africa, India, South and East Asia, Latin America, and the Caribbean are now working alongside predominantly white, middle-class American and European men and women to reconfigure regional and judicial social worlds. Simultaneously, rapid advances in information, transportation, and technology, as well as the linkage of new forms of communication, have changed the ways various types of governance are being administered and articulated. These processes have served to justify a fragmented social landscape embedded in profoundly uneven and contradictory articulations of capital, labor, market, and other rationalities.

The global rise of these new *rule of law* practices reflects the development of a strand of political mobilizations that has, in some places, produced a southern cosmopolitan elite armed with the language of democracy, access to donor funding, and flexible national loyalties. These brokers are willing and convinced of their abilities to generate programs to address failures in state governance, and, through their personal ambitions and political and legal training, they have been able to mobilize the tools of the law to work toward regional integration. These practices are key to the remapping of regions and depend on debates over colonial and neocolonial relationships to invigorate a new discourse on contemporary governance. That is, twenty-first-century governance forms that are deeply imprinted in older social imaginaries are becoming realigned with new conceptualizations of the extraterritorial reach of the law, and through this formation they are producing significant spaces of transnational discursive engagement. Whether in Delhi, Lagos, or the Port of Spain in the Caribbean, they are engaged in transnational treaty negotiations in which they lobby various officials, attend UN human rights meetings, and participate in the documentation and regional integration projects. Already armed with graduate-level degrees from American institutions or historically prestigious European universities, or new forms of international global online degrees allied with northern institutions, many brokers update their knowledge with additional training in New York City, Geneva, London, The Hague, Berlin, and Oslo, as well as at regional training sites on every continent.<sup>28</sup>

Key here is that these rule of law professionals—lawyers, legal scholars, judges, analysts, policy makers—are brokers of a legal “science” that entails reporting local human rights abuses, monitoring government activity, and crafting official documents (protocols, treaties, and constitutions) toward the reproduction of a discourse that the same law inheres everywhere. Those who

27 See Miriam Ticktin, *Casualties of Care: Immigration and the Politics of Humanitarianism in France* (Berkeley: University of California Press, 2011).

28 See Kamari Maxine Clarke, *Fictions of Justice: The ICC and the Challenge of Legal Pluralism in Sub-Saharan Africa* (New York: Cambridge University Press, 2009).

work with NGOs, generally at the early stages of their careers, are part of the development of a new class of cultural intermediaries at the center of the internationalization of cooperative networks. Some volunteer, others have middle-wage employment, and a select number receive salaries equal to that of the governing elite, with various subsidies and benefits (housing, cars and drivers, education subsidies for children, etc.). Kenneth Anderson has referred to NGOs as fundamentally “campaigning organizations.”<sup>29</sup> Unlike community-based organizations, which tend to be more locally constituted and focused, with less access to transnational donor capital and a more limited membership base, NGOs tend to target broader social and political issues and constituencies through a wider mandate that does not directly benefit the NGO staff. Among judges and legal scholars who take on elite governance positions, many study in Europe or North America with the hope of returning to the country of their birth or acculturation to serve in governance capacities.<sup>30</sup>

These brief portraits illustrate that the expansion of rule of law advocacy has involved the development of an analytic community of legal experts whose “science” has been established by a “Western” conception of the rule of law and whose conviction has been propelled by both a moral project and a legal discourse driving democratization in the global South. Having trained as international lawyers, international consultants, and business advisers, these professionals often seek donor support to fund the writing of legal documents, such as treaty protocols and constitutions, and act as advisers in the implementation and amendment of national documents. Many of these intermediaries are engaged in producing and reinforcing new regimes of internationalism that are invested in the predictability and legibility of governments and markets. Many of these agents working in international law arenas are characteristically eager to act and willingly mobile in their professed service of justice on behalf of both civil society and governmental officials. The consequent output—training manuals, constitutional research, briefs, and case law—is designed to inculcate the value of democratic stability and the threat of regional prosecution for offenders of that mandate.

