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## Time and Transcendence: Narrating Higher Authority at the Caribbean Court of Justice

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This article examines the relationship between time and authority in courts of law. Newness, in particular, poses an obstacle to a court's efforts to establish authority because it tethers the institution to a timeline in which the human origins of the court and the political controversies preceding it are easily recalled. Moreover, the abbreviated timeline necessarily limits the body of legal authority (namely, the number of judgments) that could have been produced. This article asks how a court might establish its authority when faced with such problematic newness. Based on extensive ethnographic research at the Caribbean Court of Justice, I demonstrate how the staff and judges at this relatively young tribunal work to create a narrative in which the Court transcends its own troublesome timeline. They do this by attempting to construct a time-transcendent principle of Caribbeanness and proffering the Court as a manifestation of this higher authority. The Court's narrative of its timelessness, however, is regularly challenged by far more familiar tales of its becoming, suggesting that in this court, as in all courts, the work of building and maintaining authority is ongoing.

### Introduction

**O**n a brilliant morning in Port of Spain, Trinidad in November 2013, Serena, the sharply dressed and well-spoken Customer Service representative at the Caribbean Court of Justice (hereafter "CCJ" or "the Court"), guided a group of Trinidadian attorneys through a

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courthouse tour.<sup>1</sup> I had accompanied Serena several times before on tours through the Court and appreciated her natural, efficient, and informative narration. She could move swiftly through the building pointing out highlights, details, facts, and little-known facts, educating her audience throughout and mixing in enough audience-appropriate “Trini flavor”—dropping in bits of local creole, drawing on shared Carnival knowledge, or mentioning familiar names and places—to keep the tour light, enjoyable, and engaging.

As usual, Serena’s tour began in the Registry of the Court, and, as usual, after several opening remarks and a brief introduction to the workings of this office, she directed the attorneys’ attention to a mini-museum located within the Registry lobby. She explained: “Now, a lot of people think that the idea of setting up a regional final court of appeal was a recent idea,”

*But we have a letter ... from as far back as 1901. It was written in the Jamaican Gleaner in the “Letters to the Editor” suggesting that the Privy Council, because of the distance from the colonies, they would have been too far to really dispense true justice. And the author suggested that we set up our own regional final court of appeal.*

As the attorneys absorbed this information, she continued:

In 1970, at a conference of heads of government, the idea for a regional final court of appeal was put forward. However, it was not until 1989 that the heads of government agreed to establish the court. In 1999, Trinidad & Tobago announced that we would house the court here. And the heads of government approved the *Agreement Establishing the Court*. In 2001 the agreement was signed.

With an indication of her hand, Serena directed her audience’s gaze to a series of photographs displayed on the walls. She explained,

On the walls we basically have a pictorial depicting the establishment of the court from the very inception of the signing of the *Treaty of Chaguaramas*. What I find interesting about this is that even as far back as the public consultations you see people who are involved in the court up until now...

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<sup>1</sup> All names are pseudonyms. However, I have chosen to follow the practice of the Court, wherein senior managers are usually referred to by their titles and surnames and other staff and employees are commonly called by their first names.

Serena pointed out a couple of familiar faces in the photographs, including the current President of the CCJ and a founding architect of the CCJ, and then allowed the visitors a minute or so to look at the pictures.

These photos loosely followed the narrative Serena had presented. Though the 1901 newspaper article was not displayed (but it is available on the CCJ website (see Caribbean Court of Justice 2015), as Serena usually noted), three black-and-white photos under the label “The Beginning” helped bolster Serena’s claim to the CCJ’s deep history. Two of these photos, as the labels indicated, depicted the “Signing of the Treaty of Chaguaramas,” an event that took place in 1973 and created the Caribbean Community (CARICOM), something I discuss in more detail below. The third photo showed the “Signing of the Agreement Establishing the Caribbean Court of Justice,” which took place, as Serena had just told the tour group, in 2001. Given its recent date, it was unclear why that particular photo was black-and-white, but its black-and-whiteness did seem to impart to it an air of antiquity.

What is perplexing about this presentation of the Court’s establishment, through Serena’s words and the photos on the wall, was its emphasis on the Court’s agedness. As all of these attorneys likely knew, this Court was not at all old. In fact, most tours, such as this one, were prompted by the newness and novelty of, and, thus, the lack of familiarity with, the Court. It is a regional tribunal intended to serve a large swath of independent (mostly) English-speaking Caribbean states that was signed into being in 2001 through the execution of two documents: the *Revised Treaty of Chaguaramas Establishing the Caribbean Community Including the CARICOM Single Market and Economy* (commonly abbreviated to the *Revised Treaty*), which called for the creation of the Court, and the subsequent *Agreement Establishing the Caribbean Court of Justice*, which officially set forth the terms for its existence.<sup>2</sup> In 2004, the first president of the Court was sworn in, and throughout 2005 the remaining six judges took office. It opened the doors to its temporary home in Port of Spain, Trinidad & Tobago later that same year, before moving to the modern, mirrored, and newly remodeled building in downtown Port of Spain it currently calls home. On August 8, 2005, the

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<sup>2</sup> The 14 signatories of the *Revised Treaty* are: Antigua & Barbuda, Barbados, Belize, the Commonwealth of Dominica, Grenada, the Co-operative Republic of Guyana, Haiti, Jamaica, Montserrat, St. Kitts & Nevis, Saint Lucia, St. Vincent & the Grenadines, The Republic of Suriname, and the Republic of Trinidad & Tobago. The 12 signatories of the *Agreement* are: Antigua & Barbuda, Barbados, Belize, Grenada, Guyana, Jamaica, St. Kitts & Nevis, St. Lucia, Suriname, and Trinidad & Tobago, who signed in 2001, while Dominica and St. Vincent & the Grenadines signed in 2003.

Court heard its first arguments,<sup>3</sup> and on October 26, 2005, it issued its first judgment.<sup>4</sup> This is all to say that, by many measures, this is still a very new court.

Why, then, did the rather newly established CCJ present itself as old? Further, why is the future often of great concern to the Court as well? While the excerpt of Serena's tour presented above does not hint toward the future, other aspects of the attorney's visit to the CCJ, which I address later in this article, foretell a bright and certain future for the Court, guaranteeing its success and its longevity. The entire temporality of the CCJ, in other words, is of import to those who work there. Serena, her superiors, and even the judges present a court with a curious chronology.

This article explores why this is done, how, and to what desired effect. To do this, I begin with an introduction to the Court, providing a brief background and social and legal context to this institution. While it has commonly and productively been studied as an international court (see e.g. Baudenbacher and Clifton 2013; Caserta and Madsen 2014), which it most certainly is, the problem that the Court aims to address in its narration of its temporality has less to do with its international-ness and more to do with its newness. For this article, therefore, I consider the CCJ alongside other "new" courts (many of which, incidentally, happen to be international tribunals). One of the most challenging hurdles for a new court is the establishment of authority. Bereft of a violent foundational moment and usually unable to rely on tradition or religion, a new court is left to construct its authority through other means (see Arendt 1968; see also Benjamin 1978).

