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The Caribbean Court of Justice: An Investigation of the Impact of Elites on its Creation and Present Structure as it relates to Original Jurisdiction

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FLORIDA INTERNATIONAL UNIVERSITY

Miami, Florida

THE CARIBBEAN COURT OF JUSTICE: AN INVESTIGATION OF THE IMPACT
OF ELITES ON ITS CREATION AND PRESENT STRUCTURE AS IT RELATES TO
ORIGINAL JURISDICTION

A dissertation submitted in partial fulfillment of

the requirements for the degree of

DOCTOR OF PHILOSOPHY

in

POLITICAL SCIENCE

by

Nicole Warmington-Granston

2014

To: Interim Dean Michael R. Heithaus
College of Arts and Sciences

This dissertation, written by Nicole Warmington-Granston, and entitled *The Caribbean Court of Justice: An Investigation of the Impact of Elites on its Creation and Present Structure as it relates to Original Jurisdiction*, having been approved in respect to style and intellectual content, is referred to you for judgment.

We have read this dissertation and recommend that it be approved.

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Florida International University, 2014

DEDICATION

I dedicate this dissertation to two pioneers of Caribbean integration who recently passed away – Arthur Napoleon Raymond Robinson SC, OCC, TC (December 16, 1926 – April 9, 2014) and Dr. Norman Girvan, Ph. D. (1941 – April 9, 2014). Without their devotion to the vision of Caribbean unity a young girl from Jamaica would not have been inspired to pursue study in the field.

ABSTRACT OF THE DISSERTATION

THE CARIBBEAN COURT OF JUSTICE: AN INVESTIGATION OF THE IMPACT
OF ELITES ON ITS CREATION AND PRESENT STRUCTURE AS IT RELATES TO
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by

Nicole Warmington-Granston

Florida International University, 2014

Miami, Florida

Professor Barry Levitt, Major Professor

The primary focus of this dissertation is to determine the degree to which political, economic, and socio-cultural elites in Jamaica and Trinidad & Tobago influenced the development of the Caribbean Court of Justice's (CCJ) original jurisdiction. As members of the Caribbean Community (CARICOM), both states replaced their protectionist model with open regionalism at the end of the 1980s. Open regionalism was adopted to make CARICOM member states internationally competitive. Open regionalism was also expected to create a stable regional trade environment. To ensure a stable economic environment, a regional court with original jurisdiction was proposed. A six member Preparatory Committee on the Caribbean Court of Justice (PREPCOM), on which Jamaica and Trinidad & Tobago sat, was formed to draft the Agreement Establishing the Caribbean Court of Justice that would govern how the Court would interpret the Revised Treaty of Chaguaramas (RTC) and enforce judgments.

Through the use of qualitative research methods, namely elite interviews, document data, and text analysis, and a focus on three levels of analysis, that is, the

international, regional, and domestic, three major conclusions are drawn. First, changes in the international economic environment caused Jamaica and Trinidad & Tobago to support the establishment of a regional court. Second, Jamaica had far greater influence on the final structure of the CCJ than Trinidad & Tobago. Third, it was found that in both states the political elite had the greatest influence on the development and structure of the CCJ. The economic elite followed by the socio-cultural elite were found to have a lesser impact. These findings are significant because they account for the impact of elites and elite behavior on institutions in a much-neglected category of states: the developing world.

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ABBREVIATIONS AND ACRONYMNS

ACS	Association of Caribbean States
ADA	Association of Development Agencies
BITU	Bustamante Industrial Trade Union
BOJ	Bank of Jamaica
CAIC	Caribbean Association of Industry and Commerce
CARICOM	Caribbean Community and Common Market
CARIFTA	Caribbean Free Trade Area
CBI	Caribbean Basin Initiative
CCJ	Caribbean Court of Justice
COTED	Council of Trade and Economic Development
CSME	CARICOM Single Market and Economy
EC	European Commission
ECJ	European Court of Justice
ECLAC	Economic Commission for Latin America and the Caribbean
EEC	European Economic Community
EU	European Union
FTAA	Free Trade Area of the Americas
GATT	General Agreement on Tariffs and Trade
GCSS	Geographically Close Small States
IDB	Inter-American Development Bank
IMF	International Monetary Fund
JBA	Jamaica Bar Association

JCC	Jamaica Chamber of Commerce
JCTU	Jamaica Confederation of Trade Unions
JEA	Jamaica Exporters Association
JFJ	Jamaicans for Justice
JLP	Jamaica Labour Party
JM	Jamaican Interviewee
JMA	Jamaica Manufacturers Association
LATT	Law Association of Trinidad and Tobago
LDC	Less Developed Country
MDC	More Developed Country
MERCOSUR	Mercado Común del Sur
NAFTA	North American Free Trade Area
NAR	National Alliance for Reconstruction
NIC	Newly Industrialized Country
NWU	National Workers Union
PIOJ	Planning Institute of Jamaica
PNM	Peoples National Movement
PNP	Peoples National Party
PREPCOM	Preparatory Committee on the Caribbean Court of Justice
PSOJ	Private Sector Organization of Jamaica
RTC	Revised Treaty of Chaguaramas
SAPS	Structural Adjustment Programs
SEA	Single European Act

SIDS	Small Island Developing States
STATIN	Statistical Institute of Jamaica
TCC	Technical Coordinating Committee
TT	Trinidadian Interviewee
TTCIC	Trinidad and Tobago Chamber of Industry and Commerce
TTCSI	Trinidad and Tobago Coalition of Services Industries
TTMA	Trinidad and Tobago Manufacturers Association
UNC	United National Congress
WIC	West Indian Commission
WTO	World Trade Organization

CHAPTER 1: INTRODUCTION

OVERVIEW

This dissertation seeks to answer two theoretical and analytical questions regarding what drives the creation of regional supranational judicial institutions. These include:

1. What are the roles of the political, economic, and socio-cultural/knowledge¹ elites in key member states, and the general publics in those countries, in the creation and structuring of regional judicial institutions? Do they coincide/clash/collaborate?
2. What other factors have led to the creation and development of regional judicial institutions?

To answer these questions, I turned to established theories. The literature on the impact of elites and institutions on the scope (institutions/rules) and structure (organizations) of regional integration has been largely determined by the experience of the integration process in Europe and general international trade. These theories of interest include Institutionalism, Neo-Institutionalism, Neo-functionalism, Liberal Intergovernmentalism, Small State Foreign Policy, the Bargaining and Dependency models, and the Domino theory of Regionalism.

As the basis for analyzing the Caribbean experience, I propose that hypotheses about the evolution of Caribbean integration and the development of the CCJ be derived

¹ A subset of the socio-cultural elite.

from the approaches discussed above. The hypotheses will allow us to assess the interplay among micro and macro level processes and actors—that is, the systemic, state, and domestic influences on regional integration.

By extension, the questions the dissertation considers are important for two main reasons. The first relates to the context in which there was renewed worldwide interest in regional integration in the 1980s. Like other regions, support for regionalism in the Anglo Caribbean was scant until the heralding of the globalization age in the 1980s. As such, it is evident that exogenous factors and their timing have influence over the development of regional institutions, including that of the CCJ. Previously, in the 1970s, many governments worked against the development of a strong rules-based system, resulting in the underuse of existing arbitration mechanisms for settling disputes between CARICOM states (Hall, 2003b; Jordan 2003, 2004; Pollard, 2003). But these sorts of mechanisms were emerging throughout other regions, as well as at the international level. By extension, the proliferation of these mechanisms may have led some member states to demand changes in CARICOM’s regional institutional design. Thus, the CCJ was “a product of the drive to create institutions compatible with the new international environment in which the Community finds itself” (Hall, 2003b, p. 33).

Second, the present dissertation assesses the assertion that there could be no institutional change without the support of national elites: political elites, sometimes influenced by economic and “knowledge” elites. However, these elites are not necessarily unified. There are also other variables that can influence a state’s foreign policy behavior – factors such as ideology, size, and power.

In answering the focal questions, the dissertation investigates the impact of elites and elite behavior on institutions in a much-neglected category of states: the developing world. Scholarship on integration has, up to now, focused largely on industrialized states, such as the US, and regions, such as Europe (Armstrong & Bulmer, 1998; Bomberg & Stubb, 2004; Bulmer, 1998; Mitrany, 1966; Wood & Yeşilada 1996). Studying the intricacies of group dynamics, institutions, and policymaking in the formation of the CCJ, however, must take into account the socio-political context of the Caribbean and, by extension, the developing world. Therefore, the dissertation also challenges the notion of some integration scholars, like Daniel Elazar (1998), that insular states, such as those found in the Caribbean, are unable to form stable, effective, and tightly integrated regional systems.

The focal questions were answered using research methodology and data collection that delineated historical processes and identified relevant historical details by aggregating the domestic, regional, and international levels of analysis. These methods allowed the author to study the interrelationship between micro- and macro-level processes and actors. Research was restricted to the periods from 1980 to 2006, years when the CCJ negotiations were most active. Data was collected from elite interviews and archival material. The process-tracing method was used to analyze qualitative data from two country case studies – Jamaica and Trinidad & Tobago. By studying change over time in each country and then comparing across cases, this dissertation utilized both the “most similar systems” and “most different systems” research design (Neuman, 2003).

I will now present background on the Caribbean integration and the CCJ, discuss the expectations on the basis of established theoretical frameworks, and provide the dissertation's chapter summary.

HISTORY OF CARIBBEAN INTEGRATION

The Agreement establishing the Caribbean Court of Justice was ratified on February 14, 2001. The CCJ was not inaugurated, however, until April 16, 2005 after numerous delays. It was 16 years in the making, starting with the 1989 decision by the Heads of Government of CARICOM to appoint the West Indian Commission (WIC). The Commission's purpose was to provide recommendations – the establishment of a Caribbean Supreme Court vested with original jurisdiction being one of them – to increase the efficiency and effectiveness of the Caribbean regional integration process while achieving the region's ultimate goal of economic development and survival.

The CCJ was established for four main reasons. First, it was established to correct the weaknesses found in the original arbitration process among the CARICOM member states (Jordan, 2003, 2004). Second, it was expected to interpret the Revised Treaty of Chaguaramas (RTC)² and enforce judgments and orders in member states as it relates to the treaty (De la Bastide, 2007; Jones, 2004; Jordan, 2003; Ryan, 2001; Caribbean Court of Justice [CCJ], 2001; CARICOM Secretariat, 2008). Third, it was expected to support the RTC's Caribbean Single Market and Economy (CSME) (Jones, 2004; Jordan, 2003; Ryan, 2001; CCJ, 2001; CARICOM Secretariat, 2008). Fourth, the CCJ was to be the

² The RTC is a binding agreement among CARICOM member states to “further intensify economic integration through a Single Market and Economy, foreign policy coordination and functional cooperation” (CARICOM Secretariat, 2005, p. 55).

highest appellate court of CARICOM in matters of both Community law and national law. It would be possible to appeal the decisions of national courts to the CCJ and national courts would also be able to refer questions of CARICOM law to the CCJ (Bilal, 2004).

The Caribbean Community (CARICOM) member states seeking to ensure economic development and survival have voluntarily made collective decisions. However, CARICOM has not fully realized the enforcement or successful implementation of collective decision-making in this area (Ryan, 2002). There has been resistance to the enforcement of some CARICOM decisions by various members and there had been little success in the implementation of regional initiatives (Hall, 2001). As a result, some of the region's leaders sought to establish stronger institutions than then available to support the enforcement of decisions, balance national and regional interests, and foster greater interaction among government agencies at different levels and among private sector actors too.

In the present dissertation, I discuss the primary motivation behind the creation of the CCJ with regards to its original jurisdiction (the CSME and the RTC). Further, I suggest the logic of the CCJ's creation can be traced to the original Treaty of Chaguaramas. More immediately, changes at the international level—particularly the processes we have dubbed “globalization”—also led to greater regional integration and, in the Anglo-Caribbean's instance, to the formation of supranational political or legal institutions like the CCJ. These institutional changes reflect the preferences of, and the competition among, different sets of elite groups.

As a region, the Caribbean has been defined according to four main categories (Girvan 2000a, p. 31-36; Baptiste, 1998, p. 9):-

1. ***Geographical*** – this is the traditional position that defines the Caribbean as a set of small island states and those mainland countries awash by the Caribbean Sea.
2. ***Geopolitical*** – this definition incorporates the above definition and includes Central American countries not traditionally identified as being part of the Caribbean.
3. ***Ethnohistorical*** – this position defines the Caribbean on the basis of racial and ethnic traits and shared patterns of colonization and immigration.
4. ***Transnational*** – this definition holds that the Caribbean is not bound by territory but also includes the Caribbean Diaspora.

While these definitions are all credible, the fourth definition will be excluded as the focus of the study will be on the former British colonies and English-speaking small island and mainland (Belize and Guyana) developing states in the Caribbean and Latin America (with Haiti and Suriname) who, form the Caribbean Community and Common Market (CARICOM).

Regional integration is defined as “a “process” toward or “end product” of social, political or economic unification among separate national units within geographical proximity to one another” (Wickham, 1997, p. 240). Regional integration movements are seen as reactions to external pressures to which national units are forced to respond. As a result of these pressures national units voluntarily forge formal organizations, such as CARICOM, that provide a forum for formal and informal supranational decision-making

thereby enriching mutual trust and co-operation between the member states (Heywood, 1999, pp. 110-111).

