

“Yes, [We Bow,] But not a Deep Bow:” Qualia and the Thinkability of Caribbean Jurisprudence

Law, Culture and the Humanities
1–20

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DOI: 10.1177/1743872118788058

journals.sagepub.com/home/lch



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Abstract

Drawing from fourteen months of ethnographic research, this article offers an analysis of the Caribbean Court of Justice’s (CCJ) efforts to develop Caribbean jurisprudence as an example of how the work of postcolonial courts might be understood not as mimesis, but as productive qualia-tative labor. The semiotic concept of qualia helps to refocus attention on the deliberate “Caribbeanness” that the CCJ endeavors to combine with already well-established “courtly” features, such as deferential courtroom bows and familiar judicial robes. The article argues that by thoughtfully weaving together Caribbean and courtly qualities, the CCJ works to develop Caribbean jurisprudence by making it sensible – that is, both comprehensible and experienceable.

Keywords

Caribbean, postcolonial, courts, semiotics, qualia

I. Introduction

‘Caribbean jurisprudence’ is a phrase that arose early and often during the course of my fieldwork at the Caribbean Court of Justice (CCJ), a relatively new regional tribunal that serves twelve Caribbean states, eleven of which are former British colonies and one of which is a former Dutch colony.¹ Interview questions regarding the purpose of the Court,

1. The CCJ’s twelve member-states are: Suriname (a former Dutch colony), Antigua & Barbuda, Barbados, Belize, Dominica, Grenada, Guyana, Jamaica, St. Kitts & Nevis, St. Lucia, St. Vincent & the Grenadines, and Trinidad & Tobago (all former British colonies).

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the work of the Court, or the value-added of the Court often led to a discussion of Caribbean jurisprudence. It is a concept that is included in the preamble of the *Agreement Establishing the Caribbean Court of Justice*,² that appears on the homepage of the CCJ,³ and that has received substantial attention in the CCJ judges' own speeches,⁴ as well as in the research of Caribbean legal scholars.⁵ The development of it, the Court's foundational documents state, is one of the CCJ's primary duties.⁶ The importance of it, CCJ staff and judges emphasize, is paramount: "The court must expend much energy to convince all and sundry of its superior credentials and the rightfulness of its claims to the throne of Caribbean jurisprudence," wrote a senior staff member.⁷ It is, in sum, the Court's *raison d'être*.

Despite all this talk about Caribbean jurisprudence, it remains a concept that is remarkably difficult to pin down. As explained to me by a distinguished Jamaican attorney and member of the Regional Judicial and Legal Services Commission, "no definitive definition can be postulated." It is not, a senior academic at the University of the West Indies (UWI) argues, "rooted in the ideology of integration and wanting to shed the remnants of colonialism."⁸ Nor is it "simply a legal sensibility," writes Tracy Robinson, a senior lecturer in the Faculty of Law at UWI's Jamaican campus.⁹ What it is, my many interviewees suggested, is something far more, something that seemed to be just beyond description, or at least something that defied tidy explanation. The CCJ's Executive Administrator, for instance, insisted that Caribbean jurisprudence was not merely the law being made by the judges, but encompassed the full breadth of the Court's work, from the standards it is trying to set, the example it is trying to make, the time schedules it endeavors to keep, and the interactions between law and people. The Registrar of the CCJ, when I asked her what Caribbean jurisprudence is, quickly responded, "I don't

2. *Agreement Establishing the Caribbean Court of Justice* (2001).

3. <http://www.ccj.org/>, accessed April 6, 2018.

4. The Honourable Mr. Justice Winston Anderson, "The Caribbean Court of Justice and the Development of Caribbean Jurisprudence," The Norman Manley Law School Distinguished Lecture, The University of the West Indies, March 7, 2013; The Right Honourable Sir Dennis Byron, "The CCJ and its Integral Role in Development of Caribbean Jurisprudence," "Eminent Speakers" Lecture, UWI Law Society, Faculty of Law Cavehill Campus, UWI Barbados, November 9, 2011; and The Right Honourable Mr. Justice Michael de la Bastide, "Five Years of CCJ's Contribution to Caribbean Jurisprudence," Hyatt Regency Hotel, Port of Spain, April 16, 2010.

5. See Tracy Robinson, "A Caribbean Common Law," *Race & Class* 49(2) (2007), 118–24 and Leighton M. Jackson, "Fi We Law: The Emergence of Caribbean Jurisprudence and the Doctrine of Precedent," in David S. Berry and Tracy Robinson (eds), *Transitions in Caribbean Law: Law-Making, Constitutionalism and the Convergence of National and International Law* (Kingston, Jamaica: Ian Randle Publishers, 2013), pp. 3–32.

6. *Agreement* (2001).

7. Michael Anthony Lilla, *Promoting the Caribbean Court of Justice as the Final Court of Appeal for States of the Caribbean Community* (Williamsburg, VA: National Center for State Courts, 2008).

8. Alpha Saunders, "Academic rejects arguments in favour of CCJ," *Jamaica Observer*, February 12, 2015.

9. Robinson, "A Caribbean Common Law," 118.

know the answer to that!” before offering a tentative definition rooted in a distinction between Caribbean cultural norms and those of Europe. Similarly, a Barbadian judge, speaking of his days as a law professor at UWI, noted the elusiveness of this concept:

[E]ven though we in the University of the West Indies spoke of Commonwealth Caribbean Law, and even though we wanted to explain what is Commonwealth Caribbean Law beyond saying it’s a law which is based on an almost sick dependency . . . You know, I mean beyond that . . . I don’t think that we were able to say what Caribbean jurisprudence, what Caribbean law, is.

Caribbean jurisprudence, in other words, does not yet seem to be wholly thinkable, even by those jurists, professors, and CCJ employees who should be most familiar with it and who have, in fact, thought deeply about it, a point raised by David Berry, the Dean of the Faculty of Law at UWI’s Mona, Jamaica campus, and Tracy Robinson in their introductory chapter to a volume dedicated to *Transitions in Caribbean Law*.¹⁰ Caribbean jurisprudence, they argue, is not nearly as self-evident as many have supposed. A call to develop it, therefore, raises more questions than it can answer, including the most fundamental of them all: “Is there such a thing?”¹¹ And herein lies the problem I seek to explore in this article: how does a Caribbean court dedicated to developing Caribbean jurisprudence make this very jurisprudence thinkable? How does it create the conditions for its possible existence?

The most obvious place to turn to answer this question would be to the Court’s own written judgments and spoken decisions – that is, its classically-defined body of jurisprudence. To what extent does this jurisprudence feature a recognizably Caribbean character (whatever that may be)? Is it Caribbean enough to earn its prefix? Such focused attention on the Court’s case decisions might identify deficiencies in its Caribbeanness or it might reveal ways in which it is already overflowing with this quality, thereby ushering Caribbean jurisprudence across the threshold of thinkability. Yet, such analyses have been done,¹² and Caribbean jurisprudence remains just beyond the reach of full comprehension and satisfying definition. Indeed, the magnitude of Caribbeanness in the Court’s jurisprudence does not seem to be the root of the problem. Instead, as I elaborate in this article, the limited thinkability of Caribbean jurisprudence finds its origins in the opposing valuations of “Caribbean” and “jurisprudence,” as they are conceptualized by those living in the region the Court is meant to serve. The negative valuation of the former, particularly

10. David Berry and Tracy Robinson, “Transitions in Caribbean Law: An Introduction,” in David S. Berry and Tracy Robinson (eds), *Transitions in Caribbean Law: Law-Making, Constitutionalism and the Convergence of National and International Law* (Kingston, Jamaica: Ian Randle Publishers, 2013), pp. vii–xxvii.