Such means certainly include reliance on the initial delegation of authority to the court and the subsequent development of judicial precedent (see e.g., Caserta and Madsen 2014; Venzke 2013). Authority might also be sought in the specific attributes of court personnel, judges, and the courthouse itself, such as the charisma of a particular prosecutor at the International Criminal Tribunal for the Former Yugoslavia (Hagan 2003), the design of the courtroom at Nuremburg (A. Azuero Quijano, pers. comm.), or the reputations of sitting judges (see e.g., Venzke 2013). Similarly, new courts might pursue a variety of tactics in deciding cases or in operating as an institution as another means to

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<sup>3</sup> On this date, the Court heard arguments for an application for Special Leave to Appeal from the Court of Appeal of Barbados (*Barbados Rediffusion Service Ltd. v. Mirchandani McDonald Farms LTD.* (2005)).

<sup>4</sup> The Court granted leave to appeal in the same matter (*Barbados Rediffusion Service Ltd. v. Mirchandani McDonald Farm LTD.* (2005)).

construct their authority. Notable examples include the fierce judicial independence and noteworthy activism in South Africa's Constitutional Court (Sachs 2009), the close association with and multiple ties to Anglo-American "civilization" in Hawai'i's Nineteenth-century courts (Merry 2000), and the ability of Native American tribal courts to navigate between "federal oversight of tribal sovereignty and the demand of self-governance" (Richland 2008: 13). Indeed, new courts are left to piece together their authority from the resources available and have done so, as the above examples suggest, quite creatively and diversely within the contexts of their creation.

In this article, I illustrate another way in which a new court might work to construct its own authority, and that is to pursue a particular relationship to time and temporality. Creating a deep past and a distinguished future, I suggest, is important not merely for the sake of making a long institutional timeline, but because this representation of all-timeness (Greenhouse 1989: 1642) or perpetuity (Richland 2012, 2013) presents the court as inextricable from and authorized by a certain transcendent principle. Using data collected during approximately 15 months of ethnographic fieldwork at the CCJ in 2012–2013, I show how Serena and her colleagues, through their narrativization of the Court's perpetuity, assert that it is a transcendent principle of Caribbeanness that authorizes this Court, essentially laminating together law, Caribbeanness, and the Court. Importantly, I also argue that the CCJ's narrative is in fact creating the spirit of Caribbeanness that it claims authorizes it and that this is ongoing laborious work open to contestation—for many, a postcolonial history or an explanation rooted in regional economic treaties offers a far more straightforward account of how the Court came to be.

I emphasize that while this article focuses on the CCJ and discusses in some detail its particularities, I offer it as but one example of how a new court might construct its authority. In this way, it contributes to the body of literature cited above. I suggest, as well, that this article, through the opportunity presented by the study of a new court that has only just begun the process of establishing its authority from the ground up, can speak to the issue of authority for all courts—old and new. It is through new courts like the CCJ that we are best able to appreciate the precarity of any court's authority and the complication of its constitution and maintenance. Even old courts, in other words, must continuously tend to the narratives, the personal attributes, and the judicial temperaments that have come to constitute its authority.

## The Caribbean Court of Justice

The Caribbean Court of Justice proudly sees itself as “two courts in one” (Caribbean Court of Justice 2015). By this, the Court refers to its original jurisdiction, in which it functions as an international tribunal deciding issues pertaining to regional economic treaties and agreements, and its appellate jurisdiction, in which it acts as a national appellate court for its signatory states. While contained within one courthouse, administered to by the same staff, and judged by the same bench, the Court’s two jurisdictions arose out of two different, but entangled, historical trajectories. Because this article takes seriously the Court’s efforts to narrativize its own genesis, I strive, in this section, to provide only a sequential telling of the treaties, events, and regional institutional formations that are most frequently associated with the Court’s establishment (see e.g., Pollard 2004; Rawlins 2000; Simons 2005; Thompson-Barrow 2008).

In its original jurisdiction, the CCJ is often presented as an outgrowth of the region’s efforts to create a more closely integrated economic community of Anglophone Caribbean states. These efforts can be traced at least to 1958, when the West Indies Federation was formed with the encouragement, assistance, and insistence of the British Colonial Office. The Federation, however, was plagued by problems from the beginning. Persistent tensions within the still colonized territories and between these territories and the Colonial Office regarding administration, governance, and finances caused the rapid demise of the Federation only four years later. By 1965, the Caribbean Free Trade Association (CARIFTA) was created in its wake, with an intention to unite the economies of these now mostly independent states and “to give them a joint presence on the international scene” (CARICOM 2015). By 1973, with the signing of the *Treaty of Chaguaramas*, CARIFTA was replaced by the Caribbean Community and Common Market, or CARICOM, which, itself, eventually morphed into the CARICOM Single Market and Economy (CSME). Neither CARICOM nor the CSME (or CARIFTA or the West Indies Federation, before them) have been the juggernauts of economic integration or activity that had been hoped, leading many in the region to adopt a critical, skeptical, and sometimes even hostile stance towards these entities.

For better or for worse, the advent of the CCJ is, in many ways, tied to these regional endeavors. Throughout the decades, there had been stirrings regarding the creation of an indigenous regional court, and, finally, in 2001, with the creation of the CSME, the CARICOM heads of state took the necessary steps to

establish the Caribbean Court of Justice, which, as noted above, opened in 2005.

Understood as a product of this trajectory, the Court's original jurisdiction might be identified as the Court's *raison d'être*. In this role, it is very much cutting a new path in the Caribbean, as there has not been and is not any other court charged with adjudicating CARICOM related matters. Yet, the Court's ability to "deepen regional economic integration," which the *Revised Treaty* includes as one of its primary objectives, has been hampered by its limited caseload. Though all 12 signatories of the *Agreement Establishing the Caribbean Court of Justice* fall under the CCJ's original jurisdiction as a result of signing the *Agreement*, only eight unique cases (one of which was denied leave to commence proceedings for lack of standing) had been filed as of December 2013, when my fieldwork came to an end. This is an average of approximately one case a year.

The CCJ also has an appellate jurisdiction in which the Court decides cases as a national court within a common law system. It is through the exercise of this jurisdiction that the Court is intended to replace the Judicial Committee of the Privy Council (located in London) as the final court of appeal for the independent English-speaking signatories of the *Agreement*.<sup>5</sup> Despite securing political independence from Great Britain decades ago, much of the English-speaking Caribbean retained the Privy Council as their final appellate court. Thus, the CCJ is often touted as the institution that can finally "close the circle of independence" for these states (Pollard 2004). In order for the Court to perform this function, though, each state must separately make the necessary constitutional changes to replace the Privy Council with the CCJ, and this has not happened for most of the signatories; of the 12 member-states to the *Agreement*, only four states (Guyana, Barbados, Belize, and, in 2015, Dominica) have amended their constitutions in order to accede to the Court's appellate jurisdiction. The remaining states continue to appeal their cases to the Privy Council, meaning that Privy Council precedent continues to reign throughout much of the Anglophone Caribbean. As a result, the CCJ's appellate jurisdiction also remains quite limited.

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<sup>5</sup> Dutch-speaking Suriname, which has a civil law system, is also a signatory of the *Agreement* and could, therefore, technically join the appellate jurisdiction of the Court. However, based on my observations and interviews with CCJ personnel and judges, the Court does not seem to be seriously contemplating or preparing for this possibility. Suriname, though, has been active in the Court's original jurisdiction: a private entity from Suriname initiated one case and the state of Suriname was named as defendant in another case, leading to multiple appearances before the Court by Surinamese attorneys (all of whom speak English fluently).