The regional integration movement, in general, has experienced pendular swings, meaning that there have been periods when regionalism was broadly supported and periods when it was not (Eden & Hermann, 2003). According to Lorraine Eden and Charles Hermann (2003, p. 4), regionalism was popular during the 1960s and 1970s, then lost support during the 1980s, then had renewed interest in the 1990s. The pendular swing of support was a result of changes in perspectives on the benefits of free trade as opposed to protectionism. The same is true for the Caribbean – though at slightly different time periods – as regionalism was supported prior to the nationalist period of the 1960s, after which it lost support until the heralding of the globalization age in the 1980s and onwards. At each stage regional integration took different forms.

The Caribbean region started out with a political union (the strongest form of regional integration). A political union, in its strictest sense, is synonymous with federalism. Federalism is the division of decision-making power between a central body and several regional units. During the decolonization period, the British Government and the new and emerging Caribbean leaders attempted federalism, the West Indies Federation, which was established on April 22, 1958 when the first session of its parliament was held. It included all the British Colonies in the region with the exception of British Honduras, British Guiana, and the British Virgin Islands. However, the Federation was dissolved a mere four years after its establishment.

The aim of the Federation was to nurture political unity and a Caribbean identity. As stated by a staunch supporter of regional integration, then Prime Minister of Jamaica,

Norman Manley, the Federation was “the shortest road to our political ambition of nationhood in the West Indies” (Mordecai, 1968, p. 42). The Federation was a means to an end, which included the desire for self-government and the realization of nationalist aspirations. The failure of the West Indies Federation of 1958-1962 was a result of the fact that it followed a purely political framework for the harmonization of the member states. The Federation framers’ narrow view of regional integration excluded strategies for regional and national development, which adversely affected the Federation’s sustainability. First, there were no discussions as to the manner in which the Federation would address regional social issues, and when it was suggested that the richer islands subsidize the poorer member states, the suggestion led to a backlash from some states and the eventual secession of Jamaica (Mordecai, 1968, p. 459). Second, the Federation did not properly promote internal trade; nor did it set up a regional taxation system or bind member states’ fiscal policies (Mordecai, 1968, p. 460).

Thus, Caribbean regional integration reverted to a free trade area (the weakest form of regional integration) under the Caribbean Free Trade Area (CARIFTA). CARIFTA, a region-wide initiative, was used to remove trade barriers between member states so as to increase trade and improve development among the individual states while not requiring that all states maintain common external barriers to trade. CARIFTA was seen as the means of ensuring the economic viability and the sustainability of the individual states (Boxill, 1997).

Eventually, Caribbean regional integration slowly evolved from a free trade area to a customs union, then a common market (free movement in certain sectors) and an incomplete economic union over the following three decades. Established among the 14

former British colonies in the Caribbean, the Caribbean Community (CARICOM) started out as a free trade area – CARIFTA – which eventually became a customs union, as it included a common external tariff. With the signing of the Treaty of Chaguaramas (1973), CARICOM officially became a common market. In addition to forming a common market, CARICOM has agreed to cooperation in such areas as health, transport, culture and education, and the co-ordination of foreign policies among the member states. 1989 saw the CARICOM Conference of the Heads of Government decide to strengthen economic integration through a proposed Single Market and Economy. They called for the Treaty of Chaguaramas to be amended. “To this end, nine (9) Protocols were negotiated which formed the legal basis for the establishment of the CSME [CARICOM Single Market and Economy]” (CSME Unit, 2004) under the RTC. The RTC also implied a need for an established regional court with original jurisdiction to interpret and apply the treaty and act as arbitrator for CSME issues.

Given this background it should be noted that the Caribbean, more specifically the Anglo-Caribbean³, has toyed with the idea of having a regional court with original jurisdiction since the early 1950s. The formation of the West Indies Federation (1958-1962) saw the establishment of a Federal Supreme Court that could enforce constitutional law and address any question regarding the interpretation of the Federation’s constitution. In its judgments it had the ability to define the relationship among all players in the political system and was important in monitoring the “conflicts of laws and disagreements about relative powers” (Bealey, 1999). Article 80(1a) of the West Indies (Federation) Constitution stated that the “Federal Supreme Court shall...have original

³ Former and present Caribbean colonies attached to the British Empire.

jurisdiction in the proceedings between the Federation and a Territory.” Article 81(1) stipulated that the “Federal Supreme Court shall...have original jurisdiction to determine any question as to the interpretation of this Constitution.”

The Federal Supreme Court ended with the collapse of the Federation but it left a lasting positive impression on these matters. It was deemed the most efficient and effective organization of the West Indies Federation. According to John Mordecai (1968),

The eminent quality of the Court set a new standard for superior courts throughout the region and when it was dissolved a void was left which every island still finds hard to fill...the appointment of judges of great distinction, and, the Rules establishing the Court, had both ensured its eminence before the [Federal] Government was formally instituted. (p. 390)

As a result, in 1972 there was a renewed call for a Caribbean Court vested with appellate and original jurisdiction. The Report of the Representative Committee of OCCBA [Organization of the Commonwealth Caribbean Bar Association] on the Establishment of a Caribbean Court of Appeal In Substitution for The Judicial Committee of the Privy Council endorsed such a court. It would replace the English Privy Council as the final court of appeal while functioning as an “arbitrator in disputes which arise from various regional Agreements” (Rawlins, 2000, p. 56). Since CARICOM’s formation, there had been three other calls for a regional court with original jurisdiction. The first emanated from the Gladstone Report in 1990, another from Sir Roy Marshall in 1991, and a third came from the West Indian Commission (WIC) Report in 1992 (Jordan, 2003, 2004; Rawlins, 2000).

Beginning in 1989, as CARICOM moved towards establishing an economic union, its member states created a special, non-permanent commission – the West Indian Commission – to identify the best ways to establish the enforcement mechanism of

CARICOM. The Commission, in its 1992 published report, *A Time for Action*, recommended the establishment of a CARICOM Commission with executive powers, a Caribbean Court of Appeal with original jurisdiction, a regional assembly of parliamentarians, the formulation of a CARICOM Charter of Civil Society, and expressed its support for the development of a Single Market and Economy (Institute of Court Management, 2010; West Indian Commission [WIC], 1992). Despite these efforts, CARICOM did not begin to put these provisions for effective governance into practice after the WIC report was published (Duncan, 2004).

A decade later, though, the organization did change. After years of consultations, the Revised Treaty of Chaguaramas establishing the CARICOM Single Market and Economy (which includes the affirmation of the original jurisdiction of the CCJ) and the Agreement for establishing the Caribbean Court of Justice were signed in 2001. Additionally, on July 4, 2003, CARICOM members signed *The Rose Hall Declaration on Regional Governance and Integrated Development*. The Rose Hall Declaration sought to again strengthen the regional enforcement mechanism of collective decision-making. Integration took a step back in August 2005 when the heads of the member states of CARICOM opted to only implement two of the six goals⁴ specified in The Rose Hall Declaration (The Jamaica Gleaner, June 23, 2006). The implemented goals were the recognition of CARICOM as a “Community of Sovereign States” and the establishment of the CCJ. Adopting even these two goals began a complex process of strengthening the

⁴ The Declaration asserts (1) that CARICOM recognize itself as a Community of Sovereign States (implemented); (2) there should be a CARICOM Commission with executive power; (3) the Assembly of CARICOM parliamentarians should be strengthened, (4) there is a need to strengthen the Secretariat; (5) there needs to be the decentralization of decision making; and (6) there should be the establishment of the Caribbean Court of Justice (implemented).

enforcement mechanisms of regional decision-making and law. The CCJ, as at April 16, 2005, can sanction states for non-compliance, thus, making states accountable for the decisions reached within and laws made by CARICOM.

EXPECTATIONS

The CCJ, in its original jurisdiction, is the repercussion of changes in the international environment such as neoliberal globalization and the passing of the Original Treaty of Chaguaramas in 1973. The institutions (defined as rules of the political game) established by the Original Treaty and within individual member states create a path for the regional institutions' evolution, which will constrain and motivate regional and national elite preferences and policy choices (Bulmer, 1993, 1998). Within this context, however, one suspects that domestic elites—be they economic, political, or knowledge elites, can influence the shape and development of regional institutions like these.

I hypothesize that the degree to which regional integration deepens depends on the positions held by these elites, especially economic and political elites. These elites' preferences are influenced by antecedent institutions, as well as factors such as organizational resources, international circumstances, trade logistics, and political ideology. Depending on those preferences, elites will seek to influence specific foreign policy decision-making processes, in this case, the issue of regional integration.

CHAPTER SUMMARY

The remainder of this dissertation adheres to the following structure. *Chapter 2* examines an array of theoretical approaches. The literature review discusses why scholars cannot study the evolution of Caribbean regional integration through the prism of just one theory. One's hypotheses, derived from several different theoretical approaches, are then

presented. *Chapter 3* describes the research design in greater detail and includes an account of my research experiences and the specific methods used, as well as a description of data sources and their relevance. Key concepts—institutions, elites, public opinion, small states, regional integration, globalization, and neoliberalism—are defined and operationalized. *Chapter 4* provides hypothesis testing, analysis and discussion for the case of Jamaica. It shows the varying effects of international, regional, and national dynamics on Jamaica's role in the development of a regional judicial institution, the CCJ. *Chapter 5* conducts a similar analysis for Trinidad & Tobago, and demonstrates the varying effects of international, regional, and national dynamics on Trinidad & Tobago's stance vis-à-vis the development of the CCJ. *Chapter 6* – the conclusion – closes with a summary of what was learned and outlines the possibilities for future research on this subject.

CHAPTER 2: THEORY AND CONCEPTUAL MODEL

INTRODUCTION

This chapter provides literature applicable to the central question being asked, that is, the influence of various types of elites and other factors on the development of regional judicial institutions. As such, I reviewed theories that evaluate the impact of international and domestic factors on foreign policy, and the benefits of and processes towards regional integration. By extension, there is a synopsis of past applications and limitations of these theories to the Caribbean reality. Further, the hypotheses are outlined and the expected theoretical application, which amalgamates various theories, is discussed in detail.

LITERATURE REVIEW

Foreign Policy. Foreign policy encompasses trade/economic policy, military policy, social and humanitarian policy, and international political and diplomatic policy, among others. Foreign policy is simply a state's strategy for interacting with other states and non-state actors, such as international non-governmental organizations (INGOs), so as to fulfil its national self-interest and position itself in the international area (Evans & Newnham, 1998). The drive towards deepening and strengthening regional integration is one example of a foreign policy initiative.

Note there have been debates on whether there are differences between large states and small states, or between the "core" states of the more developed global North and the "peripheral" states of the less developed global South, in the formulation of foreign policy (McGowan & Shapiro, 1973; Rosenau, 1966). International relations

scholars tend to focus on domestic and international influences on the development of foreign policy in large and/or developed states (Snyder, 1991). Additionally, they have addressed how large-state foreign policy affects the domestic and foreign policies of smaller/developing states (Rosenau, 1966; Waltz, 1979). There has been little focus on the development of small/developing state foreign policy, perhaps, because it was believed to be overwhelmingly shaped by external influences. Miriam Elman (1995) explains:

...scholars have suggested that we can account for their behavior by focusing on the effects of the international system. The reasoning is as follows: since small states are more preoccupied with survival than are the great powers, the international system will be the most relevant level of analysis for explaining their foreign-policy choices. Because weak states are typically faced with external threats to national survival, foreign policy will reflect an attentiveness to the constraints of the international environment and foreign-policy goals will be less constrained by the domestic political process. (p. 175)

For instance, Paul Sutton (1987) argues small/developing states are more reactive to changes in the international system because of their passivity. Robert Jervis (1978), Stephen Walt (1987), and Jack Snyder (1991) maintain that national leaders in small states are more likely to adapt to external constraints than leaders of larger states because of vulnerability to economic competition, a lack of cushioning for foreign policy mistakes, their weak positions in the international system, and the effects of “bandwagoning” with more powerful states. They found that larger/developed states, given their more powerful positions in the international system, were more apt to have domestic politics shape their foreign policies.

Studies on the influence of powerful states on the foreign policies of smaller, dependent states general adopt one of two models: the Bargaining Model or the

Dependency Model. The Bargaining Model, simply put, “regards the policymaking process as relatively autonomous though constrained and influenced through a series of reward and punishment actions by a more powerful state” (Moon 1983, p. 316). In other words, the relationship between the two states is determined by promises and sanctions that will reflect the preferences of the larger, more powerful state (Armstrong, 1981; Richardson, 1976). Effectively, the Bargaining Model proposes that larger, more powerful states secure cooperation from weaker, dependent states mainly through rewards and punishments. Neil Richardson (1978) saw a relationship where

...the foreign policy behavior of dependencies is viewed as the partial payment in exchange for the maintenance of benefits they derive from their economic ties to the dominant country...Compliant behavior is deferential. It is behavior that accedes to the wishes of others. This means that its well-springs are external rather than internal to the actor. The further implication is that, as one actor complies, a second party can be said to have influenced the first successfully. (pp. 64-70)

In essence, it is a relationship of exchange, though with greater vulnerability on the part of one state (Richardson and Kegley 1980). According to scholars such as David Kay (1967), Robert Keohane (1967), Edward Mason (1964), and Andrew Westwood (1966), the reward/punishment behavior mainly occurs when a large powerful state gains compliance from and conditions the smaller dependent state through the issuance of military aid and economic assistance. Bruce Moon (1983) notes that the more rewarded a dependent state, the more compliant their behavior. Moon (1983, p. 318) also notes that, *ceteris paribus*, if states are not responsive to rewards, or rewards are not sufficiently attractive, then the incentives for compliant behavior are absent.