For those engaged in the making of the Caribbean Community, it is not only democratic stability and regional deterrents but the need to both “close the circle of independence,” according to Prime Minister Simpson Miller, as well as to indigenize law making to reflect issues of Caribbean concern. In contrast, for Prime Minister Kamala Persad Bissessar the making of Caribbean regionalism must also contend with the need for judicial objectivity. Whether provided by the Privy Council or a noninvested judicial bench, being able to guarantee an independent Caribbean appeals court is critically important. These debates are deeply situated in forms of regional mappings that go well beyond nation-states and territorial demarcations. They are located in forms of regionalisms that insist that what constitutes the Caribbean is both referentially and regionally significant, but its real form—including governance, economies, and cultural currencies—is lived in locally mobile transnational spaces that exceed the geographic islands. Yet this amorphous entity that is deterritorial in its imaginaries and possibilities is still being regimented as a regional rule of law formation.

29 Kenneth Anderson, “The Ottawa Convention Banning Landmines: The Role of International Non-governmental Organizations and the Idea of International Civil Society,” *European Journal of International Law* 11, no. 1 (2000): 91–120.

30 See Clarke, *Fictions of Justice*.

Thus, it requires that we understand the empirical challenge of Caribbean studies both as a challenge in the deterritorial conceptualizations of linkages as well as a space for the construction of new social imaginaries.

Scholars engaged in the social science field of Caribbean analysis have been willing to move beyond the island territories to rethink the region, yet while a significant body of Caribbean literature has focused on either the Caribbean as a nexus of modernity,<sup>31</sup> the Caribbean as a site of creolization and syncretism,<sup>32</sup> or the Caribbean as a space for the development of regional projects,<sup>33</sup> scholars have not been as attentive to the ways new judicial and economic assemblages are differently ordering older forms of Caribbean regionalism and in that process are magnifying the making of Caribbeanness in particular ways. The experts and brokers at the center of this analysis are key to the discursive articulations of postcolonial Caribbean boundary making and unmaking. These processes are embedded in various affective relationships that, over the past twenty-five years, have been key in the production of a new Caribbean regionalism that is deeply tied to much larger multilateral alliances. Through these associations and negotiations Caribbeanness is becoming subsumed into formations that are deeply linked to the management of global rule of law mechanisms and, thus, critical to redefining Caribbean area studies in relation to new forms of global governmentality.

Much of the Caribbean studies scholarship that exists today tends to suggest that its agents engage in knowledge production within equal spheres of operation—as if a hegemony of knowledge formations does not exist. But the reality is that the forces of change that drive judicial changes are being propelled through new international institutions within which these brokers operate, requiring us to clarify *Caribbeanness* in relation to the ways agents are differently positioned to power. Not only do we need to disassemble analytically “the people” of the region from particular geopolitical territories but we also need to examine the ways that new hierarchies of knowledge reproduce new assemblages of regional and global power in distinctively new ways.<sup>34</sup>

31 See Michel-Rolph Trouillot, *Global Transformations: Anthropology of the Modern World* (New York: Palgrave MacMillan, 2003); Brackette F. Williams, *Stains on My Name, War in My Veins: Guyana and the Politics of Cultural Struggle* (Durham, NC: Duke University Press, 1999); Gilroy, *The Black Atlantic*; Scott, *Conscripts of Modernity*; Linda Basch, Nina Glick-Schiller, and Cristina Szanton Blanc, *Nations Unbound: Transnational Projects, Postcolonial Predicaments, and Deterritorialized Nation-States* (New York: Gordon and Breach/Routledge, 1994); Nina Glick Schiller, “Locality, Globality, and the Popularization of a Diasporic Consciousness: Learning from the Haitian Case,” in Regine Jackson, ed., *Geographies of the Haitian Diaspora* (New York: Routledge, 2011); Nina Glick Schiller, “Migration and Development without Methodological Nationalism: Towards Global Perspectives,” in T. Faist, P. Kovisto, and M. Hauser, eds., *The Migration-Development Nexus: A Transnational Perspective on Changing Paradigms and Organizations* (New York: Palgrave MacMillan, 2011); and Nina Glick Schiller, “Beyond the Nation State and Its Units of Analysis: Towards a New Research Agenda for Migration Studies,” in Karin Schittenhelm, ed., *Concepts and Methods in Migration Theory, Volkswagen Foundation Conference Reader* (2007), www.cultural-capital.net (accessed 10 October 2012).