When acting in its appellate jurisdiction, the Court has promised to “foster an indigenous Caribbean jurisprudence” (Caribbean Court of Justice 2015), which is imagined as something different from the old and distant British laws enforced by the old and distant British institution of the Privy Council. Given the continued relevance of Privy Council precedent in the region and the public’s long-established comfort with British law, the CCJ judiciary, though, has not completely divorced itself from Privy Council decisions. In one of its first appellate cases, a death penalty matter from Barbados, the CCJ noted that it would, “consider very carefully and respectfully . . . the judgments of the [Privy Council] which determine the law for those Caribbean states that accept the Judicial Committee as their final appellate court” (*Attorney General v. Joseph and Boyce* 2006[18]). Thus, the CCJ works to forge a new jurisprudence while “carefully and respectfully” acknowledging the authority of the Privy Council and equally carefully maintaining its distance.

Indeed, the CCJ could be readily folded—or even disappear—into a legal history dominated by the Privy Council, instantly providing it with a long and illustrious past and a seemingly unending future. But the CCJ is dedicated to creating an indigenous jurisprudence and promised to be the final step on the long road to full independence; to tie its existence too closely to the stubbornly persistent colonial reminder of the Privy Council would be to undermine its foundational edicts. Similarly, an existence too closely associated with regional economic integration pursuits is distasteful, since these endeavors have not, for the most part, enjoyed success or support amongst the populations they were designed to serve. More than this, not only does such a past threaten to taint the Court’s short history, it also casts a dim light on the Court’s future: will it be just another regional folly doomed to a troubled life and a quick death?

Steering clear of either a colonial past or a regional-institutional one, the Court is left to face its own pastlessness and confront its own precarious future. These are daunting problems for any court, but they take on particularly challenging characteristics in the English-speaking Caribbean. The short history of the court magnifies the “all-too-human origins” of the CCJ and the law that it applies (Kahn 1997: 180). It remains too easy to identify the particular men who made the Court; indeed, their names were readily offered to me in many of my interviews, and I had the opportunity to speak with several of these gentlemen over the course of my fieldwork. The CCJ, in other words, is associated with living, breathing, speaking individuals, such that its intention of being a “rule of law” institution is tainted by the perception of being a “rule by men” creation. While such an



appearance is detrimental to the authority of all courts, this is especially bruising in a region where there is tremendous concern over the meddling of politicians; several of my interlocutors at the CCJ only half jokingly claimed that an accusation of corruption and a resultant fracas within government took place “every nine days” in Trinidad. At times, the national courts were implicated in the scandal, leading to persistent suspicion that sitting governments and “big men” around the region had untoward influence on the justice system. The CCJ has not been immune to these allegations, whether founded or not.

In addition to this, a short past means, of course, that the CCJ has had limited time to establish a sufficient body of precedent, settle its procedures, or create its customs of practice. The slim body of case law often requires the Court to make new substantive law, the unsettled procedures compels it make new procedural law, and a lack of customs often produces an *ad hoc* feel to the everyday activities of the Court. In short, there is very little “preserving”—of the law, of procedures, or of customs—that goes on at the CCJ, but there is plenty of “law-making,” “procedure-creating,” and “custom-instituting” (see Benjamin 1978). During the course of my fieldwork, for example, I witnessed the occurrence of the first judicial retreat, the rollout of the first five-year strategic plan, the pomp and circumstance of the first itinerant trial, and the first electronically filed court documents. This is not to mention the number of cases in which the judges decided issues related to evidence, procedure, and use of law that had never previously been addressed by the Court. So many “firsts” only emphasized the human hand in the construction of the Court.

Related to this is the Court’s reputation of novelty instead of continuity, or change rather than stability. Novelty, notably, is frequently met with foot-dragging in the Caribbean, where many often speak of changes in law as “harmonization” rather than reform and think of the timeline for change as happening over “generations” rather than years. Thus this Court, where everything is new and presently being made, has been met with more suspicion than it has with celebration and has enjoyed solitude more so than authority. As noted earlier, the CCJ has struggled to attract member-states and a substantial caseload, the tangible result of which is that the CCJ, as I experienced, is a fairly quiet place. Sometimes weeks passed without a single court hearing. This lack of activity amplifies the precarity of the Court’s future: what will the Court do if traffic does not pick up? I posed such a question to numerous CCJ judges and employees, and while nearly everyone initially disavowed the possibility that the future would be quite so dim, a few respondents conceded that if the

caseload did not improve, it was likely that the Court would have to scale back in terms of staffing, expenditures, and, possibly, even the size of the bench. Such a sorry decline would be precisely the fate that many in the region would predict for an institution linked to regional economic integration endeavors

There is also the ongoing issue of the Privy Council. Its continued availability complicates the likelihood of the CCJ's future success. Though the Privy Council has encouraged Anglophone Caribbean states to establish and use a court of their own, it has never stated that it would actually require these states to leave its jurisdiction. In fact, it could be argued that the Privy Council has been sending very mixed messages. In early-2005, months prior to the opening of the CCJ, the Privy Council overturned an effort by the Jamaican government to join the appellate jurisdiction of the CCJ, holding that the proper procedure had not been followed. Since then, Jamaica has not yet been able to muster enough support to accede to the appellate jurisdiction through the procedural avenues outlined in that decision. Then, in 2006, after the CCJ had opened its doors, the Privy Council traveled to the Bahamas, at the request of the Bahamian judiciary, for its first itinerant sitting in 170-years. It did so again in 2007 and again in 2009. These frequent and continued interactions with the Caribbean suggest that the Privy Council is happy to continue to serve the region, and as long as the Privy Council offers itself as a willing appellate tribunal, the CCJ's future will likely be challenging and its history stubbornly tied to the (post)colonial past.

Considered together, the problems stemming from the Court's newness are daunting and undeniably detrimental to its authority. Seeking to unmoor itself from troublesome pasts, cloak its manmade origins, and guarantee its long future, I argue that the Court attempts to transcend a linear, human timeline and plug itself into a quasi-theological or semi-spiritual temporality in which it is woven together with a higher authority—an authority that can authorize this particular Court. It does this, I suggest, through narratives that tinker curiously with time and, simultaneously, introduce and celebrate an idea of Caribbeanness.

### **The Time of Legal Authority**

Before analyzing the CCJ's particular approach to time, it is worth discussing the relationship between time and legal authority more generally. Legal authority is a topic on which much and significant ink has been spilled, and the contributions of H.L.A Hart (see e.g., 1994[1961]), Lon L. Fuller (see e.g. 1969 [1964]), Hans Kelsen (see e.g., 1967), John Rawls (see e.g., 1999 [1971]),

Joseph Raz (see e.g., 2009 [1979]), Ronald Dworkin (see e.g., 1986) and others have helped to advance our thinking and understanding of how law might establish its authority. In the context of this article and on the topic of time, however, I find that empirical and historical studies—which, undoubtedly, build on the arguments of these legal philosophers—are more valuable and, thus, more productive. So it is from these works that I primarily draw in what follows.