Anthony Maingot (1990, p. 59) has applied the bargaining model to the United States' bilateral negotiations with small Caribbean states. His research lays out the Small

Island Developing State's (SIDS) use of rational choice in determining its trade policy with the US. He states that both sides act with strategic rationality as they seek to maximize the benefits from their exchange (Keohane, 1986). In other words, policy makers in both countries take the actions and choices of the other state into consideration but will ultimately take actions and make choices that reflect their self-interests as much as possible.⁵

The Dependency Model, on the other hand, recognizes that the relationships between powerful states and dependent states reflect processes of decision-making driven by the social and political structures of states and, in turn, the effects of global patterns of dependency. In the Dependency Model, the histories of states and the structural relationships among these states provide the basis for their relationship and for the compliant behavior of the weaker state specifically. What effectively occurs is the adoption and internalization of the values of the more powerful state. There is change in the social and political structure of the weaker state to the point that the elite in the weaker state develop interests, perceptions and values compatible with those of the elite of the larger more powerful state (Amin, 1974; Cardoso & Faletto, 1979; Frank, 1968; Galtung, 1971). The change in structure reduces the need for more direct reward and compliance mechanisms. To quote Marshall Singer (1972),

...the incorporation of a national elite into an internationalized bourgeoisie produces decisionmakers who, owing not only to the economic interests they share with the American elites through economic transactions but also to their shared values and perspectives, produce policy virtually indistinguishable from that which would be generated by American elites. (p. 231)

⁵ This can mean that a SIDS could turn down bilateral trade with the US if it were more beneficial to trade with their CARICOM neighbors instead. See Maingot, 1994, p. 231.

The behavior of the larger, more powerful states produces dependencies (Payer, 1974). Dependency-producing transactions such as aid or, especially, foreign investment establish and maintain an asymmetrical relationship between the powerful and weaker states as the latter are integrated into the international system.

The study of small state foreign policy behavior, however, has gone beyond the dependency approach. Kenneth Waltz recognizes there are external constraints on small states but also asserts that as long as the small states do not pose a security threat, they “will face fewer external constraints and their behavior will be more likely to reflect domestic political influences” (Waltz, 1979, pp. 72-73). James Rosenau (1966) points to several relevant factors in addition to the international system: relationships among government actors, the role of the bureaucracy, society (culture and public opinion), and individual decision-makers’ traits. Similarly, Patrick McGowan and Howard Shapiro (1973) determined that all states, even smaller, weaker ones, will be influenced by multiple factors at the domestic and international levels.

Much of the recent literature fits into one or more of Rosenau’s factors/levels of analysis. Miriam Elman (1995) argued that the institutional choices of societal and state actors have a greater influence on foreign policy than international factors. Scholars have also pointed to a country’s negotiation style, decision making practices and history as additional domestic factors (Baillie, 1998). David MacGraw (1994) and Jeanne Hey (1995) found that the political ideology of the statesmen in government is most influential in small states’ foreign policies.

The literature on ideology and regional integration policy rests largely on the cleavage theory of party positions on European integration. The cleavage theory

maintains that “the positions of political parties reflect divisions in the social structure and the ideologies that provoke and express those group divisions...political parties are... organizations with embedded ideologies” (Marks, Wilson, & Ray 2002, p. 586). In Europe they found that parties on the extreme left and right of the spectrum were strongly against regional integration while parties located closer to the center were moderately to strongly in favor of regional integration (Marks & Wilson, 2000; Marks, Wilson & Ray, 2002).

In the case of small states, particularly in the Caribbean, other factors may shape partisan divides over regional integration. For one thing, political parties in Caribbean countries may still be mimic or emulate the prominent parties of their former colonial masters. Anglo-Caribbean scholars such as Jacqueline Braveboy-Wagner (2003), Robert Buddan (2001) and Fred Constant (2003) found that there are not very wide ideological divisions within the party systems of CARICOM member states, perhaps, as a result of their histories as colonies of Britain.⁶ Many of the region’s most successful political parties mimic the early British Labour Party, and political culture is built around a “welfarism” that demands the state provide benefits for the less fortunate (Constant, 2003). Political elites tend to range from social democratic (center left) to moderately conservative (center right). Hence, the vast ideological differences that divide some European parties and ideologies on the issue of regional integration are negligible in the Caribbean.

Beyond this literature, however, there is little scholarly consensus on the impact of different variables on foreign policy choices in the Caribbean integration process.

⁶ This excludes Haiti and Suriname.

Trevor Farrell (1981) discussed the external economic pressures that hindered economic integration; Norman Girvan (2011) reviewed both internal and external political, cultural, and economic pressures. However, perhaps the most comprehensive approach comes from Jacqueline Braveboy-Wagner (2003, 2008). In order of importance, she points first to the impact of individual leaders and governments (i.e., the preferences of political elites and individual leaders), followed by the international system, the society at large, and, finally, the domestic bureaucracy. She posits that the order of importance is a result of two factors: 1) the Anglo Caribbean state's small size and limited capacity, which makes states highly vulnerable to international influences, and 2) the culture and tradition it inherited from its former colonizers.

For the above reasons, elite preferences matter a great deal. The government leader and his/her advisors and cabinet; the political and legal elite; the knowledge elite; and/or the economic elite are all central to forming policies.⁷ For Braveboy-Wagner, policy decisions, whether at the local, regional, or international level, are mostly based on the public leaving power in the hands of the elected government leader and his/her advisors.

Additionally, while these states are all small and relatively vulnerable within the international system, even a small state's relative size and wealth will affect its foreign policy decision making. Size and wealth will dictate a state's capacity to hire and train skilled personnel in its foreign affairs agencies, to work on questions of regional

⁷ As we will see, the degree of influence of the economic and knowledge elites rest on the capacity of the state, the political leader's personal ideology, beliefs and motivations that shape his/her party's positions and the leader's assessment of societal norms, such as insularity, state nationalism.

integration (Buddan, 2001; Braveboy-Wagner, 2003). These skilled individuals would also be crucial in implementing the institutional choices decided upon.

Reasons for Regional Integration. Integration has economic, political and social elements. However, a considerable amount of research on regional integration has focused solely on the economic aspect, particularly international trade. There are those who argue regional integration will lead to greater economic openness and convergence with the international economy, while others argue the rise in regional blocs will result in increased protectionism and fragmentation, which will hinder gains from international trade (Mansfield & Milner, 1999). The latter argument has lost support in the last two decades, as regional integration did not hinder multilateral convergence (Baldwin, 1997, 2004). Whatever the position, international trade is believed to be one impetus for regional integration.

The earliest argument in support of economic integration comes from the ‘Classical Theory of Customs Unions’ developed by Jacob Viner (1950). He argues that the development of a customs union leads to trade diversion and/or trade creation, which may increase or decrease welfare of members states and the rest of the international economic community depending on a given circumstance. He theorizes that, with a trade diverting effect, if

all economic resources are fully exploited before and after the formation of a customs union, this increases the welfare of the member nations because it leads to greater specialization in production based on comparative advantage. A trade-creating customs union also increases the welfare of nonmembers because some of the increase in real income (due to greater specialization in production) spills over into increased imports from the rest of the world. (Salvatore, 2001, p. 329)

However, he assumed that when a customs union is formed it will more likely cause trade creation and increase welfare. The Classical Theory of Customs Unions was believed to be applicable to both small and large states. Yet, it made two unrealistic assumptions: perfect competition between members and with the wider international economy; an allocation of resources that would remain unchanged over time (Salvatore, 1999).

The Anglo-Caribbean's evolution from CARIFTA to CARICOM in 1973 was stimulated in no small part by similar arguments made in economist William Demas' (1965), *The Economics of Development in Small Countries with Special Reference to the Caribbean*. Demas proposed that economic integration was the best course of action in prevailing over the shortcomings associated with economic development within small states. As such, given the close proximity among the Caribbean states, he recommended that they integrate as a customs union. From there he believed that as economic integration deepened, the region would develop the legal and political institutions to support it.

Scholars have relaxed the assumption of perfect competition to include discussions on product differentiation and economies of scale (Moser, 1997; Schiff & Winters, 1998). The economic environment has evolved, and scholars have noted that these exogenous factors can influence the development of regional institutions (Mansfield & Milner, 1999). Globalization and neoliberalism, they agree, began to shape the international community in the 1970s and 1980s. Globalization, in the economic context, is a phenomenon of rapid deepening and widening of trade, finance, and production integration across national boundaries. Neoliberalism, an approach toward globalization,

promotes free markets and free trade through processes of liberalization, privatization, deregulation and limiting the role of the state in economic and social spheres.

Scholars have observed that neoliberal globalization affects large and small states differently. It offers both advantages and disadvantages to small states; however, the negative seems to outweigh the positive (Handelman, 2010). Neoliberal globalization encouraged a new form of regional integration known as 'open regionalism,' which called for "market-led growth and global commercial integration" (Ebenau, 2012). As such, scholars argue that it is best for small and/or developing states to create a regional bloc or deepen the economic integration of an existing bloc (Acosta, 2004; de la Reza, 2003). This, they contend, allows for their integration/convergence with the world economy, where competition from neoliberalism is often cutthroat (Bernal, 2000; Ohiorhenuan, 2000). Neoliberal globalization brings with it vulnerability and volatility that forces smaller states to develop coping strategies, the most evident being greater regional integration (Bernal, 2000; Blake, 2000; Byron, 2000). Put differently, "greater regional integration can be complementary to the process of global integration in both seizing the opportunities presented by globalization, and in guarding against and overcoming the attendant vulnerabilities and challenges" (Carstens, 2006).

For geographically close small states (GCSS), regional integration is seen as essential in overcoming the expected limitations that individual small states face (vis-à-vis globalization and neoliberalism) due to their size and, in the cases at hand, levels of development. For example, it allows for the achievement of economies of scale (Bernal, 2000). As a consequence of small size, individual states are unable to specialize or produce goods more cheaply than large states or organizations. However, as a regional

unit, GCSS would reduce the cost per unit input as the capacity to produce increases and allows for lower prices per output and greater profits than if each small state undertook production on its own (Black, 1997).⁸

While this is true, *ceteris paribus*, many GCSSs still need foreign investment from large states to provide the capital needed to produce goods at these economies of scale. The Caribbean Community (CARICOM) is a “capital-importing region” (McDonald, 2005, p. 39; Pollard, 2004, p. 91). This provides the opportunity for large states, particularly those within the region, to also influence regional integration (Cardoso & Faletto, 1979; De Santos, 1970).

Regional integration also protects against exogenous shocks that can be damaging to small state competitiveness. Increased mobility of capital and labor within the region should increase market elasticity and productivity, which in turn increases the region’s ability to withstand these shocks (Bernal, 2000; Blake, 1997). In other words, a GCSS could use regional integration with similar states as a means of facilitating economic development and economic growth (Demas, 1965). Put differently, “economic development [in the Third World] is to be achieved by industrialization which in turn is to be advanced through regional integration” (Axline, 1979, p. 9).

While many scholars are satisfied with examining the economic rationales for integration, they often ignore the political explanations. One set of political arguments about regional integration is based in the idea of federalism, which is “concerned with the creation of supranational institutions to ensure efficiency, and the decentralization of

⁸ What is more, the development of these new institutions is more likely when there are long-standing historical patterns of cooperation among small states in the same region. See Ferris & Lincoln, 1981.

bodies to bring about political democracy” (Boxill, 1997, p. 14). Integration, in this sense, is a tool for achieving national security, diplomacy, and institution building; integration, in the form of a political union, makes states less vulnerable than if they were on their own (Hodges, 1972; Lewis, 2002, p. 22). A union or federation would exercise mutual self-help when facing diplomatic or military threats to the survival of member states (Wood & Yeşilada, 1996). The success of a federation is more likely if established within a set geographical area with states that had similar political systems and common goals (Wheare, 1963; Riker, 1964; Franck, 1968).

Federalism was traditionally associated with the organization of power within a nation state, as in the cases of Canada, the United States, India, Germany and Australia, among others. Today, we can also look to a regional international organization (IO) that encompasses many nation states: the European Union.⁹ The changing position on regionalism, also, reflects the impact of globalization in the economic, social, cultural, and political spheres. Greater interdependence among member states through economic integration led to greater political integration (Heywood, 1999). Caribbean scholar William Demas’ later works took this federalist stance, as he argues that regional economic integration will not be successful without political unification (Demas, 1974, 1976). Trevor Farrell (1981) and Norman Girvan (2011) likewise concluded, after reporting their assessments of Caribbean integration, that there was a need for political unification in the region.

⁹ Federalism can take the form of a federation or confederation. The previous examples are federations and the EU is a confederation whereby a group of nation-states “come together to form a common government for strictly limited purposes, usually foreign affairs and defense” (Elazar 1991, 7).