32 See Charles Stewart, *Creolization: History, Ethnography, Theory* (Walnut Creek, CA: Left Coast, 2007).

33 See Brereton, *General History of the Caribbean*; Campbell, *Endless Education*; Mindie Lazarus-Black, “After Empire: Training Lawyers as a Postcolonial Enterprise,” *Small Axe*, no. 25 (February 2008): 38–56. Keith W. Patchett, *Law in the West Indies: Some Recent Trends* (London: British Institute of International and Comparative Law, 1966); Philip Sherlock and Rex Nettleford, *The University of the West Indies: A Caribbean Response to the Challenge of Change* (London: Macmillan Caribbean, 1990).

34 See Aihwa Ong and Stephen J. Collier, *Global Assemblages: Technology, Politics, and Ethics as Anthropological Problems* (Malden, MA: Blackwell, 2005); Gilles Deleuze and Félix Guattari, *A Thousand Plateaus: Capitalism and Schizophrenia* (Minneapolis: University of Minnesota Press, 1987), and *Anti-Oedipus: Capitalism and Schizophrenia* (New York: Penguin Classics, 1972).



## Whither Caribbean Area Studies? Studying the Area in an Age of Global Mobility

The region understood as the Caribbean is embedded in contemporary national and transnational networks, linkages, and institutions, while also being deeply shaped by jurisprudential imbrications that emerged within colonial inscriptions of governance. Most nation-states follow one of two legal systems: civil law or common law. These are the predominant systems in the Caribbean region and both have been used to create the substantive and procedural rules for new international jurisprudence being incorporated into regional integration projects.<sup>35</sup> It is worth noting that both the civil law and common law systems that originated in Europe were themselves shaped by the social customs and norms of the time. The common law system was shaped by layers of judgments and the civil law system enshrined in decrees or codes. In Cuba, the underlying colonial judicial system was based on Spanish civil laws and shaped by Marxist-Leninist principles, reflecting the role of the Spanish in Cuban statehood. In Trinidad, the French and then the Spanish annexed the island from the Indians; it was later colonized by the British, who set up a Crown Colony government and implemented its common law system as a way to manage the laws of the island. By 1880, Tobago was amalgamated with Trinidad, and it was not until 1921 that the indentured slavery system was ended. Trinidad gained independence from Britain on 31 August 1962. Finally, in Jamaica, the Spanish raided the islands and displaced the Indians, settling there in 1509. Jamaica was conquered by the English in 1655, and the English set up a common law system, under which an extractive plantation system thrived until 1834. Jamaica became an independent state in 1962 and established a parliamentary system of government.

These histories and political judicial underpinnings are what underlay the contemporary Caribbean and shape the basis for the reconfiguration of the region beyond the geography of the islands. Expanding the map of the region in ways that permit us to chart both its hegemonic histories as well as its new forms of sociality through the emergence of regional legal brokers allows us to contend with a different type of region making. These regional projects are made real through rule of law discourses that range from the articulation of Crown ownership claims to legal rules that present themselves as objective and absent of culturally values but which are in fact products of elite capital interests. So while the social imaginaries that have produced contemporary rule of law discourses have depended on narratives of uniformity and justice, these discourses are not in and of themselves capable of functioning in a benign way. Rather, they are structurally hegemonic in a way that distinguishes them from and overlaps with the social imaginaries of its people, be they tied to former empires, to contemporary migration flows, or to economic interests in the United States, Canada, China, or India.

Yet, at a period in which the Caribbean is being questioned in the area studies literature as a construct with arbitrary boundaries whose relevance as an entity is ambiguous,<sup>36</sup> these new

<sup>35</sup> See Clarke, *Fictions of Justice*.