Though the relationship between time and legal authority can vary culturally (see e.g., Greenhouse 1996), in the West, the relationship between the two is often understood to be quite straightforward: more time means more judgments which equates to a larger the body of authoritative law. Thus, an older court simply has more legal authority since it has decided more cases. Relatedly, the passage of time creates expectations based on past patterns and practices. “[T]he force of the past builds on intuitive beliefs suggesting plainly that actors should act consistently and decide like cases alike. The appearance of consistency adds to credibility and increases the authority of the actor” (Venzke 2013: 399–400). Longevity, therefore, can also bolster a court’s authority for the simple reason of proving that court’s tenacity, triumph, and expertise of existing, functioning, and, ideally, improving over time. In short, time builds trust in a court and its laws.

The relationship between time, law, and authority, though, is far more nuanced and much more profound than this and sets courts apart from other institutions. It is the difference between merely building trust and establishing faith. While any number of institutions—from universities to ice cream factories—might also root their authority in time, they do so to build trust and prove the quality of the education that is provided or the product that is produced. A legal institution, however, is of an entirely different institutional order in that it claims jurisdiction over things well outside of its doors, creates new relationships between people, and organizes societies. Its relationship to time, therefore, is also of another order. It is not so much the age of law, but its agelessness that contributes most significantly to its authority. Law is understood to be of the moment, in that it is relevant and significant today and every day, but also to exist outside of and above the moment, such that the law is not new or old and does not have a beginning or an ending. Instead, it is perceived to have a divine origin, as Benjamin suggests (1978), and its authority a “mystical foundation,” as Derrida argues (2002: 239–40), and it is this theological quality that helps lend authority to law in the West (see e.g., Comaroff 2009; Goodrich 2011; Kahn 1997). It follows, therefore, that the authority of law rests, at least in part, not on a showing of proof or a building of trust, but on an

“act of faith [which] is not an ontological or rational foundation” (Derrida 2002: 240); it is a “belief” in authority that “has more in common with myth than with logic” (Kahn 1997: 2–3).

Law, in other words, obtains at least some of its authority because it is understood as coming from and existing in a time-space that is different from that of the time-space of human life—an alternate dimension associated with some greater authority, whether it be the authority of a Judeo-Christian God or that of some other higher spirit. When law intersects with our lives through the context of a legal case, it draws from the authority of this divine, mystical, or spiritual foundation. Important here is the fact that the faith-backed authority of law exists only with the ongoing efforts of those persons and institutions that work with the law. New laws and new courts are created all the time and such newness poses a problem, as I discussed above (see e.g., Kahn 1997: 20). How courts elide this problematic newness without the actual passage of time is where I turn next.

It has been the work of various legal historians and anthropologists, amongst others, to show how law’s seeming transcendence of time and space might be achieved and maintained through the observable exertions of people and institutions. Legal scholar Paul W. Kahn, for example, identifies the activities of the U.S. Supreme Court as it wrestled with the *Marbury v. Madison* case as a point of origin of the American belief in the rule (or authority) of law (1997). It is through “rhetorical strategies, not deductive arguments,” he claims, that the “myth of law” is made to triumph over politics (5, 3). The rhetoric of the Supreme Court in its decision in *Marbury* helped to generate and reinforce a set of beliefs about the law, including law’s transcendence of time and its difference from the rule of men, from which its authority could be derived (19).

Anthropologist Carol Greenhouse in her examination of temporality and law in the West similarly suggests “[l]aw has a mythic dimension. . . , in its self-totalization, its quality of being in time (in that it is a human product) but also out of time (where did it or does it begin or end?), and in its promise of systematic yet permutable meaning” (1996: 183). It is this mythical dimension—law’s seeming existence at “*all-times*” (1989: 1642, emphasis in original)—that allows it to play a crucial cultural role, which is, Greenhouse argues, the ability to resolve conflicts “one at a time while gesturing toward the totality of all resolutions of all hypothetically possible conflicts” (1989: 1641). Like Kahn, Greenhouse grounds her argument in an institutional example: judicial succession in the U.S. Supreme Court—a particularly useful example, she suggests, because in this act the temporalities of the law, personal lifetimes, and public lifetimes must be negotiated (1996:

183; 1989: 1641). Greenhouse shows that these temporalities can be successfully worked out by “downplaying or suppressing altogether the particular aspects of a person’s career, so that the judicial ‘career’ can avoid any appearance of *becoming*,” such that a Supreme Court Justice, much like the law, simply *is* and *always has been* (1996: 185, emphasis in original).

More recently, linguistic anthropologist Justin Richland has offered an analysis of legal narratives as a way to understand law’s unique temporality (see 2012, 2013). He suggests that the “perpetuity” of law is constituted through the “language of law” (2013: 219) and argues that through legal narratives, law’s authority in the here-and-now is intertextually linked to that in the before-and-elsewhere and the later-and-somewhere else. It is a collapsing of time and social space that Richland compares to literary critic Mikhail Bakhtin’s “chronotope” (Richland 2013: 218–19, citing Bakhtin 1981). And it is this time-space envelope that allows law to generate its own authority “by revealing seemingly transcendent norms to be immanent in the facts of a particular dispute” (Richland 2012: 5). Moreover, the way that perpetuity works by connecting certain facts and norms in a present matter and linking them to prior and anticipated fact-norm connections, necessarily, according to Richland, attempts to foreclose other possible linkages—a “narrative violence” that is part and parcel of law’s perpetuity (2013: 220). It is in this way, Richland argues, that law’s perpetuity implicates the “larger (re)production of legal power more generally” (*ibid.*).

Hussein Agrama’s work on the Fatwa Council of the Al-Azhar mosque in Egypt is also relevant to this discussion, as he identifies a time-transcendent principle that guides and gives authority to the fatwas issued by these institutions (2010). While the Fatwas are neither legal orders nor are they officially enforceable, they “exercise significant authority... while the court judgments are looked on with great suspicion” (4). Exploring why this is so, Agrama argues that it is the ability of fatwas, as practiced by the muftis who pronounce them, to transcend the distinctions between and the difficulties presented by an outdated past, the present moment, and an ever-changing future by orienting toward a principle that is even more important than the truth of the matter in question. This principle, Agrama suggests, is the “ideal Muslim self” and the ethical care for that self (12). He emphasizes that what is important and what helps give authority to the fatwa is that the ideal Muslim self exists at all-times (to import Greenhouse’s term (1989)) and adeptly mediates between multiple temporalities (see Agrama 2010: 13). While Agrama’s project in recasting fatwas in this way is to rethink the relationship between ethical agency and authority, it elucidates, as well,

the relationship between time, transcendence, and the authority of legal and quasilegal institutions.