11. Op. cit. at p. vii.

12. See, for example, The Right Honourable Sir Dennis Byron, “The CCJ and its Integral Role in Development of Caribbean Jurisprudence” [sic] (“Eminent Speakers” Lecture, UWI Law Society, Faculty of Law, Cave Hill Campus. Cave Hill, Barbados. November 9, 2011), Jackson, “Fi We Law” (2013), and Salvatore Caserta and Mikael Rask Madsen, “Between Community Law and Common Law: The Rise of the Caribbean Court of Justice at the Intersection of Regional Integration and Post-Colonial Legacies,” *iCourts Working Paper Series* (2014), published online http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2528978, accessed April 6, 2018.

when it pertains to law and the positive valuation of the latter, which is regionally understood as a product of British law and order, effectively cancel each other out, making Caribbean jurisprudence an “unthinkable” nullity.¹³ Simply, these two terms – “Caribbean” and “jurisprudence” – cannot yet reside next to one another in a meaningful way. The question becomes, then, how does the CCJ work to improve the value of the “Caribbean” so that it can legitimately rest alongside “jurisprudence” or, for that matter, any other law-related concept? For much like Caribbean jurisprudence suffers from unthinkability, this Caribbean court struggles to establish its authority, Caribbean justice draws doubts, and Caribbean judges face distrust.¹⁴ The Court strives to remedy this situation in part by deliberately and carefully combining the qualities of “Caribbeanness” and “courtliness” within the materials and practices of the Court, working to make Caribbean jurisprudence thinkable by first making it sensible (literally, sense-able) and, hopefully, valuable through thoughtfully constituted and conventionalized qualia, a semiotic concept that has been put to recent productive use within anthropological analyses.

As I illustrate in this article, the Court works to combine the qualities of Caribbeanness and courtliness within single objects, such as the judicial robe, or unique practices, like the courtroom bow. It is these phenomenal instantiations of experienceable qualities that are called qualia (or quale in the singular form) and that provide a visceral avenue through which the CCJ can begin to make Caribbean jurisprudence thinkable, a necessary precondition for its existence. That is, both the robe and the bow are intended to elicit feelings of Caribbeanness and courtliness *simultaneously*, thereby raising the value of the former by hitching it to the latter and suturing the two together into one indistinguishable experience: Caribbean courtliness. Not only does the concept of qualia draw our attention to this subtle labor, but it also helps to move the analysis of this Court – and other postcolonial legal institutions – beyond more typical discussions of mimesis. To see the robe and the bow as poorly executed copies of British and British colonial materials and practices would be to fundamentally misunderstand the CCJ’s very reason for being.

In what follows, I offer a short introduction to the CCJ that highlights several of its lesser-appreciated characteristics: the robes and the bows, for instance. Next, I offer a more detailed discussion of the concept of qualia and explain how this concept helps elucidate the Court’s deliberate effort to marry the quality of the Caribbean with the quality of top-notch justice, things that I gloss as “Caribbeanness” and “courtliness,” respectively, within the walls, halls, behaviors, and robes of the courthouse. Finally, I argue that it is through such careful combination of qualia that the CCJ takes a first step toward making Caribbean jurisprudence plausible.

13. See Michel-Rolph Trouillot, *Silencing the Past: Power and the Production of History* (Boston, MA: Beacon Press, 1995).

14. See Martin Forbes, “Letter of the Day: CCJ A Loud Sounding Nothing,” *Jamaica Gleaner*, January 26, 2015; Hamid Ghany, ‘The Colonial Mindset and the CCJ,’ *Trinidad and Tobago Guardian*, April 27, 2014. See also Berry and Robinson, “Introduction,” p. ix, which also points to “familiar nationalist and regionalist anxieties – can the Caribbean develop the self confidence to make law consistent with its ‘identity’ and will lawmakers and the legal profession accept the Caribbean on its own terms?”

II. Low Bows, Blue Robes, and Pink Judges' Chambers

At the CCJ, one is expected to bow before the judges at various points throughout a courtroom hearing: at the beginning before sitting, at the end before the judges leave the bench, and, if court is in session, at the threshold of the courtroom before leaving and reentering. This is a practice adhered to in British courtrooms and in those of most of its former colonies. The bow at the CCJ, though, has a particular style, as was explained and demonstrated by Dr. Williams, the Chief Protocol and Information Officer, to a group of visiting Caribbean attorneys.¹⁵ At this Court, he said, the bow is “not a deep bow, more like a nod,” thereby implying that the CCJ’s ritual was thus distinguishable from that of the British and British colonial courts. The emphasis, he suggested, should be on the depth of the bow, not the bow itself.

As an American unaccustomed to bowing, I frequently forgot to bow, either shallowly or deeply, at all of the required moments during my fieldwork at the Court. My forgetfulness often prompted a reminder in the form of an insistent, yet friendly look in my direction from the Chief Registrar who maintained a respectful order in the courtroom, and even caused one forgiving judge to tease: “You must find all of this bowing pretty ridiculous!” I assured him I did not, only that I struggled to remember all of the occasions in which bowing was necessitated. To myself, however, I wondered why the Court had a practice of bowing at all. Even for Anglophone Caribbean attorneys well-accustomed to bowing in court, it was not a foregone conclusion that *this* Court, in particular, would include this practice. Dr. Williams’s description of the bow, in fact, was in response to one of the visiting attorneys’ questions as to whether bowing was expected at the CCJ. The question seemed to imply that it might make more sense for the CCJ to have dispensed with the bow entirely, but, of course, it had not.

The curiosity of the CCJ’s bow arises from the circumstances of the Court’s existence. At the time of my fieldwork in 2012–13, the Court was still quite young. While it was officially established in 2001 with the signing of *The Agreement Establishing the Caribbean Court of Justice* by twelve Caribbean states, it was not until 2005 that the Court opened the doors of its courthouse in Trinidad & Tobago, making it a mere seven-going-on-eight-years old during the fourteen months I spent there. This newness, as I discuss below and elsewhere,¹⁶ presents an array of challenges as well as opportunities.

Pursuant to its founding documents, the CCJ has both an original and an appellate jurisdiction. In its original jurisdiction, the Court hears matters arising out of the various regional treaties and agreements shared by the Court’s member-states, namely and most significantly, the Caribbean Community’s (CARICOM) *Revised Treaty of Chaguaramas*,¹⁷ a regional economic integration treaty. In its appellate jurisdiction, the CCJ is meant to serve as the final court of appeal for its independent English-speaking member-states, most of which – despite their political independence – have continued to appeal their cases to the Privy Council in London. Through its appellate jurisdiction the CCJ proudly purports to “clos[e] the circle of independence” by providing an autochthonous alternative to a British appellate

15. All names are pseudonyms except for the CCJ judges.

16. Lee Cabatingan, “Time and Transcendence: Narrating Higher Authority at the Caribbean Court of Justice,” *Law and Society Review* 50(3) (2016), 674–702.