<sup>36</sup> See Walter Mignolo, *The Idea of Latin America*. (Malden, MA: Blackwell, 2005); and Ariana Hernandez-Reguant, "Cuba's Alternative Geographies," *Journal of Latin American Anthropology* vol. 10, no. 2 (2005): 275–313.



brokers—international in form and structure—are playing growing roles in the concretization of Caribbean regionalism in the twenty-first century. Over the past decade, debates over whether area studies have diminished in significance and, in relation to the topic of this essay, whether the Caribbean as a region has ceased to be relevant have reigned supreme in discussions about globalization and transnational migration. Not only has the circulation of people, currencies, goods, and services, as well as the growth of various regional groupings and transnational institutions, contributed to the rise of Caribbean and Latin American studies, but the development of particular intellectual currents, like those that have shaped new regional governance, have begun to set the terms for discussing Caribbean regional integration. These are becoming central to the way we understand new maps for engaging in Caribbean studies in the academy. Such an exercise would highlight the critical role of intellectual engagement in shaping the production of entities that become social facts.<sup>37</sup>

In “Cuba’s Alternative Geographies,” in the 2005 introductory issue of the *Journal of Latin American Anthropology*, Ariana Hernandez-Reguant argues for Cuba’s inclusion in both Caribbean and Latin American scholarly imaginaries and against the balkanization of area studies and their related knowledge, which is still commonplace in the academy.<sup>38</sup> Hernandez-Reguant outlines the analytic limits of geographical demarcations that continue to form the basis of the regions that we know as “the Caribbean” and “Latin America.” In keeping with the prevailing critical transnationalism literature, she argues for a rethinking of Caribbean and Latin American cartographies of place. From its engagements with “diasporization,” to the black Atlantic, to post-Cold War, post-Soviet studies, analytic approaches to the island territory of Cuba should transcend their geographical shackles to engage in a more dynamic set of questions about the past, present, and future. In other words, Cuba, like other Caribbean islands, represents assemblages of complex workings of culture, history, and power, and its construction of itself is as much about its forms of self making as it is about the way it is seen. Yet the twentieth-century development of the field of Caribbean studies has taken shape alongside the growing hegemony of Latin American studies and has been engaged in debates over how one constitutes a region, which regions, and why. In some cases, colonial histories, political and judicial systems, and cultural and linguistic inscriptions have played critical roles in shaping when and how Caribbean cartographies are demarcated. So, according to Hernandez-Reguant, where Spanish colonialism and language had produced particular regional affinities between Cuba and Central and South American countries, at other times other determinants, such as trading partners or island location, have tied it more closely to anglophone or francophone countries.<sup>39</sup> Thus, among some, such as Sidney Mintz, Michel-Rolph Trouillot, Nina Glick Schiller, it is its geographical location combined with political economy that brought its study into Western focus, while for others it is neocolonial plantation histories, economies, and forms

37 See Carla Freeman, “The ‘Reputation’ of Neoliberalism,” *American Ethnologist* 34, no. 2 (2008): 252–67; Williams, *Stains on My Name*; Michel-Rolph Trouillot, *Haiti: State Against Nation: The Origins and Legacy of Duvalierism* (New York: Monthly Review Press, 1990); David Murray, *Opacity: Gender, Sexuality, Race, and the “Problem” of Identity in Martinique* (New York: Peter Lang, 2002).