Drawing from these works on time, law, and authority, I analyze the CCJ's concern with its own past, present, and future. Kahn (1997) emphasizes the human labor that contributes to the image of law's divine authority. Greenhouse shows how the all-timeness of law must also be carried throughout the institutions that administer that law, such as Supreme Court justices (see 1989; 1996). The newness of each newly appointed justice is carefully and symbolically supplanted by timelessness (*ibid.*). Richland illustrates how legal narratives work to build the perpetuity, and, thus, the authority of law, by revealing transcendent and immanent norms and simultaneously working to foreclose other narratives (see 2012; 2013). And I read Agrama (2010) as providing a compelling example of how the presence of a higher principle—in his case, the ethical care of an ideal Muslim self—lends authority to fatwas and, importantly, their issuing institution by mediating between multiple temporalities. In what follows, I demonstrate how a new court in the early stages of augmenting its authority, works to constitute itself, through the labor of its employees and judges, as a court in perpetuity (an all-times court) through a carefully woven narrative that simultaneously constructs and relies upon a greater, guiding principle as a source of authority. What is important is not claiming more time for the sake of mere agedness, but narrating a timeline that folds the CCJ into a cosmic dimension and offers it as a here-and-now manifestation of a transcendent authority. In the next section, I show how Serena's tour and the PowerPoint slideshow that preceded it point to a deep past and an extensive future for this reason: the CCJ may be a relatively new institution, but it is only the present day instantiation of Caribbeanness, an authorizing spirit and undergirding principle that is, always has been, and always will be.

### **Narrating Caribbeanness and a Court in Perpetuity**

Tours offered a rare occasion for the Court to tell the story of itself directly to the public it hoped to serve, and by no means did the Court squander these opportunities. Indeed, tour days were big days during my time at the CCJ and mustered a good number of the Court's resources in the form of time, money, and personnel. While to some extent each tour was tailored to the demographics of the visiting group, for the most part, they followed similar patterns, provided similar information, and hoped

to accomplish similar goals, namely, to educate its visitors about the Court in the past, present, and future.

Depending on the size of the expected group and its importance, as determined by the Chief Protocol and Information Officer, Dr. Williams, the impending arrival of a tour group catalyzed a variety of activities within the courthouse in the days and hours leading up to the visit. For larger groups, numbering more than roughly ten people, Dr. Williams, Serena, or another member of the Protocol and Information unit organized a small reception of tasty finger foods, juices, and coffee and tea that would be served at the conclusion of the courthouse visit. For more important groups, such as law school student associations and other assemblages of attorneys or politicians that could bring cases to the Court in the future, Dr. Williams prepared a PowerPoint presentation that preceded the tour and often recruited several CCJ judges to participate in a question-and-answer session that took place after. And, all tour groups, regardless of size or importance, received an impressive courtroom technology demonstration and neatly compiled CCJ-branded gift bags. Depending on inventory, these gift bags included copies of the *Revised Treaty of Chaguaramas*, the *Agreement Establishing the Caribbean Court of Justice*, the *Judicial Code of Conduct* for the CCJ, the Court's Strategic Plan, as well as "Your Questions Answered" (CARICOM 2003b) and "What it is What it does" (CARICOM 2003a) booklets and other similar informational materials. Every visit also included a fairly thorough tour of the courthouse. During my time at the CCJ, I joined over 10 such tours, which represented the great majority of tours that took place.

The tour by 20 Trinidadian attorneys with which this article opened qualified as both a large and important group necessitating the full array of tour services: an hour-long PowerPoint slideshow, a 30-minute tour of the courthouse, a courtroom technology demonstration, a question-and-answer session, a reception, and a parting gift bag. The entire visit lasted over four hours and put several attorneys at great risk of arriving late to matters in the local courts. During the course of this visit, parts of which I describe below, Dr. Williams, Serena, other employees, and judges, as well the informational booklets included in the gift bag worked together to present a narrative of the Court that extended its timeline both backward and forward and presents the entire chronology as veritably steeped in a spirit of the Caribbean—or, Caribbeanness, as I call it. It is in part through the narrative offered at tours like this one that the Court seeks to generate its own authority by laminating itself to the transcendent higher authority of Caribbeanness and, thereby, positioning itself as a Court of all-times.

## The Courthouse Visit

It was 8:00 a.m. on a Tuesday morning, and, as usual, most of the CCJ office staff was still slowly arriving through the backdoor of the courthouse, weary after battling the notoriously bad Port of Spain traffic. The three-person Court Protocol and Information unit, however, had been at the Court for some time. They had already met, welcomed, and ushered the visiting attorneys up to the first floor courtroom in preparation for their planned tour, allowing Dr. Williams to begin his PowerPoint punctually. As was usual for him on tour days, he was dressed in a black suit, white shirt, his CCJ-branded tie, and a small CCJ lapel pin. Serena, Diondra, and the audience were similarly attired in all black suits. The visiting attorneys silenced their cell phones, finished their conversations, and waited politely for Dr. Williams to commence.

His presentation, entitled “The Caribbean Court of Justice—One People, One Court,” opened with several slides featuring an exterior photograph of the shiny and sleek building that housed the CCJ and the Mission and the Vision of the Court. These were followed by the “Genesis of the CCJ,” a topic about which Dr. Williams was “not going to go into full detail,” since he was sure “that most of you are aware of all of this.” This is a story, he seemed to be saying, with which his Trinidadian audience was, or ought to be, already aware. The CCJ was an institution, in other words, that should already be firmly vested in the region’s psyche. Indeed, he moved through this slide rapidly, explaining quickly and in one breath:

At the 22<sup>nd</sup> meeting of the Heads of Government in 2001, as a result of which the Treaty of Chaguaramas, which dated from 1974, was revised and updated to become what we call the RTC, the *Revised* Treaty of Chaguaramas. Contained within the Revised Treaty was the structure for the CSME, the CARICOM Single Market and Economy, in which the Caribbean Court of Justice is the lynch pin.

Following that somewhat dizzying account of dates and treaties, Dr. Williams paused briefly and delivered the following sentence much more deliberately:

Make sure you understand this because it is the truth; it is a truism—it is not something I am saying because I work here: No CCJ, No CSME. Very simple.

While this one slide occupied only 37 seconds of his 60-minute presentation, what Dr. Williams managed to accomplish was, in



fact, far from simple. First, though he suggested the creation of the Court was common knowledge, his telling of the Court's past managed to "obscure" its origins, to borrow a word from Derrida (1986: 9). It involved a confusing tacking back-and-forth in time, a reference to an under-defined conference, and a mention of a couple of treaties, acronyms, and acronyms within acronyms. Almost certainly, these Trinidadian attorneys would have recognized these conferences, treaties, and acronyms, all of which pertain to the Caribbean.<sup>6</sup> It remains, however, that Dr. Williams's truncated explanation was not easy to follow and did not, necessarily, clarify the development of the Court. Moreover, it presumed that the "Genesis of the CCJ," a topic about which many tour visitors hope to learn, was already well known. Dr. Williams's narration, in other words, suggested that there was something so obvious about the CCJ that this audience would already be familiar with it and could readily recognize it: the Court's utter Caribbeanness. It is notable that he called this a story of Court's genesis (thereby hinting to the divine), rather than a telling of its history (and an acknowledgement of its manmade-ness). The presence of a felt and shared spirit mattered more than the organized recitation of dates.