17. *Revised Treaty of Chaguaramas Establishing the Caribbean Community Including the CARICOM Single Market and Economy* (2001).

court,¹⁸ and through its original jurisdiction, which the Court views as the primary reason for its existence, it is devoted to the development and deepening of a distinctly Caribbean region with uniquely Caribbean jurisprudence. Given its fresh start, its impressive remit, and its profound goals, the earliest employees of the Court approached the work of establishing the culture of the CCJ with due contemplation. As the Court Executive Administrator wrote in the first *Annual Report 2005–2006* and reiterated in my conversations with, her the creation of new traditions, such as “What will the judges wear? How are they to be addressed? Will they bow?” require “thought and consideration for the future of the institution being created and what it means to the development of the Caribbean region.”¹⁹

It is in this context that the bow presents itself as a bit of a curiosity. Why would this court, of all courts, choose to retain this British practice? As the attorney’s question suggested, the Court *could have* foregone the bow entirely. But it had not. Why did the Court choose to invite such institutional memories and the colonial baggage that accompany them into this newly created Caribbean Court? What was the “thought and consideration” behind this new tradition? And if a bow is to be required at all, why not a properly low British bow? Moreover, the curiosities do not end with the bow. Similar questions can be asked of many of the CCJ’s material characteristics, rituals of practice, and operational policies, which gesture to, but carefully and consciously do not copy British courts. CCJ judges, for instance, wear a black waistcoat with a frilly lace neckerchief that looks similar to the formal attire of British law lords and their brethren in former British colonies. Yet, the CCJ judges cover their waistcoats with a brilliantly blue judicial robe, accented by a gold band – colors, the Court Executive Administrator explained, that represent the Caribbean.²⁰ And while CCJ staff dress in conservative suits in “sober” colors, preferably black, the solemnity of their attire is offset by the gaiety of the pastel colored walls and halls of the building. The yellow-green Registry lobby, the aqua library, the two-tone blue courtroom, and the pink judges’ chambers were, like the judicial robes, explicitly offered by the Court as colors of the Caribbean. Why not black robes? Why not white walls and wood panels?

III. From Mimesis to Qualia

Postcolonial literature and academic texts are replete with observations on and discussions of the presence of mimicry in postcolonial settings, offering different takes on the effects and possibilities of mimicry, but always remaining within the realm of mimesis. Frantz Fanon, for example, understands “sickening mimicry” as the exercise of unrepentant and impenetrable colonial power over a population and, thus, urges a radical break from the colonizer and the colonized past.²¹ V.S. Naipaul offers a similarly scathing view

18. Duke E. Pollard, *The Caribbean Court of Justice: Closing the Circle of Independence* (Kingston, Jamaica: The Caribbean Law Publishing Company Ltd., 2004).

19. Caribbean Court of Justice, *Annual Report 2005–2006* (Port- of Spain, Trinidad and Tobago: CCJ, 2007), p. 6.

20. Op. cit. See also Lee Cabatingan, “Fashioning the Legal Subject: Popular Justice and Courtroom Attire in the Caribbean,” *Political and Legal Anthropology Review* (2018, forthcoming).

21. Frantz Fanon, *The Wretched of the Earth* (Richard Philox, tr.) (New York: Grove Press, 2004).

of mimicry and “mimic men,” who copy their British colonizers to the point of loss of self.²² Unlike Fanon, Naipaul does not suggest the possibility of a revolutionary escape. Homi Bhabha, also, does not see the possibility of escaping mimicry, which he calls “one of the most elusive and effective strategies of colonial power and knowledge,” but suggests that within mimicry itself there is the potential for an eventual disruption of colonial power.²³ Anthropologists, James Ferguson notes, have increasingly dealt with the “embarrassment of [] mimicry” – embarrassing because mimicry seemed “to confirm the claim of the racist colonizer” that European ways were superior – by insisting that imitation was “in fact a gesture of resistance to colonialism.”²⁴ Ferguson, stepping aside from the language of resistance, argues that mimicry might be best understood as a claim to membership within “the new world society.”²⁵

Undoubtedly, the C CJ’s ritual bowing and judicial robes can be productively analyzed within the rubric of mimicry and might even be found to be disrupting of enduring colonial power or resistant to this power or constitute a claim to membership to a new world society. Such an analysis, though, focuses quite narrowly on the Britishness of the C CJ’s newly created traditions, at the expense of their calculated Caribbeanness. The analytic of mimicry, in other words, attends to the bow, but fails to satisfactorily scrutinize its deliberate shallowness, a quality that Dr. Williams thought important enough to demonstrate. Thus, in an effort to take the shallowness of the bow more seriously – to see it not as a defect or even a defiance, but as a thoughtfully productive decision – I move away from mimicry and turn, instead, to the semiotic concept of qualia. I analyze bows, robes, and other material characteristics, practices, and policies of the Court not as imperfectly imitated forms, but as forms rife with carefully curated qualities that are rich in content and teeming with potential. I consider, that is, that this deliberately non-(post)colonial court is not copying British or British colonial courts but is ingeniously tapping into the qualitative experience that certain objects, behavior, and policies iconically represent. Similarly, I understand the Court as presenting these things as distinctly Caribbean, not merely for the purpose of distinguishing itself from the Privy Council, but for the qualitative impact of these particular objects, behaviors, and policies – a semiotic move in furtherance of its goal to develop a Caribbean jurisprudence.

First identified and defined by Charles Peirce at the turn of the twentieth century,²⁶ the concept of qualia has been more recently and very effectively mobilized in anthropological work to better understand the ways in which abstract qualities come to be phenomenally instantiated and, thus, sensuously experienced.²⁷ Qualia, in other words, are the

22. V.S. Naipaul, *The Mimic Men* (New York: Vintage International, 2001).

23. Homi K. Bhabha, *The Location of Culture* (New York: Routledge, 1994), p. 122.

24. James G. Ferguson, “Of Mimicry and Membership: Africans and the ‘New World Society,’” *Cultural Anthropology* 17(4) (2002), 553–4.

25. Op. cit.

26. Charles Peirce, “Sundry Logical Conceptions,” in Peirce Edition Project (ed.), *The Essential Peirce, Selected Philosophical Writings: Volume 2 (1893–1913)* (Bloomington, IN: Indiana University Press, 1998 [1903]), pp. 267–88.