The popularity of the federalist argument has waned over the years but the political arguments for regional integration have not. Proponents maintain that trade links and economic gains will make war too costly among member states. Indeed, the predecessors of the EU, the European Coal and Steel Community (ECSC) and the European Economic Community (EEC) were created to reduce the threat of war in Western Europe (Wood & Yeşilada, 1996). Additionally, economic integration will produce greater interaction among participating states' economic, cultural, and political institutions, and the elites who lead and staff them (Wood & Yeşilada, 1996). William Wallace (1994) found that the "most striking phenomenon of formal European integration has been the interpenetration of national administrations, with ministers and officials from different governments in close and continuous contact" (p. 4). Some scholars have even argued that better, more diverse policy making can be an impetus for regional integration. Mark Gordon (2001) finds that integration has been associated with diversity, accountability, and innovation. The dispersal of power reduces tyranny, and the multiplicity of governing bodies reduces the "risk of bad policy or the blockage of the popular will" (Greenberg & Page, 2005, p. 78).

States will also strategically choose to integrate in order to strengthen their position on the international stage by increasing their bargaining power and reducing negotiation costs. Integration creates collaborative decision making mechanisms that afford states a united front in international negotiations as well as against external threats. Braveboy-Wagner (2008) and Duke Pollard (2003) see integration benefitting small states in the above manner. They acknowledged that the formation of CARICOM's Caribbean Regional Negotiation Machinery (CRNM), now called the Office of Trade

Negotiations (OTN) allowed for the effective representation of members at international forums and the successful negotiation of foreign trade and economic policies, most notably the various rounds of negotiations for the EU's aid conventions with African, Caribbean, and Pacific (ACP) countries (the Lomé and Cotonou Conventions), The Free Trade Areas of the Americas (FTAA) and the EU-CARIFORUM Economic Partnership Agreement (EPA).

Other political impetuses are the United States' conversion from multilateralism to regionalism and the apparent success of European integration. According to Jagdish Bhagwati, writing in the 1990s,

The main driving force for regionalism today is the conversion of the United States, hitherto an abstaining party, to Article XXIV... The conversion of the United States is of significance. As the key defender of multilateralism throughout the post war years, its decision now to travel the regional route... tilt the balance of forces at the margin away from multilateralism to regionalism. (1996, p.29)

It should be noted that an embrace by the US of regionalism does not hinder its support for multilateralism (Baldwin, 1997, 2004). But actions such as the creation of the North American Free Trade Area (NAFTA) among the US, Canada, and Mexico in 1994 and the subsequent failed negotiations between the US and Latin American and Caribbean states to establish the Free Trade Area of the Americas (FTAA) led to renewed interest in regionalism in the Caribbean. Since the failure of the FTAA, there has been a proliferation of negotiations for bilateral and multilateral economic and political agreements across the region. Also, regional blocs were created in response to the proposed FTAA—some to shore up bargaining power and ease states into the FTAA (as with the Association of Caribbean States, ACS), others as an alternative to the FTAA (as

with the Bolivarian Alliance for the Peoples of Our America, ALBA) (Encyclopaedia Britannica, 2013; Harris & Azzi, 2009).

Regarding the European influence on other regional blocs, Mario Teló (2007, pp. xiii-xiv) states that the new wave of regionalism began with Mercado Común del Sur (MERCUSOR) “[drawing] on the experience of the European Union...to encourage parallel initiatives in political evolution and economic development and integration without engaging in a close federal structure to achieve its objectives.” This, he says, paved the way for other regional integration initiatives across Latin America and the Caribbean, Africa and Asia. A GCSS’s observation of and/or participation in other regional organizations may provide it with new ideas and approaches to regional integration. If these organizations are successful, such success might push these small states to emulate such organizations and increase regional integration efforts within their own world areas.

Given these observations, Richard Baldwin (1997, 2004) developed the “Domino Theory of Regionalism.” He determined that if a region deepens economic integration or forms a new regional economic bloc, this will induce non-members to join the bloc as these moves could lead to trade and investment diversion away from non-members. The creation or deepening of regional integration will induce non-members who trade with the regional bloc to “engage in greater pro-integration political activity... [The] extra activity may tilt the balance and cause the country to join the bloc” (Baldwin, 2004, p. 6). However, if these states are barred from joining the bloc, the excluded countries may form their own regional bloc. This, then, is the domino effect of creating new economic blocs.

Regional Integration Theories. As noted before, regional integration theories are derived almost entirely from the European experience. These theories have been used to analyze the evolution of the European Union and by extension the development of a legal framework (the European Court of Justice (ECJ) and corresponding treaties) to support it. In recent years, however, there has been a growth of literature discussing and analyzing developing countries' experiences with regional integration. Some use a more state-centered approach and others more global or international in scope.

Among state-centered approaches, studies of federalism¹⁰ viewed institutions as “created by purposive people in legislatures and international union” (Stichcombe, 1997, p. 2). The success of regional integration is dependent on the “need to attain political consensus in the face of adverse social and economic conflict” (Boxill, 1997, p. 14). In federalism, the state is the main agent for deepening regional integration.

Neo-institutionalism, on the other hand, does not take the old institutionalist position that the state is the primary actor. Scholars of the neo-institutionalist school believe that institutions within and outside of a state can deepen regional integration (Armstrong & Bulmer, 1998; Bulmer, 1998). They may be institutions in the traditional sense such as the judiciary, the legislature, or the executive; or they may instead be conventions, values and norms that determine how actors relate to one another (North, 1997; Bomberg & Stubb, 2004). Therefore, it is the prevailing rules and common practices of institutions within and between states—not just national governments—that will determine whether or not there will be regional integration. Thus, neo-

¹⁰ It is argued that federalism is no longer relevant to the study of regional integration. It has, however, been included because it has been described by some Caribbean scholars as necessary for deepening regional integration. Much of the discussion on federalism has been addressed in the previous section.

institutionalism differs from ‘old’ institutionalism, which is focused on describing “the formal-legal [i.e., the law] and administrative arrangements of [a national] government” (Bell, 2011) and their effect on the integration process, while ignoring the informal conventions and norms. With neo-institutionalism, actors, organizations and agencies within and across states are important in shaping the preferences of governments and thus shaping integration processes (Wood & Yeşilada, 1996; Bomberg & Stubb, 2004; Bulmer & Lesquesne, 2005). Additionally, decisions made by governments shape the legal bases and economic incentives for other actors to become involved in the integration process.

The more internationally-centered institutionalist theories encompass the schools of Neo-functionalism and Intergovernmentalism. Neo-functionalists support regional integration on pragmatic grounds, because, “the nation state [did not have the technical expertise necessary for and] was unable to perform the many tasks of development” (Boxill, 1997, pp. 15-16). As such, scholars proposed the development of supranational regional institutions and functional organizations that deal with specific functional needs relating to social and economic development in areas such as healthcare and unified safety and transportation regulations (Mitrany, 1966; Wood & Yeşilada 1996). Economic elites and interest groups compete with one another, but can also cooperate with one another. Cooperation among economic elites follows the competition because they seek “economic reform along the line of least resistance” (Hooghe and Marks 2008, 4), which in turn fosters added institutionalization and governing complexity.

Key to this analysis is the concept of “spill over” (Haas, 1968; Lewis, 2002, p. 23). A spill over is “a situation in which a given action, related to a specific goal, creates a situation in which the original goal can be assured only by taking further actions, which

in turn create a further condition and a need for more action and so forth” (Lindberg, 1963, p. 10). In other words, actors in a specific economic sector (within or across borders) will coordinate on an issue; the pressure to achieve greater benefits among participants in that sector will then require the involvement of others beyond that sector, thus resulting in the deepening of economic integration (Haas, 1968; Schmitter, 2004). This process would further intensify with the propagation of globalization. Neo-functionalists were, therefore, concerned with how integration of some economic endeavors among states carried over to other related political and socioeconomic endeavors (Haas, 1968; Haas & Schmitter, 1964). As such, neo-functionalists believed that economic and socioeconomic integration would eventually create political integration with the establishment of supranational institutions (Haas, 1968; Boxill, 1997; Schmitter, 2004). In the Caribbean, scholars that contributed to *Ten Years of CARICOM* (1984) followed the neo-functional position. They recognized issues in production integration and balance of payment crises as barriers to economic integration and suggested a strengthening of regional administrative arrangements.

Intergovernmentalism, on the other hand, holds that states would never give up sovereignty to supranational institutions (Milward, 1992; Hoffman, 1995) and that national governments play the primary role in the integration process because it is these national governments’ preferences and ‘history making decisions’ (Peterson, 1995) that dictate whether or not regional integration will be initiated/deepened. According to Andrew Moravcsik (1993), “governments first define a set of interests, then bargain among themselves to realize those interests” (p. 481). These interests are economic in nature and “negotiations take place between states that are asymmetrically

interdependent, and...common institutions, with varying levels of sovereignty, are established through the bargaining process” (Munroe, 2006).

In the 1990s, traditional intergovernmentalism gave way to liberal intergovernmentalism. Developed by Andrew Moravcsik, it attempts to bridge the gap among neo-institutionalism, intergovernmentalism and liberal theory in order to provide a more comprehensive study of regional integration. It focuses on the big decisions made regarding integration, which it believes are made in three phases (Moravcsik, 1993, 1998). The first is national preference formation, which focuses on the source of a state’s preferences, be it geopolitical or economic. The second phase concentrates on the efficiency and distributional benefits a state gains after bargaining. Bargaining may result in either supranational enterprising or asymmetrical interdependence. The third and final phase focuses on the reasons for/against transferring sovereignty to a regional organization—the decision to either delegate or pool decision-making in regional institutions. These reasons include but are not limited to “federalist ideology, a centralized technocratic management or a more credible commitment” (Moravcsik, 1998, p. 24).

Thus, neo-functionalists, and, to a lesser extent, intergovernmentalists, stress the importance of elites for the preference formation of regional integration, which answers the central question of this study.

Regional Integration, Enforcement Mechanisms, and Judicial Development.

Enforcement “requires a credible threat that sanctions will be imposed if a rule is violated” (Schiff & Winters, 1998, p. 160). Enforcement within regional organizations is generally achieved through policy coordination and binding agreements among member

states. Both empower regional institutions to carry out functions necessary to compel members to uphold their commitments. Aside from these methods, which varies across regional blocs, enforcement is achieved via dispute settle mechanisms. These come in two main forms ad hoc tribunals as found in NAFTA and pre RTC CARICOM and a regional court as in the cases of the EU's European Court of Justice (ECJ) and CARICOM's CCJ (McDonald, 2005; Schiff & Winters, 1998). Decisions made by ad hoc tribunals are not binding and it is left to the offending member state to comply (Hansen, 2005; O'Brien, 2010). If compliance is not achieved, the offending member could face sanctions from its fellow members. The weakness of this mechanism is that member states may not sanction a member state for fear that they may face similar circumstances in the future (Hansen, 2005; O'Brien, 2010). Instead, member states may enter gentleman's agreement to quickly resolve the dispute, which increases "the need for hedging and "insurance"" (Schiff & Winters, 1998, p. 169; McDonald, 2005).

Decisions made by the regional court are binding as the court tries and resolves disputes through judicial procedure that delivers formal judgments. With reference to the ECJ, it has been theorized that decisions made by a regional court will further shape and strengthen the integration process at the national and supranational levels (Alter 2009, 2012; Stone Sweet, 2004). Alec Stone Sweet (2004) attributes this to path dependency. Using modified neo-functionalism, Stone Sweet argues that as each case sets precedence economic actors will promote the use of the regional court over national courts in order to meet their self-interest. This effort would expand the court's authority as "success" in the court will result in attorneys, judges, and plaintiffs supporting regional law for their own self-interest and improvement (Stone Sweet, 2004, p. 236). Karen Alter (2009, 2012),

using historical institutionalism, argues that the ECJ, as a regional court, was designed to provide compulsory superintendence of member state actions. This attribute would create a self-binding commitment, which restricts the member state from overriding court decisions or threatening noncompliance (Alter, 2009, 2012). Thus, the regional court furthers the integration process by “overcoming legal difficulties arising in the process of regional integration” (Alter, 2012, p. 151).

Caribbean Scholarship. Caribbean Scholarship over the past forty years has adopted neo-functionalism, old institutionalism (in the form of the federalist approach), or the small state foreign policy approach as the bases for their arguments concerning Caribbean integration. The arguments focused on economic integration, on the institutions and policies needed for this integration, or the reasons for their success or failure. Most of the literature does not deal specifically with the CCJ or with the role of courts in economic integration.

Most scholars focused on the shortcomings of closer integration in the Caribbean. Writers such as Ian Boxill (1997), Peter Wickham (1993, 1997), and Patsy Lewis (2002) and even Cynthia Barrow-Giles (2002) have all commented that Caribbean regional integration has been fragile and unsteady. Ian Boxill (1997, p. 48) characterized the process as being plagued with “tremendous conflict and instability.” Peter Wickham (1997) has stated that the Caribbean has experienced both integration and adverse integration, which he called disintegration. Patsy Lewis (2002, p. 20) claims that CARICOM has had “mixed success.” The problem with these findings is that they continued pointing out existing problems, most of which were addressed by earlier writers. They also ignore non-economic elements of integration.

The Report from the WIC (1992) was among the first official CARICOM documents calling for a Caribbean Appellate Court with extended original jurisdiction. The commissioners argued that a successful movement towards deeper economic integration was impossible without a legal entity that would ensure a stable and predictable macroeconomic environment and provide better arbitration mechanisms for CARICOM member states. Their methodology for arriving at this conclusion rested not on macroeconomic analysis, but on focus groups and elite interviews.