Dr. Williams's account also gestured toward the future indispensability of the CCJ with his truism, "No CCJ, No CSME." The CSME, or CARICOM Single Market and Economy, was intended to bind the region together in an economically cohesive market and economy that could sustain the competitive onslaught brought on by globalization. Guiding the idea of the CSME was the belief that the small island states of the Caribbean would face sure economic ruin unless they came together as a single market and economy. Dr. Williams's one-liner played into this doomsday scenario: No CCJ meant no CSME, and no CSME meant no viable Caribbean. To be able to make this argument, though, Dr. Williams had to switch which endeavor depended on the other for its existence. The creation of the CCJ is, in fact, subsumed within a treaty that is dedicated to the establishment the CSME (*Revised Treaty of Chaguaramas*). If the CSME had never been

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<sup>6</sup> The frequency of references to the Caribbean were many, and this becomes far more evident in "translation":

At the 22<sup>nd</sup> meeting of the [**Caribbean** Community] Heads of Government in 2001, as a result of which the Treaty of Chaguaramas [a **Caribbean** regional treaty], which dated from 1974, was revised and updated to become what we call the RTC—the *Revised* Treaty of Chaguaramas [also a **Caribbean** regional treaty]. Contained within the Revised Treaty was the structure for the CSME—the [**Caribbean** Community] Single Market and Economy—in which the **Caribbean** Court of Justice is the lynch pin.

created, therefore, it is questionable whether the CCJ, would have ever come to fruition. Dr. Williams, though, switched this around and, in doing so, worked to avoid the troublesome past and questionable future of the CSME and other regional projects. Through Dr. Williams's telling, the Court became the vanguard of the Caribbean's future and the protector of a Caribbean spirit.

The leitmotif of the CCJ's profound Caribbeanness continued throughout Dr. Williams's presentation and prepared the audience for the final segment of the slideshow: "What the UK has to say." Dr. Williams clicked forward to the first slide in this section and read from the quotation inscribed there using his best British accent, distancing, by doing so, his Caribbean English from its colonial heritage:

*It is obvious that, from the mere distance of those colonies and the immense variety of matters arising in them, foreign to our habits and beyond the scope of our knowledge, any judicial tribunal in this country—which is the United Kingdom, [Dr. Williams, breaking character for a split second, parenthetically reminded the tour group] must of necessity be an extremely inadequate court of redress.*

Returning to his Trinidadian lilt, Dr. Williams emphasized, "The Lord Chancellor of England said that in 1833, 180 years ago, but we're still up under their...fill in the blank." The audience chuckled, comprehending his reference to the almost embarrassing, undoubtedly awkward, and oddly anachronistic situation of the former British colonies of the Caribbean: for 180 years, according to the quote that Dr. Williams had read, the British have been pointing out the inconvenience of serving a Caribbean public in the legal system of the United Kingdom and, yet, and this was the uncomfortable joke, the Caribbean refused to go.

What made this joke even funnier and more uncomfortable was that the British, according to Dr. Williams's presentation, never budged from this position. He moved to his next slide: "This is more recent," he pointed out. In 2003, Lord Hoffman, a member of the Privy Council, had also expressed the limitations of that tribunal in administering justice to the Caribbean. Then, another slide—even more recent, but without a date—that included a quote from the current President of the Supreme Court of England, who conveyed his frustration with the amount of time the Supreme Court had to spend on Privy Council matters. And then a fourth and a fifth slide, all reiterating the basic sentiment that the U.K. law lords and legal academics found the Caribbean's continued utilization of the Privy Council to be nothing short of a nuisance. The message, as presented by Dr.

Williams, was clear: the U.K. did not want the burden of deciding Caribbean cases, never wanted this burden, and would likely, and with good reason, shed itself of this burden in the future. What this all led to, although it remained unstated, was that the CCJ was the obvious remedy to such an uncomfortable situation. It was the Caribbean solution to this Caribbean problem. Indeed, it had always been the solution and always will be the solution. And with that, Dr. Williams's presentation was over, ending with a picture of the CCJ seal set against a Caribbean blue background.

From here, the attorneys began their tour of the courthouse, with half of them joining Serena. Serena's tour, as described earlier, also began with a narrative of the Court's origins complemented by photos on the wall. Her telling of the genesis of the CCJ added different dates and documents to those listed by Dr. Williams, but, like his, Serena's story emphasized the Caribbean energy, inspiration, and efforts that led to the creation of the Court. Similarly, she highlighted the deliberate Caribbean character of the Court, which included walls painted in pastel "Caribbean colours" and decorated with Caribbean artwork, a Caribbean-wide children's art competition, a Caribbean law school moot court competition, the second largest collection of Caribbean law books (the largest being housed at the University of West Indies-Cave Hill law school), the Caribbean nationalities of the staff and judges, and so on. This Court, as it was presented to this tour group, practically overflowed with Caribbeanness, a point that Dr. Williams later emphasized. The CCJ, he stated, "wasn't anybody else's idea. It was ours."

After ushering her group of attorneys through the four floors of the courthouse, Serena returned them to the first floor where the Technology manager was ready to present the courtroom technology demonstration. This was followed by a question-and-answer session with several of the judges in an upstairs conference room. Amongst other topics, the judges ruminated on the Court's future. While there might not yet be a substantial caseload in the original jurisdiction, one judge thought that perhaps the members of the "younger generation" had been better trained in international law and would be more willing and eager to make a name for themselves by bringing landmark original jurisdiction cases. He noted as well that, "things are picking up...especially in the appellate jurisdiction." Another judge added that once Trinidad and Jamaica acceded to the appellate jurisdiction of the CCJ—something he treated as a foregone conclusion—"we will be inundated." In short, the attorneys heard forecasts of a brilliant future from the most senior people at the Court.

The morning's events ended with a small reception where the attorneys, judges, and several CCJ staff members mingled and chatted informally over snacks and tea. And, four hours after they first sat down to hear Dr. Williams's presentation, the attorneys were at last preparing to leave the Court. As they collected their items and expressed their gratitude, Serena, Dr. Williams, and Diondra distributed a gift bag to each visitor. The gift bags contained the standard tour-goer fare: copies of several of the treaties mentioned during the visit, the Court's Annual Report, a judicial code of ethics, and a couple of informational booklets. These informational booklets offered more information on the history of the CCJ.

"What it is What it does" identified a 1970 Heads of Government Conference in Jamaica as the key event that eventually led to the Court's establishment (CARICOM 2003a). "Your Questions Answered" made note of the same conference, but placed the initial suggestion of the Court decades earlier, in 1947, with a meeting of West Indian governors (CARICOM 2003b). These two booklets, in other words, offered the attorneys more dates and different trajectories regarding the formation of the CCJ, but both, notably, identified the Caribbean as the source and origin of the Court.

Thus, by the time the attorneys left the building they had been exposed to at least four different renditions of the Court's beginning, multiple dates of origin, and a string of treaties, agreements, and conferences, and it remained entirely unclear which of the four stories was correct. Providing the definitive history of the CCJ, however, was not the broader objective of the tour. The staff could have scripted its PowerPoints, tour talks, and booklets such that they told a single cohesive story with fact-checked dates and figures, but it did not. Instead, it offered tales that featured incongruent dates and names, but shared an ever-present Caribbean spirit that was posited as both a driving force in the formation of the Court and a higher authority permeating the Court.

In fact, the multiplicity of dates, though almost certainly unintentional, was effective in furthering the construction of this Caribbean spirit. The many pasts presented to the attorneys obfuscated the Court's origins, detaching it from a single individual, particular political party, or identifiable foundational moment and shifted the focus from these specifics to a more general feeling. Instead of leaving with a clear picture of the Court's history, the attorneys departed with a sense of the Court's fundamental Caribbeanness. The narrative offered by the Court attempted to replace the "all-too-human origins" of the CCJ and the law that it speaks with a spirit that came from a time unknown and from a

source indeterminable (Kahn 1997: 180). Much like the “ideal Muslim self” identified by Agrama (2010), Caribbeanness, as I am calling it, is proposed as a principle that can transcend the difficulties, incongruences, and inconveniences presented by the past, the present, and the future and impart to the CCJ an authority that is not restricted or determined by the passage of time.