27. See, for example, Nancy D. Munn, *The Fame of the Gawa: A Symbolic Study of Value Transformation in a Massim Society (Papua New Guinea)* (Durham, NC: Duke University Press, 1986); Lily Hope Chumley, “Evaluation Regimes and the Qualia of Quality,” *Anthropological Theory* 13(1/2) (2013), 169–83; Lily Hope Chumley and Nicholas Harkness,

physical manifestations of particular qualities – qualities as diverse as redness, richness, Caribbeanness, and courtliness. By either indexing (that is, pointing to) or iconically representing (that is, seeming to exhibit) a particular quality, these physical forms allow for abstract qualities to be more readily experienceable and knowable.²⁸

More than this, as anthropologists Lily Hope Chumley and Nicholas Harkness have pointed out, qualia also make it possible for qualities to be *socially* experienced and known.²⁹ Through conventionalization, different people are able to perceive “two qualia as the instances of the same quality,” thereby imbuing these phenomenal instantiations with social significance.³⁰ And it is the *social* character of qualia that links them to value. Specifically, the phenomenal form – the thing itself – takes on the socially-constituted value of the quality that it represents; the redness of an apple, for instance, might make the apple itself more valuable. Or, to draw from Nancy Munn’s seminal work, the inhabitants of Gawa, a small island off the coast of Papua New Guinea, work to cultivate the qualities of lightness and heaviness through acts such as canoe building or gardening.³¹ The resulting boats and gardens become “icons of the acts that produce them;”³² they are, in other words, imbued with the valued qualities associated with these acts. Importantly, so too are the Gawans who performed these acts or who now possess these qualia.³³ Thus, both qualia and the subjects that created them are evaluated based on the positive or negative qualities they are seen to represent, and such evaluations lead to very real social repercussions: “[s]ocial actors evaluate qualia, and qualia are in turn used to evaluate social actors.”³⁴ Like the qualities of lightness and heaviness for the Gawan, “courtliness” and “Caribbeanness” have social relevance and opposing valuations within the population the CCJ intends to serve, and the production of related qualia within the Court necessarily affects the positive (or negative) evaluation of the Court and its jurisprudence within the region. I turn to a description of the qualia of courtliness and Caribbeanness next.

IV. The Qualia of “a Particular Level of Justice” (or, the Qualia of Courtliness)

After several months in Trinidad and Tobago, it was impossible not to notice the Court’s startling lack of recognizability within the region, even within its own backyard. Most people simply did not even know the Court existed, much less what it did or who it served.³⁵ A confused “what?” was by far the most common reaction I received whenever

“Introduction: QUALIA,” *Anthropological Theory* 13(1/2) (2013), 3–11; Nicholas Harkness, “The Pragmatics of Qualia in Practice,” *Annual Review of Anthropology* 44 (2015), 573–89; Nicholas Harkness, “Softer Soju in South Korea,” *Anthropological Theory* 13(1/2) (2013), 12–30; and Britta Ingebretson, “The *Tuhao* and the Bureaucrat: The Qualia of ‘Quality’ in Rural China,” *Signs and Society* 5(2) (2017), 243–68.

28. Harkness, “Softer Soju in South Korea,” 14.

29. Chumley and Harkness, “Introduction: QUALIA.”

30. *Op. cit.*

31. Munn, *Fame of the Gawa* (1986).

32. *Op. cit.*, p. 17.

33. *Op. cit.*, p. 17.

34. Chumley (2013), 169.

35. Lilla, *Promoting the Caribbean Court of Justice* (2008).

I explained to Trinidadians why I was living there. Perhaps even more perplexing, was that the Court was doing very little to proactively remedy the situation. As I learned during the initial months of my research, nothing was on the Court's calendar that could be discernibly identified as "public education." In fact, just before the start of my research, the Court had cancelled three previously planned public education trips to as many of its member-states. It had no school visits planned, no town halls scheduled, and no outreach programs in the works.³⁶ Save for an occasional media release or Tweet by @CaribbeanCourt, the CCJ's approach to educating the public primarily consisted of waiting for groups to request a tour, requests that the Court was eager to accommodate.³⁷ Public education appeared to be a low priority. Indeed, the Public Education and Communication unit was composed of exactly one person, a manager who went by her first name, Sara, when all of her managerial counterparts were more formally addressed by their titles and surnames. Moreover, Sara occupied a shared office, divided by a temporary partition, when all of the other managers had their own private offices outfitted with locking doors, bookshelves, and, sometimes, televisions. Thus, when the time came for my interview with Sara, I was eager to hear her perspective on public education at the Court. I expected some grumbling, but I was wrong.

As she saw it, I had misinterpreted the place of her department. It was not that public education was unimportant, it was just that a court – a *proper* court – was very limited in what it was able to pursue as far as outreach. Sara explained:

I think that, and this is – this is my perspective as a communications professional – *court* communications professional: the Court should not be involved in saying [knocks hand on desk] to the public [knocks hand on desk]: "you need to come to the Court." We cannot be persuasive. It is not persuasive advertising; it is not persuasive communication. From where I stand, I think the Court needs to provide the information to the public ...

We need to prove, we need to prove – not persuasive, but more informative – that we are a top-notch court; that we do have the ability, the skills, the expertise, the resources to bring a particular level of justice to them.

According to her perspective, public education toed the line between persuasion and proof and could only be pursued with extreme caution. Traveling to other states under a banner of education, for instance, veered uncomfortably close to persuasion, while providing informational tours fell more suitably in the category of proof. The distinction Sara makes between persuasion and proof is part of what distinguishes, as she suggests, those courts that provide a "particular level of justice" from those that do not and those that are "top-notch" from those that are not.

Sara's categorization of courts and justice suggests that there exists some abstract property that courts and justice can possess and that the CCJ and its justice *did* possess. *Not* persuading the public of its "top-notch"-ness through public education endeavors was simply part of delivering this "particular level of justice." And Sara's was not the

36. Although, a series of educational visits to local Trinidadian secondary schools began during the latter half of my fieldwork.

37. See Cabatingan, "Time and Transcendence" (2016).

only voice at the CCJ that claimed the Court's ability to provide high-quality justice.³⁸ The official "Vision" of the Court speaks of the CCJ as a "leader in providing high quality justice,"³⁹ the judges often explained their job as "producing judgments of a high quality and in a timely manner," to quote Justice Jacob Wit, one of the Court's seven judges, and the Court's website, similarly, mentions the "high-quality service" provided by the Court.⁴⁰ It is this abstract property of "high-quality"-ness, or what Sara alternately calls "top-notch"-ness, that constitutes a large part of what I gloss as "courtliness."

Importantly, courtliness, in the eyes of the Court, equates to authority and legitimacy. People come to courtly courts, Sara suggested. Moreover, courtly judgments, such as those the judges work to produce, muster confidence in the CCJ, establish its visibility in the region, and strengthen its claim as the rightful legal voice of the land. Having courtliness, in other words, assists the Court in its efforts to constitute itself as a legitimate and authoritative tribunal capable of administering the law and resolving disputes throughout the region. Thus, as it pertained to public education, and as Sara explained, the Court simply had to provide proof of its courtliness. It needed, to display the *qualia* of courtliness.