Since the WIC Report, the majority of the literature on the CCJ has focused on describing its purpose and/or critiquing its structure and usefulness. Speeches by CCJ Justice Désirée Bernhard (2006) and former CCJ Chief Justice Michael de la Bastide (2007), and documents released by former CARICOM legal analyst and former CCJ Justice David Pollard (2000a, 2000b) provide details on the relationship between the CSME and CCJ. They also develop legal doctrine on what constitutes original and appellate jurisdiction, the role the CCJ plays in integration and how the CCJ compares with the ECJ. The Honorable Adrian Saunders (2010), a CCJ Justice, explains the original jurisdiction structure and reviews the rulings made by this court to between 2005 and 2010. Peter Jones (2004) and Victor Jordan (2003, 2004) argue the pros and cons of the CCJ and comment on the different positions held by various elites regarding the court and its usefulness and effectiveness. Maureen Crane-Scott (2004) and Sheldon McDonald (2005) discuss the role the CCJ plays in the international political economy.

This literature pays inordinate attention to the appellate jurisdiction section of the court. Delano Franklyn (2005) and Selwyn Ryan's (2001) books are devoted to debates inside and outside of parliament on whether CARICOM member states should join the

appellate jurisdiction, stay with the Privy Council or develop their individual final courts of appeal. Hugh Rawlins (2000), who provides some historical details on the development of the court, relegates the original jurisdiction court to only five pages in seventy-page document. Simeon McIntosh (2002) likewise centers his discussion on the appellate court and constitutional reform in the Anglo-Caribbean.

There is presently only one scholarly work that has attempted to analyze the development of the final structure of the CCJ's original jurisdiction. It is the most comprehensive historical account of the preliminary stages of the development of the CCJ as well as a discussion of the Court's role regionally and internationally. Duke Pollard's (2004) *The Caribbean Court of Justice: Closing the Circle of Independence* identifies important Heads of Government and the amendments they respectively made to the drafts of the Agreement establishing the CCJ and the Rules for the Court. However, the book does not identify the influence of the various types of elites, save a small group of political elites (various Attorneys-General and the CARICOM Legal Affairs Committee). Moreover, he does not differentiate among the different countries' political elites. He assumes, for example, that there was consensus among the Attorneys-General on the amendments and final documents. I, on the other hand, seek to provide some missing links in that discussion: among them, identifying who contributed what to the final agreement, what elites mattered, and what their sources of agreement and contention were.

HYPOTHESES

Given the previous review, I argue creating new institutions to support/deepen regional economic integration is based on a mix of systemic/international, domestic, and

individual factors, actors and processes. I suspect that no one factor determines elites' and, by extension, member states' support for/opposition to deeper integration, but rather...

HYPOTHESIS 1: Systemic Level of Analysis¹¹

H1a: Increased global trade intensifies regional economic integration which results in the demand for the judicial governance of the latter activity.

H1b: Increased regionalization in the Americas and Europe will renew GCSS' interest in regional trade and supporting regional institutions.

HYPOTHESIS 2: Nation-State Level of Analysis¹²

H2: The largest and/or wealthiest GCSS will have the greatest influence in the promotion of/negotiation for regional integration and its institutions.

HYPOTHESIS 3: Domestic Level of Analysis¹³

H3a: The decision to promote/negotiate for new regional institutions rests with the political elite.

H3a(i): Left of center political parties will support regional integration and its institutions more than right of center parties.

¹¹ These hypotheses address neoliberalism, the domino theory of regionalism, small state foreign policy approach, and the bargaining and dependency models.

¹² This hypothesis address neo-functionalism and liberal intergovernmentalism.

¹³ These hypotheses address liberal intergovernmentalism, the cleavage theory of party positions and small state foreign policy approach.

H3b: Elite Public Opinion rather than mass public opinion will influence the political elite's decision to promote/negotiate for regional integration and its institutions.

H3b(i): Better organized economic and knowledge elites have greater influence on the political decision makers.

THEORETICAL APPLICATION AND EXPECTATION

As stated before, the full explanation of CARICOM's decision to establish the CCJ and determine its original jurisdiction will not likely use a single approach. An individual theory has limitations in explaining the creation, construction and evolution of regional institutions because it may only capture a small part of the integration process. Moravcsik and Schimmelfennig (2009) said it best, "that one cannot explain integration with just one factor, but instead seeks to link together multiple theories and factors into a single coherent approach appropriate for explaining the trajectory of integration over time" (p. 68). Hence, the present dissertation draws on not one but many of the theories discussed above in order to explain the interplay among micro- and macro-level processes and actors.

I theorize that the establishment of the CCJ was first a consequence of external factors (neoliberal globalization) and, even earlier, of decisions made by political elites in 1973 with the signing of the Treaty of Chaguaramas. These decisions shaped the institutionalization of regional economic and social development, and of conflict resolution in the regional integration process. These decisions also shaped the ensuing political and economic evolution of the regional elite groups and relations among member states.

Once implemented, regional institutions constrained regional and national elites' future policy choices (Bulmer, 1993, 1998). This specific trajectory will be difficult to reverse as institutional development is path dependent as a result of the perceived values of past investments, self-reinforcing rules and practices, positive feedback cycles and increasing returns (see Pierson, 2000; Pollack, 1996, 1997). Past investments are the time, energy and resources used to create institutions. As time passes, these investments may yield increasing returns. Increasing returns contribute to positive feedback because the more the institutional rules are followed the more they will create "incentives for the actors to stick with and not abandon existing institutions, adapting them only incrementally to changing political environments" (Pollack, 2004, p. 140). Simultaneously, self-reinforcement and lock-in will occur when actors put "in place a set of forces or complementary institutions that encourage that choice to be sustained" (Page, 2006, p. 88). All of this is occurring against the background of exogenous factors, and they, too, are influencing the development of regional institutions. In the case of CARICOM, the neoliberal globalization that propelled the actions of the international community in the 1970s and 1980s created pressures for elite actors to change, however incrementally, existing institutional configurations.

The development of regional institutions is not determined by the preferences of just one set of actors but rather through the participation of various elite groups – political, economic and sociocultural – and the member states involved in the regional integration process (Hall & Taylor, 1996). Institutions help to structure political and economic behavior and processes; however, the political and economic behavior of elite actors also creates and influences institutions (Steinmo, 2001). It is understood that

institutions are both an arena for political and economic struggles among elites and a set of incentives and constraints on elite activity. We would expect to see that, with the deepening of the regional integration process, there would be the establishment of more supranational institutions and an increase in the number of elites involved at this level. With the signing of the initial treaty establishing the regional integration process, some elite activity that began at the national level with national governments, later extended to the regional level.

Since most regional associations are launched at the lowest form of integration (free trade area), the elite preferences reflected in those institutions would be economic.¹⁴ All things being equal, a domestic economic elite, which may not have direct influence on the supranational institutions under the initial treaty, will exert its influence on national government representatives (the political elite) by one or a combination of the three avenues as expressed in Figure 1 below. The first avenue is through their local member of the legislature. The legislature will approve, reject, or amend bills associated with regional issues in accordance with standard procedures (Derbyshire & Derbyshire, 1991; Shugart & Carey, 1992; Weaver & Rockman, 1993). The second avenue is through the state bureaucracy that implements the rules, laws and functions of the state. The third avenue is the economic elite's direct influence on the executive branch (Sartori, 1994; Weaver & Rockman, 1993). Through consultation with the knowledge elite, the political and economic elite will negotiate and bargain over their state's position on the structure of any new institutional framework for economic development.

¹⁴ CARICOM, however, was launched as a mid-level form of integration – a common market that allows the free movement of the two factors of production – capital and labor – across the national borders of member states (Mansfield & Milner 1999), thus, still making the above premise true.

Following Allison & Zelibrow (1999), I presuppose that the decision-making process at the national level consists of an inner circle of elites who do the actual bargaining and outer circles who influence the context in which bargaining takes place within the inner circle. The *inner circle* will consist of political leaders in government as well as economic leaders (Allison & Zelibrow, 1999, pp. 255 & 296). Actors in the inner circle represent departments/agencies and reflect the interests and priorities of his/her department/agency. The *outer circles* consist of lower level officials from the public sector, who work with the executive and legislative branches, opposition members of parliament, the private sector and non-governmental organizations, the knowledge elite, the media and the general public (Allison & Zelibrow, 1999, pp. 255 & 296). The interaction and subsequent conflict/competition among outer circle actors shapes the context in which decisions are made in the inner circle at the regional and national levels.

All avenues end with the national executives making decisions on the further expansion of regional integration institutions. This activity occurs within each member state. By extension, member governments will define their interests, and the interests of powerful groups in their countries, and bargain in such a manner to actualize those interests. Negotiations between states can then create new institutions, with varying levels of sovereignty (Moravcsik, 1993; Munroe, 2006). Additionally, the national position will be determined by a factor not considered by Moravcsik (1998): the unintended consequences of earlier decisions, and institutional formulations and subsequent amendments.

Negotiations and bargaining that lead to the development of new institutions also open up new channels in the region to elites, not just political elites but economic and

knowledge elites too. *Ceteris paribus*, transnational ties between different member states' economic and knowledge elites will develop as they become more enmeshed in regional/transnational rules. They will compete and coordinate with one another when it is beneficial to do so, to effect "incremental [and strategic] economic reform along the line of least resistance" (Hooghe & Marks 2008, p. 4). In such processes, economic or knowledge elites focused on a particular sector or economic activity will influence coordination and collaboration not just within but beyond that sector (i.e., spill over). The spill over advances economic integration as it fosters additional layers of institutional complexity and increased interactions and transactions among actors within the region (Rosamond, 2000; Schmitter, 2004).

Once the national government's position is set, interstate negotiation and bargaining will follow the same premise as outlined at the national level. The new inner circle will only include the heads of government, and the outer circles will now include national cabinet members, national opposition leaders, national and regional organization's top level officials, low level regional organization officials, and possibly regional elite groups. Even as heads of government are being influenced/informed by members of the outer circles, negotiations among them will reflect the relative bargaining power of member states, and their strategies for cooperation and for solving shared problems (Moravcsik, 1993, 1998; Moravcsik & Schimmelfennig, 2009), as well as the influence of past decisions and institutions.

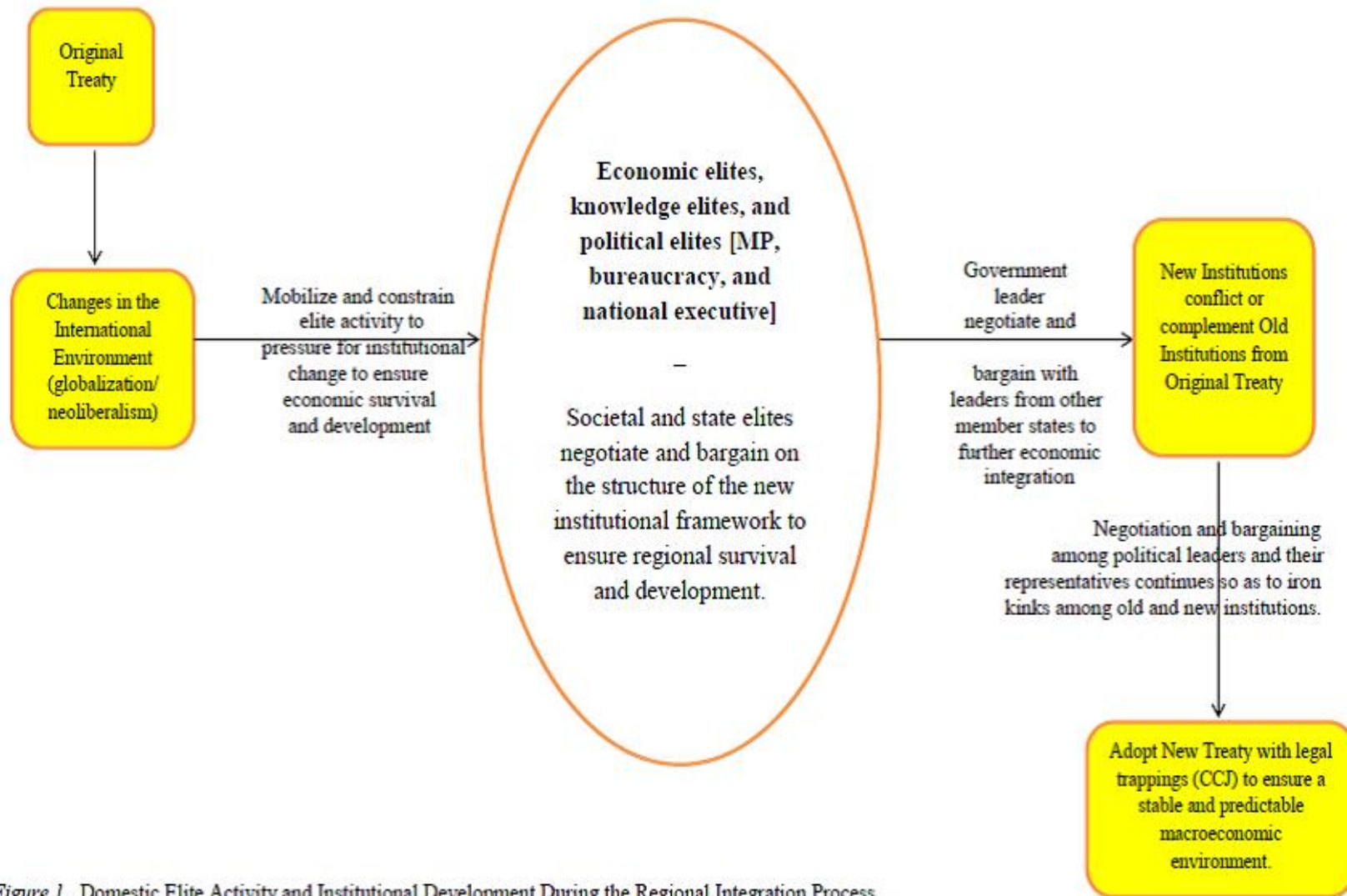


Figure 1. Domestic Elite Activity and Institutional Development During the Regional Integration Process.