38 Hernandez-Reguant, “Cuba’s Alternative Geographies,” 276.

39 See *Ibid.*, 275–313.

of linguistic sociality that shape how one demarcates the Caribbean.<sup>40</sup> Yet despite these ongoing differences over how the region should be defined, some of the most innovative thinkers on this question, Caribbean novelists and intellectuals, have continued to reconceptualize the Caribbean in deterritorial and diasporic terms (see George Lamming and Jamaica Kincaid, among others).<sup>41</sup> From this perspective, the subjects who were often the focus of the novels were understood as moving fluidly inside and outside of boundaries that exceeded both national states and former empires. Interestingly, these writers often imagined the islands of the Caribbean in relation to its people, their movement, slavery, exile-longing, and empire, and, as such, they articulated the Caribbean through the lived and simultaneous embodiment of the past, present, and future. In the social sciences, scholars such as Deborah Thomas, Michel-Rolph Trouillot, David Scott, Nina Glick Schiller, Aisha Khan, and Alissa Trotz, among others, have pushed the limits for how the region is understood, positing it in deterritorial terms.<sup>42</sup> Today the social scientific production of area studies, including in anthropology, has contributed to both constituting the Caribbean as a region, enabling critical thinking and relevant territorial constraints and, of late, rethinking the territoriality of belonging through deterritorialized social imaginaries that not only exceed panregional internationalism but incorporate the ways that Caribbeanness is dialectically performative. The conceptual maps that are the Caribbean are also always being drawn and redrawn as part of an ongoing process, constituted and unraveled according to a range of politically shaped hegemonically constituted rule of law projects that have the capacity to create Caribbeanness through its assemblages of treaty making and judicial negotiations in Rwanda, the former Yugoslavia, The Hague, and Rome, for example.

### New Forms of Sociality: Remapping the Region

In recent years, the entire validity of geographically based units of analysis has been subject to spirited critique. Much of the debate was salutary, exposing analytical assumptions and implicit political and ideological projects contained within various area studies undertakings. Two newer lines of area studies critique, which peaked in the 1990s, are particularly relevant in light of more recent developments. The first was the charge that area studies “ghettoized” non-Western regions of the world by assigning a division of labor between the theory-building disciplines and the subordinate, more descriptive and merely context-providing domain of area studies. The second critique came in the early thrall of new “globalization” paradigms, which deemed area studies units increasingly

40 See Sidney W. Mintz, *Sweetness and Power: The Place of Sugar in Modern History* (New York: Penguin, 1986); Michel-Rolph Trouillot, “The Caribbean Region: An Open Frontier in Anthropological Theory,” *Annual Review of Anthropology* 21 (1992): 19–42; Karla Slocum and Deborah A. Thomas, “Rethinking Global and Area Studies: Insights from Caribbeanist Anthropology,” *American Anthropologist* 105, no. 3 (2003): 553–65; Roberto González Echevarría, *Cuban Fiestas* (New Haven, CT: Yale University Press, 2012).

41 See George Lamming, *Of Age and Innocence* (Leeds, UK: Peepal Tree, 2011), *Sovereignty of the Imagination, Language, and the Politics of Ethnicity—Conversations III* (Albany, NY: House of Nehesi, 2009), and *In the Castle of My Skin* (Ann Arbor: University of Michigan Press, 1991); and Jamaica Kincaid, *Autobiography of My Mother* (New York: Penguin, 1997), and *A Small Place* (New York: Farrar, Straus, and Giroux, 1998).

42 See Thomas, *Modern Blackness*; Trouillot, “The Caribbean Region”; David Scott, “New Directions in Studying the Caribbean” (keynote lecture, Yale University, 5 November 2009); Basch, Glick Schiller, and Szanton Blanc, *Nations Unbound*; Aisha Khan, *Callaloo Nation: Metaphors of Race and Religious Identity among South Asians in Trinidad* (Durham, NC: Duke University Press, 2004); and D. Alissa Trotz, “Bustling across the Canada-US Border: Gender and the Remapping of the Caribbean across Place,” *Small Axe*, no. 35 (July 2011): 59–77.

obsolete in light of the accelerated interconnections between regions and the seemingly unbounded flows of ideas, identities, populations, and products.

Both critiques have largely been displaced by empirical events and altered circumstances, such as the formation of the new rule of law regional integration projects described in this essay. As new forms of political reorderings and new regional realignments have unfolded, it has become clearer that these new integration projects are intensifying as much as they are leveling regional differences. In much of the academic world, it is increasingly recognized that large-scale material and symbolic flows are experienced and transformed through localized meaning and practice, and that the agents who are engaged in these transformations matter. And the now common catch phrase for this dynamic, *glocalization*, signals a recognition that the social and political forms emerging within our current phase of globalization are only discernable through grounded, highly contextualized research.