Sara states that courtliness is experienced in part through "the ability, the skills, the expertise, [and] the resources" of the Court and its employees. Indeed, within the Caribbean and beyond, such *qualia* – namely, advanced skills and training, legal expertise, and relatively robust resources – are broadly and historically recognized as indexing courtliness.⁴¹ Aware of this, the CCJ, in its minimal public education activities, is sure to emphasize the advanced degrees and extensive courthouse experience of the CCJ staff, the impressive accomplishments, education, and international reputation of its bench, the US \$100 million held in its Trust Fund, and the vast resources located within the Court, including an impressively hi-tech courtroom.⁴² One of the CCJ's customer service representatives, for example, repeats the tagline "the best and the brightest" multiple times as she describes to tour-goers the qualifications of the Court management team, many of whom have MBAs, several of whom have certifications in court management, and two of whom have a doctorate. She also regales them with the life histories, educational backgrounds, legal accolades, and language skills of the judges. Dr. Williams, too, always spends an extra moment when talking about the funding structure of the Court. He explains that not only does the Court have US \$100 million in a Trust Fund that insulates the CCJ from funding shortages experienced by many of the other courts in the region, but the funding structure of the CCJ is so ingenious that even the Chief Justice of the U.S. Supreme Court personally complimented him on it. He met the Chief Justice, Dr. Williams adds, when he graduated from the Institute of Court Management, a program that is known, according to Dr. Williams, as the "holy

38. I have hyphenated "high-quality" because I suggest that "high-quality" is, itself, a quality that something can possess (i.e. this car is high-quality, fast, and red).

39. <http://www.ccj.org/>, accessed April 6, 2018.

40. Op. cit.

41. See, for example, John Hagan, *Justice in the Balkans: Prosecuting War Crimes in The Hague Tribunal* (Chicago, IL: University of Chicago Press, 2003) and Sally Engle Merry, *Colonizing Hawai'i: the Cultural Power of Law* (Princeton, NJ: Princeton University Press, 2000).

42. See <http://www.ccj.org/>.

grail” of court management training. Wrapped up into this tidy anecdote, Dr. Williams underscores the financial stability and creativity of the CCJ, highlights his own advanced training, and alludes to the CCJ’s personal connections to other courtly courts.

V. The Britishness of Courtliness in the CCJ

While the CCJ is certain to display and relay these broadly conventionalized qualisigns, as an Anglophone Caribbean court, it strives, as well, to prove its courtliness to a more particular audience. Specifically, there are regionally recognized qualia that resonate with the CCJ’s regional constituency. These are qualia that iconically represent the longest lasting and highly revered legal institutions in the land: the courts of Great Britain, which include, of course, the Privy Council. British courts of law, as the administrators of perceived-to-be superior British law and order,⁴³ are regionally understood to be the most top-notch courts administering the highest-quality justice – a cultural “truth” that is historically rooted and regularly reiterated in media reports throughout the region, as well as by politicians, lawmakers, lawyers, and, occasionally, the CCJ itself. It is unsurprising, that the courts of the Anglophone Caribbean retain “considerable imperial nostalgia.”⁴⁴ The national courthouses and courtrooms in Port of Spain, Trinidad & Tobago, Kingston, Jamaica, and Bridgetown, Barbados, for instance, though differing rather dramatically in terms of their maintenance and resources, share similar features that point to their shared colonial heritage: similar courthouse and courtroom layouts, similar administrative positions, waistcoated and robed judges who are addressed as “My Lord,” robed attorneys who refer to each other as “my learned friend,” a practice of bowing before the judges, an overall staid formality, such as using titles and surnames to address higher ranking colleagues, and a well-defined sense of propriety, such as a belief that courts should not promote themselves.⁴⁵

These material characteristics, ritual practices, and ideologies of court thought and behavior are the stuff in which courtliness can be qualitatively experienced within the Anglophone Caribbean and, as such, remain *de rigueur* in its courts. People know these signs of courtliness, respond to them, and recognize the value of whatever possesses them. In other words, it is qualia of British law and order – or more precisely, British law and order as mediated and materialized in postcolonial courts – that are the conventional qualia of courtliness in the Anglophone Caribbean. For many people and most courts in the region, these qualia have become so integrally folded into the legal systems of the English-speaking Caribbean that their British heritage is ignored, overlooked, erased, or unrealized. The CCJ, in contrast, as demonstrated through its deliberate claim to a non-British bow, is acutely aware of the Britishness of regional qualia.

43. See Bill Maurer, *Recharting the Caribbean: Land, Law, and Citizenship in the British Virgin Islands* (Ann Arbor, MI: The University of Michigan Press, 2000).

44. Bill Maurer, “Jurisdiction in Dialect: Sovereignty Games in the British Virgin Islands,” in Rebecca Adler-Nissen and Ulrik Pram Gad (eds), *European Integration and Postcolonial Sovereignty Games: The EU Overseas Countries and Territories* (New York: Routledge, 2013), p. 131.

45. See Kwai Hang Ng, *The Common Law in Two Voices: Language, Law, and the Postcolonial Dilemma in Hong Kong* (Palo Alto, CA: Stanford University Press, 2009), who describes similarly characteristic formalities in postcolonial Hong Kong courtrooms.

Table 1. Qualia of Courtliness. The CCJ, as a court located in the Anglophone Caribbean, must have both broadly recognized and regionally specific qualia of courtliness in order to establish its value as a top-notch court.

Broadly Recognized Qualia of Courtliness	Regionally Specific Qualia of Courtliness
“High-quality” justice	Common law courtroom and courthouse design
“High-quality” service	Administrative positions like the Registrar
Efficient adjudication	The Office of the Registry
Superior legal training and expertise	Distinct judicial costume
Trained court staff	Linguistic formality
Amply resourced	Deferential bodily comportment, such as bowing
Rule of law	Well-defined sense of staid propriety
Objectivity	

Yet as a court in this region and despite its need to remain free of (post)colonial reminders, the CCJ must possess at least some of these qualia to some extent. And it does. In addition to having the skills, expertise, and resources to deliver a “particular level of justice,” the Court also embeds its courtliness in regionally conventionalized qualisigns of waistcoats, neckerchiefs, ritual bowing, formal terms of address, administrative positions, such as the indispensable position of the Registrar, courthouse features, like the centrally located Registry office, and courtroom layout (see Table 1). While it is possible to read these phenomena through a lens of mimicry, it is necessary to see them also for the valorized property of courtliness that is embedded within them. The CCJ, as Sara suggested, relies on these qualia to prove the Court’s authority and ability to administer high-quality justice to the Caribbean people and to transform the value of the Court in their eyes. In other words, the “thought and consideration” behind the prove-not-persuade policy, the formal terms of address, the waistcoats and neckerchiefs, and, of course, the bow is that social actors, namely the Caribbean public, evaluate these qualia, and these qualia are in turn used to evaluate the CCJ, itself a social actor.⁴⁶

As a closing point on the British features within Caribbean courthouses, it is worth recognizing that in addition to the profound semiotic impact of these qualia of courtliness, there are also very pragmatic reasons why courts in this region, including the CCJ, would want to share similar features with each other and with British courts. Lawyers and judges in the region are impressively itinerant, often practicing law and sitting on judicial benches in several state jurisdictions, and similar practices and procedures, not to mention familiar physical layouts of the courthouses and courtrooms, across different jurisdictions certainly facilitates their ability to practice law across state lines. The same is true for the CCJ. Through its retention of certain British courthouse features, the CCJ also facilitates the practice of law between state courts and itself. Attorneys, for instance, generally come to the CCJ already knowing where to file documents, who to contact with questions, where to stand in the courtroom, and when (if not precisely how) to bow. Indeed, by facilitating the circulation of attorneys and judges throughout the Caribbean, these shared (read: British) features also facilitate the development of a shared

46. See Chumley (2013), 169.

jurisprudence by smoothing the journey of law as it literally travels around the region.⁴⁷ These practical explanations, however, do not account for all of the British characteristics that have been retained across the Caribbean. Frilly neckerchiefs, for instance, have limited practical value, but carry much semiotic weight.