It is understood that when states have more to lose or gain in regional negotiations, they will expend more resources and exert more influence to ensure particular outcomes (Moravcsik, 1998). Future economic benefits will also be weighed as states decide whether to seek greater integration. States will seek to develop regional institutions that will allow for superior collective outcomes as long as they can agree upon a distribution of mutual gains among them. They will go as far as “to delegate or pool decision-making in [these] international institutions...to pre-commit governments to future decisions, to encourage future cooperation and to improve future implementation of agreements” (Moravcsik, 1998, p. 73). Therefore,

...integration can be best understood as a series of rational [and historical] choices made by national leaders. These choices responded to the constraints and opportunities stemming from the economic interests of powerful domestic constituents, and the relative power of states stemming from asymmetrical interdependence and the role of institutions in bolstering the credibility of interstate commitments. (Moravcsik 1998, 18)

In addition, it is expected that one of the effects of deepened economic integration will be to alter elites’ strategies regarding future institution building. This may in turn move regional integration beyond its weakest form to one that includes political and legal integration. If so, then competition and cooperation among elites will go beyond neo-functionalism’s narrow economic view to include other spheres of influence. As regional integration matures, elite activity will affect and be affected by regional institutions and national policy making (Sandholtz & Sweet, 1998). What is more, Liesbet Hooghe and Gary Marks (2008) note that as Europe’s elites collaborate and cooperate in mutual areas of interest, these activities have spread into more areas due to “[transnational]

mobilization, supranational activism and policy spill-over [that] intervene between sectoral pressures for jurisdictional reform and institutional outcomes” (p. 3).

In CARICOM, however, the process will be riddled with periods of inertia due limitations intrinsic to Small Island Developing States (SIDS), namely, the overwhelming effects of external pressures (globalization/neoliberalism) and the limited capacities of member state economies (Elazar, 1998; Franklyn, 2005; Payne, 1980; Ramphal, 2012). Given these factors, members of the economic elite may face difficult choices. This dynamic might divide the economic elite, pitting a more globalized, outward-focused economic elite against a more inward-focused or, in this case, Pan Caribbean economic elite. I also expect that if global terms of trade change for the worse, the outward focused economic elite will turn to the already established regional market they previously ignored in order to stem losses or increase profits.¹⁵

Additionally, it is anticipated that legacies of colonialism and the relative brevity of the independence period to date may exacerbate competition rather than promote coordination and cooperation among economic elites, because of the limited interpersonal trust and segmented nature of post-colonial societies. Low trust levels, for example, restrict firms to operating disproportionately among friends and family, with local businesses owned by a few family firms or sole proprietors—or by transnational corporations or, in key sectors, by the state itself (Pollard, 2004; Ryan, 2001). While family businesses and Pan Caribbean corporations dominate local economic activity and have influence on national governments (Pollard, 2004), the governing structures left

¹⁵ The pursuit of deeper regional integration thus may also depend on member states’ regional trade balances.

behind by the former colonial powers also centralized decision-making within each member state (Beckford, 1972; Ryan, 2000). Consequently, national governments (the political elite) will take the lead in regional negotiations over institutionalization and governance, with the economic elite playing a more indirect role in the process.

Finally, during periods of change we will surely find some actors attempting to maintain the institutional status quo for as long as possible, even if that status quo is less than optimal, as it is at least predictable; any change brings with it uncertainty (Pierson, 1993; Steinmo, 2001). Once the old institutional frameworks give way to new ones—as old institutions are no longer the status quo—the actors’ calculations can change dramatically. This was, we shall see, the case for the CCJ.

CONCLUSION

Literature on the individual theories do not answer the central question in its entirety. While the foreign policy literature explains the various domestic factors that may influence policy, the individual theories describing the main reasons for establishing and/or strengthening the regional integration process are limited to one or a few factors, neglecting all possibilities. As such, I constructed an approach that addressed as many factors as possible and informed my hypotheses. With these concerns address, the following chapter explains methods of research and data collection used.

CHAPTER 3:

RESEARCH METHODOLOGY AND DATA COLLECTION

INTRODUCTION

This chapter explains the research design and includes an account of my research experiences, the specific methods used, a description of data sources and their relevance, and the operationalization of the key concepts. A “Few Nations, Across Time, Qualitative Historical-Comparative Research” (Neuman, 2003) was conducted using content analysis and process tracing. Jamaica and Trinidad & Tobago were chosen as my cases because both states are among CARICOM’s largest and/or wealthiest and, thus, considered among the most influential states. Data was gathered using open ended elite interviews and secondary data. Also, key concepts used in answering the central question were further defined and transformed into empirical indicators.

THE CASES – JAMAICA AND TRINIDAD & TOBAGO

The decision to investigate Jamaican and Trinidadian elite dynamics was dependent on the fact that both states are among CARICOM’s most influential members.¹⁶ This has much to do with Jamaica’s size and Trinidad’s wealth.¹⁷ These factors made it easier to track elite size, organization, and impact. Jamaica and Trinidad & Tobago are similar in some ways and different in others. Their similarities include

¹⁶ Throughout history these states have been the most vocal. They have led to the rise and fall of many regional integration initiatives. They also contribute to almost 60% of CARICOM’s budget. They were also members of PREPCOM that wrote the CCJ Agreement. These are further discussed in Chapters 4 and 5.

¹⁷ The effect of size and wealth was previously discussed in Chapter 2, pp. 19-20.

their histories and their development indicators. Notwithstanding these similarities, however, a number of other factors vary between them.

To begin with their shared histories, Jamaica and Trinidad are both former British colonies, and as such they have a shared history of exploitation of labor and resources. As colonies of conquest,¹⁸ these countries saw high levels of absentee ownership, which did not nurture allegiance from the slaves nor establish essential institutions necessary for stability in these states (Buddan, 2001, p. 36; Knight, 1996). These factors caused slave revolts and, eventually, the imposition of the Crown Colony Governments (CCG) that provided limited representation but were largely authoritarian and anti-democratic (Buddan, 2001; Barrow-Giles, 2002).

With independence, the new domestic elites formalized a British-style system of government. As one sociologist put it at the time, these elites believed that “the only form of self-government worthy of the name [was] government through ministers responsible to an elected legislature” (Hughes, 1954, p. 9). With this came a common language (English), political system (parliamentary system, welfare state, and British Labour Party replicas), political culture (subject political culture) and traditions. These transplanted commonalities have, on the one hand, promoted egalitarian and democratic ideas—but they have also fostered the development of authoritarian leadership styles.

Authoritarianism is embedded into the social structure; personalities tend to be aggressive (Singham, 1968, p. 10). Authoritarianism also characterized the elite-mass relationship,

¹⁸ Colonies of conquest and exploitation are defined as satellite states that suffered delayed growth and a broken sequence of evolution, the exploitation of natural resources and labor, ruling classes that related more with the mother country than the colony, high planter class absenteeism, were governed using CCG, and had a regressive education system and repressive policing during and after slavery (Buddan, 2001; Knight, 1996, pp. 74-87).

which Singham called the “hero-crowd relationship,” where leaders were expected to lead and the masses would follow obediently. Citizens in such systems tend to have passive attitudes towards political institutions (Almond & Verba, 1963). Accordingly, there is little communication between the government and the governed outside of the election period (a characteristic of subject political culture), with the exception of the state’s continued contact with (and service to) the former planter class: today’s economic elite (Barrow-Giles, 2002).

Leaders, in such systems, often present themselves as “messianic” saviors, while still maintaining the populist pose of a “person of the people.” A leader’s legitimacy, thus, derives from both paternalism and charisma. He/she also dictates the ideology of his party, which has a fairly narrow range (center-right to center-left). Political decisions, whether at the local, regional, or international level, are based on a process in which the public leaves power in the hands of the political elites they elected to represent them.

While the above characterization is true for both Jamaica and Trinidad & Tobago, their political processes differ in other ways. These are due, for example, to the periods in which they were first colonized by the British. This has dictated the societies’ ethnic compositions and interactions as well as their political and social cleavages, which in turn affect the organization of power and influence. Jamaica, acquired in 1655 (long before the end of the slave trade in 1807 and emancipation of slaves in 1834), has an ethnic composition in which 92.11% of the population is of African descent and the other 7.89% is of mixed, not stated or other ethnic descent (Statistical Institute of Jamaica [STATIN], 2012, p. xiv). Given the almost homogenous nature of Jamaica’s ethnic composition, class has been the basis for social and political cleavages in the country. On the surface

this principle of homogeneity should make consensus building easy in crucial arenas such as government, the private sector, or civil society (Linz & Stepan, 1996). However, class creates a dichotomy within Jamaican society. Class can still be largely determined by one's color, with the "white" and "brown" minorities making up the upper and middle classes and the black majority making up the lower class (Smith, 1965; Austin-Broos, 1994). Yet, class is also determined by other markers, such as a "command of the English language, the school one attended, one's associates and their networks, and whether one is rural or urban" (Heron, 2008, p. 64).

Pre- and post-independence Jamaica saw "social status as well as economic indices determine...upward social mobility...Charismatic nonwhites, especially trades union leaders, assumed political power...and the ability to cultivate a constituency successfully required [for] the coalition of masses of varied races and ethnicities" (Knight, 1996, p. 45). There is the acceptance of class hierarchy based on occupation, education, color, and status with the rise of the "black" middle and upper classes (Austin-Broos, 1994; Buddan, 2001). With some blacks taking leadership roles in the political and economic spheres and sharing power with "white" and "brown" peoples, what essentially drives society and political decision making is conflict between the "haves" and the "have-nots" (Ryan, 1999). To put that more bluntly, Jamaican politics consist of "a series of unwritten pacts and compromises between the largely brown middle class and educated middle upper classes who actually controlled state power, and the black working and lower classes who voted for them and occasionally engaged in internecine warfare in the rank and file of either party" (Meeks, 1996, p. 126). This speaks to fragmentation within and between classes, fragmentation which increases competition

among groups, thus affecting the possibilities for political organization, social inclusion, and economic redistribution. Essentially, given the societal and political structures left by the former colonial master, “middle class sensibilities reign in social and political spheres,” notwithstanding occasional challenges from the majority (Heron, 2008, p. 43).

Trinidad & Tobago was a later acquisition of the British Empire. It was acquired from the Spanish in 1797. With the abolition of the slave trade in 1807 and emancipation of slaves in 1834, the plantations had lost the free labor of Africans, and many former plantation slaves sought to work their *own* land. Consequently, the plantation owners instead hired indentured servants from India and (to a lesser extent) China to work the plantations. Because of this influx of indentured servants, East Indians became the islands’ largest ethnic group. According to the 2011 census, 35.4% of the population of Trinidad & Tobago were East Indian, 34.2% of African descent, and 22.8% of mixed race or ethnicity (Central Statistical Office [CSO], 2012, p. 15). Given the almost equal number of Africans and East Indians in Trinidad & Tobago, race has been the most salient political cleavage. As such, there is distrust and a sense of victimization, as well as occasional violence, in the efforts of each group to obtain wealth and political power (Buddan, 2001; Ryan, 1999). These racial undertones affect people’s perceptions of the state and of government performance on indicators such as corruption and competence.

The racial undertone has pushed the leaders of political parties in Trinidad & Tobago, since independence, to seek to develop multiracial bases of support. In an effort to both increase national identity and appeal to the masses, these leaders have together established a racially-mixed civil service, an increasingly diverse parliament and executive, and a presidency that has alternated between representatives of the two largest

racial groups since the state became a republic in 1976 (Meighoo, 2003; Meighoo & Jamadar 2008; Ryan, 1999, 2003). During the National Alliance for Reconstruction (NAR) government (1986-1991), ANR Robinson¹⁹ ensured that there was ethnic parity for appointments to state boards. “There were 54 chairmanships...named by June 1987. 20...Afro-Trinidadians, 18...Indo-Trinidadians, 11...European, 4...Chinese and one...Syrian...[T]hose whose business it was to select and approve individuals had achieved an important goal, namely ethnic balance among the numerically dominant groups” (Trinidad and Tobago Guardian, June 3, 1987 cited in Ryan, 1999, p. 220). Patrick Manning²⁰ asserted that “all parties should be broad based reflecting the composition of the society...It is the coalition of interests. In this way the integrity of the Westminster system as we have in Trinidad and Tobago is maintained” (Trinidad and Tobago Guardian, November 10, 1995 cited in Ryan, 1999, p. 236). Basdeo Panday²¹ echoed the sentiment by stating, “In my house there are many mansions. Under the big tent of the UNC there is room for all” (Trinidad and Tobago Newsday, September 16, 2002 cited in Ryan, 2003, p. 1).