### **Narrative Violence and the Attempted Foreclosure of Troublesome Pasts**

The Court is, of course, constructing Caribbeanness at the same time it claims it as a source of its authority. It does so most evidently by explicit and repeated reference to the actions of Caribbean people and entities, as illustrated through examples like Dr. Williams’s telling of the genesis of the CCJ, and through unmistakable claims to the Caribbean roots of the Court, such as Dr. Williams’s comment that the CCJ “wasn’t anybody else’s idea. It was ours.” The Court also works to construct Caribbeanness by drawing out themes that transcend the passage of time. For instance, viewing together the multiple stories of the Court’s establishment, one begins to get a picture of a centuries-long tradition of demanding a split from the Privy Council. As early as 1833, the visitors are told, the Lord Chancellor of England was already somewhat threateningly suggesting such action. By 1901, the cry had been localized, with a letter to the editor of a Jamaican newspaper similarly urging a split from the Privy Council. Then, in decade after decade, as the tour guides and informational booklets highlight, the theme continues unabated. It is a Caribbean call that transcends the years, creating a semblance of continuity across space and time, and the CCJ offers itself as the equally time-transcending Caribbean answer to this call.

The same narrative that constructs Caribbeanness carefully elides problematic pasts by locating the Court’s origin in this transcendent principle rather than placing it within the better known histories of the (post)colonial Privy Council and regional economic integration projects. The Court cannot, as noted earlier, stake its authority in British legal history at the same time it positions itself as an independent Caribbean court. Nor does it want to associate its origins too closely with CARICOM and other regional economic projects if it hopes to garner the support and confidence of the Caribbean people. Thus, the Court tells a Caribbean tale that attempts to foreclose alternative narrations of the Court’s constitution, particularly those renditions that threaten to de-authorize it. This is similar to what Richland has called the “narrative violence” of law’s perpetuity, wherein “law’s

stories (and the meanings it makes) are shown to exclude the stories (and the meaning-making they accomplish) done by those who experience themselves as outside of law” (2013: 220, citing Cover 1993 and Ewick and Silbey 1998). It is in this way, Richland argues, that law’s perpetuity implicates the “larger (re)production of legal power more generally” (2013: 220).

The narrative that the CCJ offers features Caribbean actors signing Caribbean treaties, writing Caribbean newspapers, and making independent decisions about how Caribbean law should be administered. British interlocutors have been all but white-washed from the CCJ’s past, their only appearance being in the form of the vilified Privy Council. Indeed, when one visiting attorney asked Dr. Williams how to address the judges, Dr. Williams explained that it is appropriate to call them “Judge” or “Your Honour.” “We don’t use ‘lordship,’” he quickly added. “That is for the Privy Council.” While the Court certainly retains some reminders of the British heritage of Caribbean law and legal systems, the CCJ’s explicit telling of itself attempts to muffle an alternate story in which the CCJ plays second fiddle to the better known and more widely respected Privy Council. In its narrative, the CCJ is the protagonist and a proud representation of what it means to be Caribbean.

Similarly, though the Court cannot fully disavow its connection to CARICOM (it was, after all, established through CARICOM treaties), small details, such as “No CCJ, No CSME,” are rearranged to give the CCJ a prominent place in the Caribbean and ensure that it, not CARICOM or the CSME, determines the trajectory of the region. It is somewhat fortuitous, in fact, that neither CARICOM nor the CSME have been particularly successful, as it allows the CCJ to position itself at the front edge of the future, a role that would certainly expand in the future portrayed by the judges. It stood ready and able and, as a manifestation of Caribbeanness, was in the best position to shape the Caribbean spirit of the future by deciding legal and social issues of notable import. One judge, in response to my question of why he believed the CCJ was a critical institution, elaborated:

The Court is important as the last bastion of regionalism. But, hidden behind that, of course, is the notion that the Court is also the remaining possibility for developing, I would like to say, a Caribbean civilization, even though not many people have used that concept, but that is the idea. It is not just that we have a regional market or common market or a single market, but in its mission as the Court of appellate jurisdiction, I think we can begin to shape and give character to a kind of regional jurisprudence that is very Caribbean in its flavor and in its essence.

What is important in the judge's comment is his emphasis on "regionalism" (rather than the region), on a Caribbean "civilization" (rather than a territory or market), and on "character," "flavor," and "essence" (rather than rules, laws, and order). His choice of words indicates that it is the feeling and emotion associated with the Caribbean that the Court is uniquely qualified to develop, protect, and uphold and, in this way, the Court holds the future of Caribbeanness in its hands. From this, it is evident that not only does the narrativization of the Court's past attempt to foreclose other narratives, so too does its tellings of the future.

By narrativizing itself in this way, the Court constructs a Caribbean spirit and offers itself as an institution borne from that spirit and as something that exists independent of troublesome pasts and precarious futures. It has its own perpetual temporality and is a Caribbean Court *sui generis*, just as the Caribbean spirit is a thing unto itself. Understanding the Court's narrative in this way highlights what is at stake in these tours and the narrative presented therein. It is not merely a matter of attempting to out-compete narratives, but is more profoundly about the (re)production of the Court's authority more generally (see Richland 2013: 220). The CCJ has the authority to represent a Caribbean people because it was borne from the very same Caribbeanness that constituted those people; it has the authority to determine cases in the present because it is thoroughly saturated in this Caribbeanness; and it has the authority to determine the future of the Caribbean because it is and always has been the manifestation of Caribbeanness.

However, despite these efforts to construct a narrative in which the Court transcends the problematic timelines of the region's colonial heritage and economic integration endeavors, the CCJ has not been wholly successful in teasing its existence from these alternate accounts. Pasts, presents, and futures not of the Court's making often come crashing back in to the CCJ's reality and illuminate the necessary ongoingness of its efforts.

Six weeks after the attorneys' visit to the Court, I interviewed one of the lawyers who had participated in the tour. I met with Cynthia in her downtown office in Port of Spain. She is litigator who had been practicing law for three years, and in that time she had already appeared before the CCJ in an original jurisdiction matter. She had also previously participated in two CCJ-hosted moot court competitions as a law student from the University of the West Indies and had been on more than one tour of the courthouse. She had, in short, been veritably steeped in the Court's narrative.

Cynthia is a true supporter of the CCJ, but the way in which she understands its existence suggests that even she had not

adopted the Court's narrative of itself. Rather than understanding it as a manifestation of some sort of transcendent Caribbean spirit, Cynthia saw the CCJ as being integrally related to the economic regionalization endeavor. To her, it was primarily an economic tribunal created to accomplish practical, tangible goals. She explained that in her understanding, the overarching goal of the Court was "to revitalize CARICOM and to establish the rule of law in the operation of the CSME." Of course, these regional institutions do not enjoy an illustrious past and do not paint a rosy future. Even Cynthia, a firm believer in economic regionalization, acknowledged that there has been "consistent inactivity" over the past 40 years of CARICOM, and she recognized that the CCJ's future, as far as its original jurisdiction is concerned, rested more in the hands of private entities than the state signatories. For the Court to fulfill its mandate, Cynthia argued, "it's really going to require an invested interest from private persons and attorneys in general who are willing to represent them in the original jurisdiction...which [is] sorely lacking." This was not quite the same bright future that the CCJ forecasted for itself and it certainly had little to do with any sort of feeling or emotion associated with the Caribbean. Private interests, economic concerns, and real people who were willing to take a risk by going to the relatively untested CCJ would determine its fate, according to Cynthia.