VI. The Qualia of Caribbeanness

While an understanding of the qualia of courtliness helps to explain the presence of British or, more precisely, British-colonial reminders in the CCJ, it does not account for other notable features of the Court: the blue robes, pastel walls, or shallow bows, for instance. These are the Court's attempt to instantiate a different abstract quality: Caribbeanness. Of course, as Antonio Benitez-Rojo, Michel-Rolph Trouillot, Sidney Mintz, and others have observed, Caribbeanness and the Caribbean region, more generally, are notoriously hard to define.⁴⁸ The vast array of histories, ethnicities, languages, and religions that exist in the contemporary Caribbean, share, quite literally, limited common ground, as the islands that make up the region are separated – just as much as they are connected – by the Caribbean Sea. It is into these waters that the CCJ wades in its attempt to constitute and conventionalize qualia of Caribbeanness.

I Caribbean valuations of things Caribbean

It was something I looked forward to every morning as I arrived at my desk in the library of the CCJ: the “morning talk show,” as we had begun to call it. Lynette, the library assistant, and I, as well as one or two other Court employees chatted casually about pop culture, news items, social events, or Court gossip as we booted up our computers and organized our days. Often, our morning talk shows, at my prompting or in answer to my questions, turned to discussions of the Caribbean, such as what foods were good, what fruit was in season, what a certain expression meant, or how I should interpret a recent interaction, for example. Though never explicitly addressed, these conversations unfolded as if there were some shared understanding of what constituted “the Caribbean.” Given that the participants in our morning talk show were all from independent English-speaking Caribbean islands, the contours of “the Caribbean” were likely shaped by these same features: English-speaking, independent, and islands, thereby creating sufficient common ground to carry on productive, but light-hearted conversation. It is through these truly

47. Of course, just as much as these shared features contribute to the development of regional jurisprudence, they also enable the continued practice of appealing cases to the Privy Council. Similarities between Caribbean courts and the Privy Council help to make the appellate process less strange and more navigable for Caribbean attorneys.

48. Antonio Benitez-Rojo, *The Repeating Island: The Caribbean and the Postmodern Perspective* (James E. Maraniss, tr.) (Durham, NC: Duke University Press, 1992); Sidney W. Mintz, “The Caribbean as a Socio-Cultural Area,” in M.M. Horowitz (ed.), *Peoples and Cultures of the Caribbean: An Anthropological Reader* (Garden City, NJ: American Museum of Natural History Press, 1971), pp. 17–46; and Michel-Rolph Trouillot, “The Caribbean Region: An Open Frontier in Anthropological Theory,” *Annual Review of Anthropology* 21 (1992), 19–42. See also Robinson (2007).

enjoyable conversations, which frequently continued on-and-off throughout the day, that I gathered a great deal of information about what Trinidadians, Tobagonians, Barbadians, and Jamaicans, as the most frequent participants in these morning chats came from those islands, thought about what it meant for something to be from or made in the Caribbean. Some things, I came to learn, were widely celebrated, while others far less so.

On more than one occasion, for example, we discussed Caribbean food. While everyone had their favorite cuisine, with Trinidadian and Jamaican food being the most preferred, and each cuisine had its own idiosyncrasies, such as Trinidadian food using more pepper and Jamaican breakfasts being startlingly large, the overwhelming consensus was that Caribbean food was delicious. It was seasoned well, it was rich in flavor, and it was creatively prepared. Creativity also peppered colloquial Caribbean expressions to prideful effect. My fellow conversationalists took great delight in discussing Caribbean vernacular, and we frequently turned to the dictionaries on Caribbean creole, slang, and colloquialisms that were housed on the library shelves to get “authoritative” information on certain turns of phrase. Just as with food, my friends had great fun discussing the linguistic diversity in the Caribbean. What one said in Trinidad, may not be understood in Barbados, for example. Yet, they could all agree on and get a good laugh out of the playful, creative, and, at times, impishly confusing (to outsiders, such as myself) expressions of different Caribbean cultures. To the amusement of all of my friends, for instance, I struggled to acclimate to the paradoxical temporality of the Trinidadian expression “just now,” which might mean five minutes from now, one hour from now, or even, one day from now, but definitely did not mean right at this exact moment. The Caribbean joke was on me, it would seem. Indeed, Caribbean speech is “colorful,” as one CCJ judge described it, and this, he implied, and my talk show co-hosts agreed, is a valued trait.

Not everything of and from the Caribbean, though, is as positively valued as its delicious food and colorful expressions. My conversations with Lynette also revealed how an association with the Caribbean could be seen as a detriment. Law, for instance, was widely seen as better left in the hands of the British, as reflected in another conversation I had with Lynette. I had been working on a fellowship application in which I needed to present my research as related to law and inequality, and I had been thinking of how to accurately cast my research in this light. Looking for her feedback, I explained to Lynette the angle I was taking: that the CCJ faced an incredible inequality of perception within the region, and I read to her some of the online public commentary that followed a *Trinidad Express* newspaper article, since this commentary, I thought, supported my argument.⁴⁹ Many of the comments strenuously objected to the idea of Trinidad & Tobago joining the CCJ in its appellate jurisdiction, writing that the Privy Council has “constantly displayed a far more mature level of judicial thinking than local judges ...” and asserting, “I have much, much more confidence in the white man’s level of jurisprudence tha[n] all the legal luminaries of the Caribbean put together ...”⁵⁰

Lynette was dismayed by these comments, sucking her teeth in an extended “steups” – a classically Trinidadian gesture of disapproval – as she shook her head and mentioned, perhaps as some solace to herself, that she had heard that local political parties paid

49. Rickey Singh, “This Amusing Chase After CCJ,” *Trinidad Express*, September 25, 2013.

50. Op. cit.

university students to post incendiary remarks on newspaper websites, suggesting that these comments might be the product of such dubious activity. Nevertheless, she agreed with the argument I had proposed; these comments did reflect a prevailing sentiment of inferiority in Trinidad society. In fact, she said, this was not just regarding the Court. “People here just believe that everything foreign is better. No matter what it is: clothes, food, courts, education.” To provide an example, she told me about one of her friends who insisted he did not drink orange juice, which is fairly inexpensive, readily available, and locally grown and squeezed in Trinidad, but, Lynette learned, he did admit to drinking “Florida Gold,” a mass produced, made from concentrate American product. He also does not drink apple juice, but “Mott’s.” “Nothing local,” she punctuated.⁵¹

In both the quoted commentary from the *Express* article, as well as Lynette’s example of her Florida Gold-drinking friend, it is clear that being of and from the Caribbean is not generally viewed as a positive quality for, at least, consumer products, courts, or judges to possess. Indeed, as often as I heard about creative Caribbean food and colorful Caribbean speech, I listened to denigrations of Caribbean law and Caribbean-made products. As many of these lessons came from the Court’s staff itself, it was clear that the Court was well-aware of the risks associated with claiming and displaying a Caribbean heritage. It could not unrestrainedly inundate the courthouse with *qualia* of Caribbeanness, as this would almost certainly lead to a negative evaluation of the Court, nor could it fully abandon its claim to the Caribbean, as this would undermine its *raison d’être*. The CCJ, then, needs not too much, not too little, but just the right amount of Caribbeanness in just the right ways.