As a result, there have been no active separatist movements or any racial/ethnic supremacist parties, and little latent ethnic conflict (Meighoo, 2003). Ethnic/racial organizations do not seek to deny access to jobs and resources based on race or ethnicity, as one might imagine would occur in divided societies (Linz & Stepan, 1996). Given the

¹⁹ Prime Minister of Trinidad & Tobago from 1986 to 1991 and leader of NAR from 1986-1991 and 1995-1997.

²⁰ Prime Minister of Trinidad & Tobago from 1991-1995 and 2001-2010 and leader of the Peoples National Movement (PNM) from 1986-2010.

²¹ Prime Minister of Trinidad & Tobago from 1995 to 2001 and leader of the United National Congress (UNC) from 1988-2005 and 2006-2010.

uneasy balance between the races, Trinidadians have worked to develop power-sharing models of governance in the public and private sectors, and in civil society (Buddan, 2001; Ryan, 1999).

These shared histories of slavery and colonial oppression have also left Jamaican and Trinidadian political cultures preoccupied with freedom and independence. This has laid the foundation for strong nationalist positions held by some (though not all) elites within these CARICOM member states, which could in turn affect the directions in which they influenced the structure of the CCJ.

On the other hand, their proximity to other CARICOM member states might constitute an interesting difference between the two. Owing to Trinidad & Tobago's closer proximity with most of the CARICOM member states (which are located in the Windward and Leeward Antilles), and Jamaica's greater distance from these members, comparing Jamaica and Trinidad & Tobago might provide some insights into how this dynamic works for or against greater coordination between various national elites. The distance and isolation from the other member states might determine the level of suspicion of outsiders (Payne, 1980). It could also narrow the national elites' outlook on regional matters and foster competition rather than coordination and cooperation with national elites from other member states (Ramphal, 2012).

Jamaica and Trinidad & Tobago share similar economies, size, levels of development, and trade patterns. Both states have been classified as More Developed Countries (MDCs) within the context of CARICOM. Such a definition is based on the size of the country and the size and diversity of its economy (CARICOM, 1973). They are also among the CARICOM states with the largest land areas and populations –

Jamaica with 10,991 square kilometers and approximately 2.9 million people and Trinidad & Tobago with 5,128 square kilometers and 1.3 million people (CIA Factbook, 2011). But there are differences here, too. Jamaica has a mixed economy that is heavily dependent on tourism, while Trinidad & Tobago has essentially a manufacturing economy in conjunction with a large petroleum industry.

Regarding other development indicators, both countries recorded similar levels in total output/economic activity, expressed as Gross Domestic Product (GDP) based on purchasing-power-parity (PPP). Recent data show Jamaica with a GDP PPP of Int\$²² 23.868 billion and Trinidad & Tobago with GDP PPP Int\$ 26.329 billion in 2010 (International Monetary Fund [IMF], 2012). Trade patterns indicate that Trinidad & Tobago and Jamaica, between 1973 and 2001, held the number one and two positions as the major exporting and importing countries from the CARICOM region; major markets for both include the United States, Canada, the EU, China, and CARICOM (CARICOM Secretariat, 2005; CIA Factbook, 2011; European Commission, 2013). Both countries are also classified as high human development countries. Jamaica is ranked 85 in the world with a Human Development Index (HDI) of 0.73, while Trinidad & Tobago is ranked 67 with an HDI of 0.76 (United Nations Development Program [UNDP], 2013, p. 145) with these indices both trending upwards since 1980 (UNDP, 2013, p. 147). This means that both countries have above-average life expectancies, mean years in school, and Gross National Income (GNI) per capita.²³ These factors – level of development, trade patterns,

²² The International dollar, also called the Geary–Khamis dollar, is equivalent to the purchasing power of a US dollar in the US at any given time (World Bank 2013).

²³ GNI per capita is equivalent to GDP per capita. Economic theory determines that a country's economic activity is equal to its national income.

land size, and population size – all suggest that these states are among the most influential members of CARICOM.

Other similarities include their relative small size in relation to their major trading partners, and their past responses to external shocks, both of which may in turn influence their regional aspirations. For instance, while the US is the number one trading partner for both Jamaica and Trinidad and Tobago, neither country ranks within the US's top ten trading partners (US Census Bureau, 2013). The same is true for the EU, which ranks in the top five for both countries; yet in 2011, Jamaica was the EU's 135th largest trading partner, and Trinidad & Tobago was ranked 79th (European Commission, 2013). Second, these states are also susceptible to changes in world market prices given their small size and low levels of economic diversification, which can in turn reduce their influence in international relations (Braveboy-Wagner, 2008). The countries' reliance on foreign capital has, on several occasions, led to crises of indebtedness—and to the subsequent adoption of IMF Structural Adjustment Programs (SAPS) in Jamaica in 1977, 2010, and 2013, and in Trinidad & Tobago in 1986 (The Jamaica Gleaner, July 8, 2012; Trinidad and Tobago Newsday, November 18, 2010). The relationship between these states and larger states and international organizations are imbalanced in that they will tend to reflect the preferences of the larger more powerful actors (the developed states and organizations). Therefore, the two countries' positions on regionalism may also be dependent on international forces.

Other differences in economic composition and trade patterns may also affect national and regional aspirations vis-à-vis the development of the CCJ. Jamaica has a large service industry, with tourism constituting 8% of GDP and serving as the largest

source of foreign currency earnings (Jamaica Tourist Board [JTB], n.d.). Most of the visitor arrivals are from the US, Canada, and the United Kingdom (JTB, n.d.). Jamaica has seen a fall in its manufacturing sector in real terms due to increased costs associated with large scale industrial operations, namely, outdated machinery and high energy costs; however, manufacturing is still the largest contributor to GDP, at 13% (Planning Institute of Jamaica [PIOJ], 2009, p. 7). Many manufacturers have switched to the import and distribution business, with the majority of the products coming from the US, the EU, and Trinidad & Tobago. These factors have helped the Jamaican elite divide their focus between extra-regional and intra-regional trade. There are those like Anthony Johnson (cited in Franklyn, 2005, p. 215), a former Jamaica Labour Party (JLP) senator, who state:

our exports...to CARICOM is US\$50 million...a mere US\$50 million. Fifty million US are the exports of not a large company in Jamaica but a medium-size company. Fifty million indeed is neither here or there with us...What one wants to do, therefore, is to have some kind of process which would find out why Jamaica imports US\$400 million and can only export US\$50 million in the CARICOM region...The fact of the matter is Jamaican business is really not interested...because they do not see the size of the market which they think would all them to make a reasonable profit.

Jamaica fell from second to fourth position in intra-regional exports (CARICOM Secretariat, 2005) between 1973 and 2001. However, CARICOM trade patterns also show that Jamaica has risen from the second-most dominant intra-regional importing country in 1973 to the leading intra-regional importer in 2001 (CARICOM Secretariat, 2005).

In Trinidad & Tobago, the natural gas, petroleum and petrochemical industry amounts to 45% of GDP (and 80% of the country's foreign currency earnings).

Manufacturing and agriculture are just 6.3% of GDP, and tourism a mere 3.7% of GDP (World Travel and Tourism Council, 2012). Like Jamaica, the majority of its trade is with the US and the EU. However, unlike Jamaica, which saw a fall in its share of intraregional exports from 14.3% to 10.4% between 1973 and 2001, Trinidad has seen an increase in its share from 55% to 56.7% during the same period (CARICOM, 2005, pp. 114-115). This is largely due to sales in petrol and the development of the manufacturing industry resulting from low energy costs and improved machinery. Therefore, while both Jamaica's and Trinidad & Tobago's major export and import markets are the United States and the EU (CARICOM Secretariat, 2005), differences in intra-regional trade focus may have a significant impact on their national and regional outlooks.

Finally, while there are similarities between the states regarding their total output, there is a vast difference in their GDP per capita based on PPP. GDP per capita PPP measures a country's standard of living, that is, the level of physical wellbeing afforded to each adult in a country based on access to wealth, goods, and services (Black, 1997). The 2010 data saw Jamaica with GDP per capita PPP of Int\$ 8,742.829 and Trinidad & Tobago with GDP per capita PPP Int\$ 19,980.765 (IMF, 2012). This means that Trinidad & Tobago, though half the size (population and land mass) of Jamaica, enjoys (in the aggregate) twice the level of economic welfare. This is noteworthy because it may shape the dynamics between elites and the mass public within each state (one poorer and larger, the other richer but smaller).

DATA COLLECTION

Data collection for this research took place between July 1, 2012 and September 30, 2012. I used both archival data and elite interviews.

Archival and Statistical Data. Archival data was retrieved from five sources.²⁴

The first was from official CARICOM Documents, which are available from the CARICOM website at www.caricom.org. These included, but were not limited to, the *Treaty Establishing the Caribbean Community*; the *Revised Treaty of Chaguaramas Establishing the Caribbean Community including the Caribbean Single Market and Economy*; the *Agreement Establishing the Caribbean Court of Justice*, and the *subsequent Caribbean Court of Justice (Original Jurisdiction) Rules 2006*; *The Caribbean Court of Justice (Original Jurisdiction) (Amendment) Rules 2006*; CARICOM Heads of Government Meetings' transcripts; and communiqués among those involved in the decision-making process regarding the CCJ. A second set of sources was public archives and databases, namely the Statistical Institute of Jamaica (STATIN), the Central Statistical Office of Trinidad & Tobago (CSO), the European Commission (EC), the United States Census Bureau, and the International Monetary Fund (IMF). A third source was public media archives for the period under investigation (1980-2006) from Jamaica (*The Jamaica Gleaner* and *The Jamaica Observer*) and Trinidad & Tobago (*Trinidad and Tobago Newsday*, *The Trinidad and Tobago Guardian* and *Trinidad Express*). A fourth set of sources came from the private archives of elites who were interviewed: unpublished documents and transcripts, journals and diaries, and private correspondences from these elites over the years from 1980 to 2005. Finally, a fifth set of sources came in

²⁴ There was to be a sixth source, the semi-public archives, which required special permission to access them. These included the Jamaican and Trinidadian government offices (most notably the Attorneys-General and the Ministries of Justice), the CARICOM Secretariat in Guyana that house the raw data collected for the *Time for Action: Report of the West Indian Commission*, and policy contributions from numerous economic and political organizations and committees. However, access to these institutions was declined.

the form of books and journal articles written on Caribbean integration, i.e. the secondary literature on this topic.

The Treaty Establishing the Caribbean Community was analyzed because it provides the original rules for the negotiations and conclusion of agreements, settlement of disputes, the composition of institutions of CARICOM and their functions and powers, and CARICOM's legal capacity (Articles 11 – 12; 19 – 20 and 28). These shed light on the initial framework for interpreting the treaty, for the arbitration of trade disputes and for ensuring a stable regional economic environment. *The Revised Treaty of Chaguaramas Establishing the Caribbean Community including the Caribbean Single Market and Economy* expressed the changing of the times. This amendment of the Original Treaty incorporates the nine protocols that provide the legal basis for the CSME and the importance of the CCJ's original jurisdiction in maintaining a predictable CSME (Protocol IX). It is perhaps *the* crucial artifact of regional integration in the Caribbean, and, reflects the interplay between institutions and actors in the creation and structure of the CCJ.

The Agreement Establishing the Caribbean Court of Justice (Articles I-XXIV) was analyzed for the same reason as the Revised Treaty, as they are the two principal documents that outline the institutional structure and responsibilities of the CCJ. *The Caribbean Court of Justice (Original Jurisdiction) Rules 2006* and *the Caribbean Court of Justice (Original Jurisdiction) (Amendment) Rules 2006* were scrutinized because they illustrate how the CCJ operates on a day-to-day basis, and (this dissertation argues) reflect the influence of different groups of political elites on the institutionality of the CCJ.

Additionally, the communiques from the 19th Heads of Government Conference (CARICOM Secretariat, 1998) and other relevant conferences held between 1987 and 2001 were reviewed.²⁵ These documents reflect the conflicts and collaboration among member-state officials as they built implementation and enforcement mechanisms for regional integration.

Reports for the period under investigation from the CARICOM Statistics Sub-Program, the Statistical Institute of Jamaica (STATIN), The Bank of Jamaica (BOJ), the Central Statistical Office of Trinidad & Tobago (CSO), the European Commission (EC), the United States Census Bureau, and the International Monetary Fund (IMF) were the sources of statistical data for trade in goods and services, useful for analyzing how an increase in global trade due to globalization and neoliberalism may have affected Jamaica and Trinidad & Tobago. Additionally, information via the IMF on the SAPs adopted by Jamaica and Trinidad & Tobago in the 1970s and 1980s provide information on the effects of these programs on the countries, on their elites in particular, and on regional integration initiatives.

The public media archives from Jamaica (*The Jamaica Gleaner* and *The Jamaica Observer*) and Trinidad (*Trinidad and Tobago Newsday*, *The Trinidad and Tobago Guardian* and *Trinidad Express*) were perused for evidence of elite involvement in, and impact on, regional integration. Other public archives—namely the University of the West Indies Libraries in Jamaica and Trinidad, and policy papers from the Jamaican and Trinidadian Bar Associations—were also examined for information on the points of view

²⁵ These documents are accessible on the CARICOM Secretariat and Caribbean Court of Justices official websites. However, access to the transcripts and minutes from the 19th Heads of Government Conference (1998) and other relevant conferences was denied.

of national elites and their influence on state officials in effecting the final CCJ arrangements.²⁶ Also, the above archives include occasional polls that would put into perspective not just elite, but also mass public opinion and its influence (or lack thereof) on the establishment and evolution of the CCJ.