In government and policy-making circles as well, analysts have come to recognize that these emerging social forms are in dire need of understanding and translation. It is in this context that area studies have become freshly relevant. For all the social and historical variation within an “area,” the unit of analysis is productively situated between the overly abstract global paradigms and the limited purviews of small-scale study. Area studies research that maps assemblages of linkages through ideational connections provides a fruitful vantage point from which to discern emerging and sometimes opposed social processes of persons who share relatively common histories, experiences of outside imposition, and social and expressive forms. As awareness accrues, the rapidly evolving forces shaping the contemporary world require new modes of investigation. Still today, Caribbean area studies is both fluid and particular, and it is uniquely positioned to generate new understandings of the Caribbean. It is also, for historical reasons, uniquely placed to bring conceptual insights to bear on other parts of our contemporary world and to engage with and refine the most abstract paradigms of globalization. In this sense, far from serving as a mere provider of context for grander disciplinary theories, Caribbean studies of regional integration through rule of law processes needs to become a theory-builder unit of wider purchase. This is especially true in the diasporic analysis of the region as it relates to the ways that place is affectively experienced in relation to both territory and deterritorialized relations among people in the elsewhere.

Earlier phases of Caribbean studies tended to be dominated by a particular discipline, from anthropology’s “cultural” explanations to political science’s “state” and “institution building” interests to the engagement of literary studies and its attention to African diasporic linkage or postcolonial departures. But as the above characterizations suggest, current Caribbean studies agendas transcend, more than ever before, the purview of any particular academic discipline. The insights of Caribbean studies come from integrated interdisciplinary perspectives and require that we combine these insights in an attempt to make sense of both the empirical realities and lived world imaginaries. The study of the CCJ is just one of many examples of the way regional formations are expanding Caribbean social imaginaries of what regional integration is doing to the way we understand Caribbean islands. Judicial experiments such as the Caribbean court project provide us with the possibility of making sense of the duality of new judicial management arrangements in

relation to deterritorial conceptions of the Caribbean and in relation to the discursive productions of Caribbean indigeneity. Caribbean studies' emerging cultural and political forms must continue to represent innovative reworkings of local meanings and social relationships. The responses of individuals and communities to their transforming circumstances are shaped by locally understood meanings and interests that create, in turn, new sites and vehicles for action. New social movements or forms of claim making, reconfigured sites of solidarity and attachment, and new fantasies of success have led to overwhelming senses of new forms of sociality. They have led to new conceptualizations of alliance and, as such, particular expectations of connections that are neither traditional nor externally determined but fundamentally unpredictable. Thus, there are three orienting premises—that Caribbean studies reflects particular articulations of postcolonial modernity; that much of the region is becoming part of a network of experts engaged in broader global linkages tied to a post-1989 rule of law movement; and that the Caribbean's newly emerging social and juridical debates understood through the discursive making of social imaginaries can orient current research on Caribbean realities. Through and beyond these realities we can begin to elucidate the many uncharted dynamics at play in much of the contemporary world. Thus, what is Caribbean studies is not unlike the globalizing transformations of our complex world. The Caribbean, like other regions, is a product of the history of transatlantic modernity, processes of racialization, academic, political, and juridical designations and the play of the social imagination. As such, it is linked to the dialectic complexities of hegemony, affective attachments. Whether conceptualizing it from Toronto, London, New York, Lagos, or Port of Spain, it is a place in the making, constantly being reshaped by political agendas, economic projects, global designs, and deterritorialized forms of sociality, all in the midst of difference. Its territorial geographies embody these complexities, and its deterritorialized formations participate in inscribing Caribbeanness through its social processes—in this case juridical ordering through the performative process of treaty making. And though this is one of many examples of the making of Caribbeanness, it exists as a statement of the need to defy attempts to fix its cartographies both within linguistically shared spaces or in relation to particular geographical and regional maps that privilege territoriality.

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