2 Creating the *qualia* of Caribbeanness

Unlike courtliness, which can be qualitatively experienced through its instantiation in the materialities and practices of British and British colonial courts, Caribbeanness does not seem to have any conventionalized *qualia*. Any number of things can be identified as coming from the Caribbean: food, phrases, consumer products, even education, judges, and jurisprudence, but this does not mean that they are instantiations – either iconic or indexical – of Caribbeanness. They are not, in other words, *qualia*. Thus, the CCJ must work to create and conventionalize just the right *qualia*, somehow imbuing mundane materials and gestures with a recognizable Caribbean quality. It must instantiate Caribbeanness.

The primary way in which the Court goes about this task is by insinuating or even outright telling visitors to the CCJ exactly what they should be feeling as they see, hear, or watch the Court. Sometimes this is done subtly. For example, Dr. Williams’s comment, “yes [we bow], but not a deep bow, more like a nod,” took place toward the end of a tour during which, as I detail elsewhere,⁵² the spirit of Caribbeanness – a sort of pridefully independent identity and transcendent authority – had been enthusiastically

51. For longer discussions on the relationship between food and identity in the broader Caribbean, see Stephan Palmié, “*Ackee and saltfish vs. amalá con quimbombo? A note on Sidney Mintz’ contribution to the historical anthropology of African American cultures,*” *Journal de la société des américanistes* 91–92 (2005), 89–122 and Hanna Garth (ed.), *Food and Identity in the Caribbean* (New York: Bloomsbury Press, 2013).

52. Cabatingan, “Time and Transcendence” (2016).

narrated throughout. By the time Dr. Williams described the bow, therefore, the visitors could appreciate that this abbreviated bow was supposed to elicit the same feeling of Caribbeanness that had permeated the tour's narrative: a curtailed bow embodies the curtailment of deference due to the British. It is a nod to a new authority that should stir-up a sensation of prideful independence.

Other times, the Court's attempts to constitute qualia of Caribbeanness are more direct. For instance, the pastel-colored walls of the Court, in particular the pink walls of the judges' chambers, regularly prompt observations by and occasionally lead to chuckles from visitors to the CCJ. These are not the subdued colors of courtly justice to which they are accustomed, typically white walls or wood paneling. Rather than let their visitors guess and giggle, tour guides always explain that the Court has chosen these colors because they "reflect the spirit of the Caribbean people." It is same with the judges' robes. Their blue robes with gold trim do not seem to spontaneously generate an experience of Caribbeanness. Instead, one has to be told, as I was and as all visitors to the Court are, that these robes represent the Caribbean. As the Court Executive Administrator explained to me, the CCJ serves all of the Caribbean, and these colors – blue and gold – are not the colors of any one particular nation-state but are the colors of the Caribbean Sea and sun.⁵³ In short, the walls and the robes have been purposefully imbued with Caribbeanness – a Caribbeanness that reflects the valued colorfulness of Caribbean speech and creativity of its food – and the CCJ is certain to tell its visitors so. It is thus that the CCJ attempts to create qualia of Caribbeanness.

3 *Conventionalizing the qualia of Caribbeanness*

It is one thing to identify single instantiations of positively valued Caribbeanness; it is another, far more difficult project to regiment them, such that different people see different qualia and recognize them as icons of the same quality. Making the process of regimentation even more challenging for the CCJ is its resistance to undertaking any activities that might resemble unseemly advertising, restricting itself, instead, to the courtly public education policy of prove-not-persuade.⁵⁴ In other words, rather than running a public education campaign through which the CCJ could tell a broad regional audience about the Caribbeanness embedded in its courthouse walls, robes, and embodied practices, the Court relies on far more limited methods and means of outreach, such as tours of the Court (which occur irregularly), presentations to local schools (which only began during the final weeks of my fieldwork), judicial speeches (which primarily target a legal audience), and word of mouth – all of which feature a tremendous variability in the material they cover. There is also the Court's effort at branding. The CCJ, as Dr. Williams once noted as he pointed out his CCJ-branded tie and lapel pin, is "very much into branding." Indeed, both the CCJ seal and the brilliant blue of the judges' robes are everywhere and on everything related to the Court: its website, flag, stationery, informational materials,

53. See also Caribbean Court of Justice, *Annual Report 2005–2006* (2007). For a longer discussion of courthouse attire, see Cabatingan, "Fashioning the Legal Subject: Popular Justice and Courtroom Attire in the Caribbean," *Political and Legal Anthropology Review* 41(S1) (2018, forthcoming).

54. Compare to Harkness (2013).

gift bags provided to each tour-goer, polo shirts worn by staff during school visits, etc. However, even these attempts at branding are limited by the audience they reach and the subtlety of the message they hope to relay. While the CCJ intends for its pervasive blue branding and its colorful palette to elicit feelings of Caribbeanness, blue, pink, or any other “Caribbean” color is not necessarily perceived this way.

Take the remarks made by a group of Trinidadian attorneys beginning their courthouse tour (a different tour and a different group of attorneys than those who inquired about the CCJ’s bow). The tour guide had already accompanied some of the visitors to the third floor of the building, while I waited with the remaining attorneys for the elevator to return. These attorneys had already heard rumors of the third floor, which housed the judges’ chambers. Specifically, they had heard about the pink walls. Disbelieving and amused, one attorney asked me: “Are they *really* pink!?” It was evident from this question that the surprising color choice had been communicated to this attorney ahead of the tour, but not the Caribbeanness that it ought to have elicited. More than that, the positive valuation of Caribbeanness had been lost, while the negative reaction to a nontraditional, non-courtly color remained; pink was hard to take seriously. Color, it seemed, was appropriate for speech, but not yet for courts.

VII. The Thinkability of Caribbean Jurisprudence

While the CCJ still has work to do as far as conventionalizing the qualia of Caribbeanness, it is worth considering the stakes of its labor, which is not limited to the making of Caribbeanness but is devoted to combining it with courtliness. Indeed, courtliness and Caribbeanness do not exist separately and distinctly at the CCJ but are combined inseparably and deliberately within the practices and materialities of the Court. It is this combination of qualia that carries with it the potential to make Caribbean jurisprudence thinkable by making it perceptible.