Then, there was the appellate jurisdiction. Like Dr. Williams's presentation, Cynthia's story also noted the Privy Council's eagerness to rid itself of the burden of deciding Caribbean cases. "They have been extremely careless with our jurisprudence," she said, "because they are tired of coddling us." She also similarly saw the great opportunity afforded by having a court of one's own: "We would lose this inferiority complex that we've been carrying around for a long time...We would gain self-confidence; we would gain a certain degree of international prestige; and we would gain autonomy in how we conduct our affairs." Despite these possibilities and the seeming recognition of an "us" composed of Caribbean people, Cynthia remained circumspect on when or whether Trinidad & Tobago would accede to the Court's appellate jurisdiction. She did not acknowledge an abiding spirit of Caribbeanness that would eventually and necessarily draw Trinidad into the fold of the Court. Attributing Trinidad's failure to join the appellate jurisdiction of the Court to "political confusion" and calling it "very embarrassing that Trinidad hasn't been able to get its act together," Cynthia stopped short of making any predictions about Trinidad's ultimate accession. "The appellate jurisdiction?" she wondered aloud, "I don't know." Again, the future she foresaw differed from the one presented by the CCJ. For Cynthia, the Privy Council's narrative continued indefinitely.



Given Cynthia's understanding of the past and the future of the CCJ, it is not surprising that her assessment of the its present also diverges from the Court's self-narration. The Court offered an image of its current self in which its Caribbeaness was practically overflowing. It was a product of a Caribbean past, of Caribbean people, and of prolonged Caribbean initiative. Serena pointed out the Caribbeaness that was literally embedded in the very walls of the courthouse, and Dr. Williams proudly announced that this Court was no one else's idea, but "ours"—meaning the people of the Caribbean. Yet, Cynthia reflected, "the CCJ has not really impacted the general consciousness of the Caribbean." Thus, while the CCJ's narrative revolves around an idea of Caribbeaness of which it is merely a present-day manifestation, Cynthia's comment seemed to ask how the Court could be shot through with Caribbeaness if the consciousness of the Caribbean did not even know it existed. And, so, the newness of the Caribbean Court of Justice comes to rear its ugly head once again. The impressive narrative offered by Dr. Williams, Serena, and the others in which they carefully attempted to establish the Court's authority by weaving its existence together with a transcendent Caribbeaness continued to be openly challenged by far more familiar tales of colonial history and regional economic endeavors.

Importantly, as a new court, the CCJ is not alone in having to face these contestations. Kahn argues that the circumstances surrounding *Marbury v. Madison* demonstrate a struggle not unlike the CCJ's in the effort to establish a dominant narrative, or "myth," as he sometimes calls it, in the "American legal imagination" (1997: 9). There, it was a contest between an understanding of the Supreme Court as a rule of law institution or as another political arm of the government. Here, it is a question over whether the Caribbean Court is a product of a Caribbean spirit, an outgrowth of regional institutions, or a byproduct of colonialism. Regardless of the exact details of the battle, it remains that in a new court competing narratives continue to have real traction, and the building of authority as being founded in one narrative rather than another requires quite visible, ongoing labor. A new court, unlike a more established court, cannot simply brush aside alternate narratives as untenable stories. It must acknowledge them and address them, and perhaps even attempt to preempt them. Dr. Williams, for instance, did just this during his PowerPoint slideshow. While he offered some information about the CCJ's historical connections to CARICOM, he breezed through the details and emphasized the Court's Caribbean roots instead. He worked, too, to head off an understanding of the Court in which Britain was a protagonist, instead casting the Privy Council as the villain that sought to oust the Caribbean

from its jurisdiction. He was also careful to distance himself and the Court from a British heritage by adopting a faux British accent and disdainfully explaining that “lordship” is “for the Privy Council,” not the CCJ.

Moreover, the construction of authority is never a completed process and even older courts must devote some attention to the maintenance of their stories of origin. Greenhouse (1996), for example, shows how the U.S. Supreme Court, long after *Marbury v. Madison*, continues to attend to and reassert the mythical dimension of the Supreme Court and its relation to law through symbolically loaded judicial succession practices. Yet, compared to the labor displayed in the CCJ’s tours, such work is far subtler. And here lies the value of studying new courts. While it is certainly possible to appreciate the ongoingness of authority-building in any court, it is through attention to the newness of new courts that the scope of the challenge, the importance of the labor, and the serious question of success are brought sharply into focus.

## Conclusion

Using a tour of the CCJ in which the Court’s past is ambiguously presented and its future is confidently forecasted as a starting point, this article inquires into why the Caribbean Court of Justice is seemingly so concerned with its own time and temporality. I have argued that newness poses a problem for any court, and I use the CCJ, with its particular social and historical background, as an example of how time matters to the authority of a court: the short past of the CCJ makes its human origins too vivid, thereby stoking suspicions of undue political influence, the association of the CCJ with regional economic integration projects readily folds the Court into the history of those troubled and sometimes short-lived endeavors, and the suggestion that the CCJ is a replacement to the Privy Council squarely fits the Court into a past dominated by colonialism. Each of these poses a substantial obstacle in the Court’s efforts to establish its authority. Thus, the CCJ works to transcend this troublesome timeline altogether by offering a narrative in which it is a manifestation of a transcendent higher authority, something I have identified as Caribbeanness. In short, through the course of this article, I have demonstrated that the CCJ attempts to present itself as a court in perpetuity. It has, as an iteration of the spirit of Caribbeanness, always existed and always will exist, thereby excising itself from a problematic linear temporality and positioning itself in an alternate quasi-theological dimension.

This is not, however, a dimension that already exists. Instead, the Court's narratives construct Caribbeanness at the same time they rely on it, and, even more, they work to flood the narrative field, such that competing stories of the Court's origins are shut out. Here again, the CCJ's newness presents a problem. Few actually know about the Court and, thus, have had no opportunity to hear its narrative or lack the interest in learning its story, and those who do know about it are often far more familiar with the well-rehearsed histories of colonialism and regional economic integration. In other words, the Court's narrative and the Caribbeanness that it works to create are regularly exposed to an onslaught of competing narratives that tether the CCJ to linear timelines and trajectories with less flattering pasts and more foreboding futures and that detriment its authority, rather than increment it. The Court's work, therefore, continues, and, as I have argued is the case with all courts, always will.

Indeed, the study of a new court like the CCJ brings into sharp focus the challenges of establishing and maintaining authority for any court. While the narratives on which a court's authority might be built can become more practiced, more convincing, and more successful in foreclosing alternate tales of becoming as time goes by, they remain vulnerable to nonconforming narratives that threaten the court's authority. Thus, what we see in the CCJ in such vivid detail—its struggle to construct its own authority—also continuously, though perhaps less laboriously and less uncertainly, occurs in every court.

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