Consider the judges’ robes. Like other judicial robes, the CCJ’s robes are qualia of courtliness. Their brilliant blue color, though, is a quale of Caribbeanness. Parsing apart the robe in this way, however, is not remaining honest to how it is perceived, which is as a whole, and it is its wholeness that is socially important.⁵⁵ Unlike the judicial robes of the Trinidad & Tobago judiciary, for example, with their red and white stripes (the colors of the Trinidad & Tobago flag) accenting an otherwise black robe, the CCJ changed the color of the judges’ robes completely. This is significant. The traditional black robe of Anglo-American courts represents the anonymous and unanimous voice of the court in its pronouncement of the law. “The judge conceals the appearance of a personal self,” legal scholar Paul W. Kahn writes, “behind the anonymity of a plain black robe.”⁵⁶ The fact that each CCJ judge wears an identically cut and colored robe provides the CCJ bench with similar anonymity and unanimity in their pronouncement of the law, but the non-blackness of their robes imbues the voice of the Court, the law that it pronounces, and the jurisprudence that it makes with Caribbeanness. The judges’ personal selves might still be concealed, but there is something fundamentally different about the Court,

55. See, for example, Chumley (2013).

56. Paul Kahn, *The Reign of Law: Marbury v Madison and the Construction of America* (New Haven, CT: Yale University Press, 1997), p. 119.

its law, and its jurisprudence. Caribbeanness has not simply been added as an overlay (or a stripe along the edge) to an otherwise Anglo-American legal voice but has wholly replaced the foreignness of the law. The judges dressed in blue judicial robes speak as a Caribbean Court.⁵⁷

The CCJ's adjustment of the courtroom bow similarly and importantly realigns and redefines the Court and its jurisprudence. "[S]tandardized rituals of the courtroom," Kahn also notes, are another example of how the seeming anonymity of the judges and the generality of the law are maintained.⁵⁸ They help to give the appearance of an impersonal and subjectless high-quality justice. Rituals, thus, are icons of courtliness. It follows, that a deliberate alteration to a standardized ritual, such as bowing less deeply, introduces specificity and personality into justice and alters the meaning of courtliness. Instead of suppressing difference, the CCJ's bow announces it. What happens in its courtroom, the not-too-deep bow suggests, is not generic, impersonal justice, but Caribbean justice. Caribbeanness is in this way made inseparable from courtliness. It is through such features as robes and bows in which qualia have been intertwined in such a way as to make them indistinguishable that the Court attempts to make courtly Caribbeanness or, synonymously, Caribbean courtliness or, more specifically, Caribbean jurisprudence sensible and, thereby, thinkable.

VIII. Conclusion

Somewhere toward the middle of his 2011 speech to the attendees of the Organisation of Eastern Caribbean States (OECS) Bar Association's 8th Regional Law Fair, the then-president of the CCJ, the Right Honourable Sir Dennis Byron, turned his attention directly to the development of Caribbean jurisprudence.⁵⁹ "Now I will take a brief look at just six of the cases that came before the CCJ to point out the way in which ordinary citizens have benefitted from the development of Caribbean jurisprudence," the text of his speech reads (I was not present at its delivery), and, as promised, the remainder of his talk focused on the details of six cases. What is remarkable about the President's discussion of these cases – these emblems of Caribbean jurisprudence, as he had identified them – is that neither the Caribbean nor the Caribbean content of the Court's decisions was at all a focus. In fact, the President uttered the word "Caribbean" just once during his extended discussion of these judgments.⁶⁰ Instead, for each of the six cases, he included a run-down of the legal issues, an overview of the Court's reasoning, and a summary of the CCJ's final decision. The emphasis remained squarely and dispassionately on the sophistication, complexity, objectivity, and, even, the mundane familiarity – the courtliness, if you will – of this Court's jurisprudence. Even its non-persuasive presentation worked to prove its courtly quality.

57. For a discussion on how courtroom attire at the CCJ, including the judicial robes, works to shape a Caribbean subject see Cabatingan, "Fashioning the Legal Subject" (2018, forthcoming).

58. Kahn, *The Reign of Law*, p. 116.

59. The Right Honourable Sir Dennis Byron, "The CCJ Developing Caribbean Jurists and Jurisprudence," Rex Halcyon Hotel, Antigua, September 16, 2011.

60. Op. cit., p. 8.

It is in this dispassionately courtly way that the President discussed *Attorney General and Others v. Joseph and Boyce* (2006), the third case amongst the six that he outlined.⁶¹ Heard very early in the Court's tenure, *Joseph and Boyce* put before the CCJ a particularly hot-button issue in the region: capital punishment, and the Court was very careful, as was the President when he spoke to the OECS, in the way in which it reached its final judgment: that the death penalty, in this case, would violate a principle of legitimate expectation.⁶² Leighton M. Jackson, a Jamaican legal scholar, has written about *Joseph and Boyce*, commenting not on its holding regarding the death penalty, but on what he sees as its contradictory contribution to the development of Caribbean jurisprudence.⁶³ As summarized by Jackson, the CCJ determined that it "would treat the previous decisions of the Privy Council as persuasive only," but that lower courts in the region should continue to treat Privy Council precedent as "binding ... unless overruled by the CCJ."⁶⁴ It is this decision, "[t]he release of the CCJ of its shackles from the binding precedents of the Privy Council and leaving the courts from which appeals come to it shackled," that so frustrates Jackson.⁶⁵ It is, he argues, "tantamount to granting the Caribbean jurisprudence half freedom to develop."⁶⁶ He is, of course, exactly right. Caribbean jurisprudence, as I have argued throughout this article, is frustratingly curtailed in its development, but where I diverge from Jackson is assigning blame to the CCJ. Instead, we might understand what Jackson calls "shackling" as the Court's very astute recognition of the careful dance between courtliness and Caribbeanness. Just as there is a need to retain the judicial bow (in whatever form) and the judicial robe (in whatever color), perhaps the CCJ has detected a need to retain Privy Council precedent (in whatever partial way). Maybe this *is*, in other words, not the shackling, but the making of Caribbean jurisprudence through an albeit slow and at times seemingly contradictory process that aims to raise the value of the "Caribbean" so that it can rest alongside "jurisprudence" equally rather than oppositionally.

To close, then, I return to the President's speech to the OECS Bar Association's 8th Regional Law Fair. He spoke, as I have said, with utter courtliness: dry, detailed, detached, and lacking any notable Caribbean color. But much like it would be misleading to separate the blue and gold of the judges' robes from the robes themselves, it fails to grasp the qualia-tative import of the President's speech to consider the words as distinct from their origin. The speech was delivered, after all, from the mouth of a Caribbean judge representing a Caribbean court that had made decisions that affected Caribbean people involved in Caribbean disputes. Caribbeanness, in short, could in no way be distinguished from the courtly words that were spoken. This speech by the President, like low bows, blue robes, and pink walls, exemplifies what this article has sought to illustrate: that courtliness can come from the mouths, minds, and pens of Caribbean people, such that Caribbean jurisprudence is thinkable, speakable, and someday realizable.

61. *Attorney General and Others v. Joseph and Boyce* [2006] 69 WIR 104.

62. *Op. cit.*

63. Jackson, "Fi We Law" (2013)

64. *Op. cit.*, p. 28.

65. *Op. cit.*, p. 29.

66. *Op. cit.*

Acknowledgements

Thank you, first and foremost, to the judges and staff of the CCJ. Thank you also to the many people, far too many to mention by name, who commented on early drafts of this article and to Hanna Garth, Mrinalini Tankha, Taylor Nelms, Austin Sarat, and the anonymous reviewers at *Law, Culture and the Humanities* who helped bring this article to its current state. Any remaining errors are mine alone.

Funding

This work was supported by the National Science Foundation [SES-1226508]; the Wenner-Gren Foundation for Anthropological Research [No. 8406]; and the University of Chicago.