Elite Interviews. Forty-six subjects were interviewed. These informants were identified and recruited via the Jamaican and Trinidadian chambers of commerce, the countries' bar associations, political party and trade union leadership rosters, and major media outlets. The specific names of these organizations are listed below. Additional sources of recruitment were the University of the West Indies, the CARICOM Secretariat, the annual publications of the *Jamaica Directory of Personalities* and *Who's Who in Trinidad and Tobago*, and the Caribbean Court of Justice (CCJ) itself. Potential subjects were invited to participate in an interview via letters mailed to their place of business and/or their homes, or via email. Only identifiable members of the economic, political or socio-cultural elite were recruited. Forty-seven invitations were sent in Jamaica and another forty-three invitations were sent in Trinidad & Tobago. There were positive response rates of approximately 51% (twenty-four persons) in Jamaica and 28% (twelve persons) in Trinidad.²⁷ They were informed prior to consent that the researcher sought to a) gauge their familiarity with Caribbean regional integration and with the Caribbean Community (CARICOM) more specifically, and b) identify barriers to, and opportunities for, the subjects' influence on the establishment of the CCJ.

²⁶ Access to raw data and transcripts from The Preparatory Committee on the Caribbean Court of Justice (PREPCOM) that would have provided state bargaining positions in the structure of the CCJ was denied. These resources are housed at the CARICOM Secretariat.

²⁷ The researcher initially sought to interview 25 elite members per country; however, due to differences in the response rate, the number of interviews conducted in each country was then based the state's population size.

The interviewees were chosen using both purposive and snowball sampling methods, so as to have a fixed number of elites per category and “select cases with a specific purpose in mind” (Neuman, 2003, p. 213), while also increasing the pool of elite interviewees based on referrals from other subjects. The economic elite were found via the Trinidad and Tobago Chamber of Industry and Commerce (TTCIC), the Trinidad and Tobago Coalition of Services Industries (TTCSI), the Trinidad and Tobago Manufacturers Association (TTMA), the Jamaica Exporters Association (JEA), the Jamaica Manufacturers Association (JMA), and the Private Sector Organization of Jamaica (PSOJ). The Trinidad & Tobago political elite came from The People’s National Movement (PNM), the United National Congress (UNC), the National Trade Union Centre of Trinidad and Tobago, the Public Services Association (PSA) and the Law Association of Trinidad and Tobago (LATT). The Jamaican political elite included members of the Jamaica Labour Party (JLP), the People’s National Party (PNP), the Jamaica Confederation of Trade Unions (JCTU), and the Jamaica Bar Association (JBA). The sociocultural elite included economics and political science lecturers from the University of the West Indies in Jamaica and Trinidad.

Face-to-face semi-standardized elite interviews were conducted with available subjects from each country in the privacy of his/her office or home (See Appendix A).²⁸ They were used to collect data on elite attitudes, perceptions, opinions, and explanations of their actions with regards to deepening regional integration and the evolution of the CCJ.

²⁸ All interviews were recorded and saved in a password protected and encrypted computer file.

These elite interviews have a high added value, for this project and for future research as there are very few surveys available that gauge elite attitudes in this way (Boxill, 1997). And the semi-standardized interview format provides a mix of closed and open-ended questions that can depict attitudes and beliefs more effectively than just deploying one type of question or the other (Berg, 2001; Neuman, 2003). Simply put, these elite interviews provided perspectives not offered in the official transcripts and communiqués of the decision making process regarding the CCJ (See Appendix A).

METHODS

Empirically, through direct contact with local elites in Jamaica and Trinidad & Tobago and the perusal of CARICOM treaties, laws and other official and informal documents, I measured the degree of influence that different elites had on the regional integration process. This was achieved by:

1. ascertaining the domestic and international factors that motivated elite behavior that led them to support/oppose economic integration and regional judicial systems;
2. determining whether individual elites supported or opposed any rule changes under the Original Treaty arrangement, and, more broadly, if they believed they would benefit from the integration process;
3. evaluating the formal contributions/submissions they made, and the other forms of influence they may have wielded, in the creation and structuring of the CCJ; and
4. gauging which types of elite had the most/least influence on the final blueprints of the CCJ.

Once the archival data and secondary sources of information were retrieved, I performed *content analysis* in order to examine the documents for evidence on the behaviors of, and the relationships between, various types of elite actors, and on the process towards regional institutional development more generally. Using an interpretative approach to content analysis, I sought to measure the fundamental reasons behind the actors' actions. Key terms were inductively identified in the data collected, and coded as categorical labels or themes. This allowed me to assess both the manifest content (the visible, surface meaning) and the latent content (its underlying meaning). Key terms included (but were not limited to) enforcement, submission, involvement, contribution, opinion, collaboration, competition, response, and arbitration.

Textual data from the different archival sources were analyzed for these and other key terms (and phrases using these terms), and then examined for evidence of patterns indicating elite opinions and beliefs, relationships among different elites, and, most importantly, interactions between domestic elites, national governments and CARICOM agencies, including the CCJ. These patterns were then considered in light of what they could tell us about the hypotheses set forth above.

The elite interviews were transcribed and then analyzed not only for their content but for the purposes of *process tracing*: “to identify the intervening causal process - the causal chain and causal mechanism - between an independent variable (variables) and the outcome of the dependent variable” (George & Bennett 2005, p. 206). In other words, in addition to deciphering words, phrases, and themes, I sought to map out the process by which elites affected regional judicial development.

I used process tracing to test whether the observed processes match the relationships among variables predicted by her hypotheses. The transcribed interviews were used to help trace events backward through time from the outcome of interest (the establishment and structure of the CCJ) to potential antecedent causes. To do this, I catalogued any details from the interviews that were relevant to the hypotheses under investigation in order to draw conclusions about elites' national and regional identities and their preferences and beliefs about regional integration; relationships among elites and between elites and institutions; and how these affected the establishment and functioning of the CCJ.

DEFINITION AND OPERATIONALIZATION OF KEY CONCEPTS

Regional Integration. Regional integration is “the sense of coming together of previously separate and independent parts to form a new whole” (Burgess, 2004, p. 30). Regional integration is, thus, the level of interdependence among states within a given geographical area.

Regional integration has been conceptualized as taking one of five different levels or forms, each representing differences in the strength and focus of the regional integration process. The strength of integration can range from an informal arrangement, which has limited effect on the decisions of member states, to more formalized agreements that are strictly adhered to by member states. The focus of integration may be restricted to economic integration or political integration, or it may be all-encompassing and include economic, social and political unification. In ascending order from the weakest to the strongest forms of regional integration there is 1) the free trade area; 2) the

customs union; 3) the common market; 4) economic union; and 5) the political union (Mansfield & Milner, 1999).

A free trade area is a form of economic union among member states that requires them eliminate all trade barriers (tariffs, quotas, etc.) for the trade of stipulated goods among themselves, while not requiring that all member states maintain common external barriers to trade.

A customs union is, according to Mansfield and Milner (1999, p. 592), a preferential trade arrangement that eliminates all internal trade barriers among member states while also establishing a common external tariff (CET) for all non-member states. It often arises out of an existing free trade area.

A common market allows the free movement of the two “factors of production [– capital and labor –] and finished goods across the national borders” of member states (Mansfield & Milner 1999, p. 592). Again, these often evolve out of customs unions in which key member states seek further integration (Evans & Newnham, 1998).

An economic union is a stronger form of common market and includes the formation of a monetary union that seeks to coordinate the monetary policies of member states and create a single currency to be traded on world markets.

Finally, a political union, in its strictest sense, is akin to federalism: the division of decision-making power between a central, in this case supranational body and several national or regional units. Based on the definitions and discussion of forms of regional integration listed above, one could describe CARICOM as a common market,²⁹ perhaps

²⁹ This is true on paper, but there is debate on whether CARICOM can truly be labelled as a common market. Currently, there are still issues related to the free movement of labor. Free movement is restricted

one in the process of transitioning into an economic union. Established among the 14 former British colonies in the Caribbean, CARICOM started out as a free trade area – CARIFTA – which eventually became a customs union prior to the formation of CARICOM in 1973. With the signing of the Treaty of Chaguaramas, CARICOM recognized the need for member states to seek full employment, improve working and living conditions and enhance international competitiveness. In addition to forming a common market, CARICOM has agreed to cooperation in such areas as health, transport, culture and education, and the coordination of foreign policies among the member states. Since the signing of the Revised Treaty of Chaguaramas (RTC) in 2001, CARICOM has made an effort to more fully incorporate a single market whose inputs will move freely within the region, though this has so far been limited by the uneven implementation of collective decisions within individual member states.

Elite. The study of the elite goes back to research conducted by Vilfredo Pareto, who observed that there were a few individuals in society that held most of the power and wealth (Bealey, 1999). From this observation he theorized that this uneven distribution occurs in every society—and that these powerful people excelled in most areas of life because they were intellectually, morally, psychologically and physically superior to the masses (Heller, 1969). He divided elites into the governing (the political elite with direct and indirect influence on government) and non-governing groups. He further subdivided the governing group into “foxes” and “lions” leaders who wield power through persuasion and force, respectively (Higley n.d., p. 1).

to specific categories of labor. Therefore, CARICOM could be described as a customs union in the process of transitioning into an economic union.

Later elite theorists built on these observations, discussing how political power is related to economic and social control. Karl Marx argued that the power of the governing or ruling group (the bourgeoisie, in a capitalist system) is based on its ownership of the factors of production. However, this was later critiqued by scholars such as Max Weber, who argued that ownership alone is not enough to dictate whether one is a member of the elite. Not everyone who enjoys ownership of factors of production seeks to affect political outcomes. And the distribution and use of political power is not merely an extension of economic power.

Elite status, for Weber, is determined by who comes out on top in terms of class (economic order based on economic market opportunity), status (social order based on people's levels of prestige and honor), and party (political/legal order based on people's pursuit of a certain cause) (Bealey, 1999; Parkin, 2002). Given this position, it is evident the elite are not a homogeneous group. They can be, at minimum, divided into three basic categories – the political, the economic, and the socio-cultural elite.

However, the state remains central to elite politics in Weber's view. The state is an arena for allocating and competing for power among the above mentioned groups—but it can also become an actor in its own right. What is more, the state is the “legitimate” means of control over individuals and groups in society, with power exercised via organized bureaucracy but also, potentially, by the legitimate application of violence and coercion. But elites do not operate only through the state. More generally, elites are characterized as that group “who in some way is superior to the rest of the community” (Bealey, 1999). As such, they can have an influence over the political, economic and

social processes through direct interaction with political processes, by influencing public opinion, and by other indirect means as well (Boxill, 1997).

The elite, and their attitudes and behaviors, constitute a key independent variable in this research. Elites within each country will not be treated as a homogeneous group but will be divided into three basic categories – the political, the economic, and the socio-cultural elites. For the purposes of this study, these categories will be treated as mutually exclusive and exhaustive (a necessary oversimplification), based on the most predominant activity of individual members of the elite. Representative examples of each elite group are listed below.

Table 1

Categorization of the Elite Groups

POLITICAL ELITE	ECONOMIC ELITE	SOCIO-CULTURAL ELITE³⁰
1. Politicians 2. Top civil servants 3. Lawyers 4. Judges 5. Trade unionists	1. Important Business people in the Private sector 2. Heads of economic organizations	1. University professors 2. Media executives and journalists 3. Civil Society leaders 4. Religious and cultural leaders

Public Opinion. Public opinion is the aggregation of individuals’ and groups’ attitudes and beliefs, a set of attitudes and beliefs that can (but does not necessarily) inform government action and policy (Bealey, 1999). There is no one public opinion, due to differences in people’s political socialization and circumstances within a society (Edwards, Wattenberg & Lineberry, 2005). Public opinion is generally measured through interviews and/or surveys (Neuman, 2003). It can be based on a random sampling of the

³⁰ Socio-cultural elites will be labelled as the “knowledge elite” for the purpose of this research because I was only able to interview university professors.

population, though other forms of sampling can be used, depending on the researcher's topic or interest (Neuman, 2003).

In this dissertation, public opinion is treated as the independent variable and operationalized based on responses to annual public opinion polls conducted in Jamaica and Trinidad & Tobago, public opinion polls conducted by the CARICOM Secretariat in Jamaica and Trinidad & Tobago, and interviews conducted in Jamaica and Trinidad & Tobago.

Institutions. The concept of an institution has different meanings within political science. But there is agreement that institutions are important to the outcome of human interaction (Hodgson, 2006, p. 8; Lane & Ersson, 2000). Institutions constrain and empower actors' behavior.

Approaches to the study of institutions have evolved over time. A very formal, structural perspective was central to the traditional study of institutions ("old" institutionalism). It defined an institution as "a public body with formally designated structures and functions, intended to regulate certain defined activities, which apply to the whole population" (Bealey, 1999). This definition encompasses the legislature, the executive, judiciary and the bureaucracy. This is a very limited view of institutions, highly descriptive and markedly, parochial, and would limit any analysis to comparing institutions that have some similarities in their formal structures and examining any observed differences.

The definition of an institution has more recently been extended to include the means by which these institutions relate to one another and society as a whole. There are

three main schools of thought on this relationship: rational choice institutionalism, sociological institutionalism, and historical institutionalism.³¹

All of the “new institutionalist” approaches limit the definition of an institution to an entrenched rule or norm that was intentionally agreed upon by the relevant actors from among several different options (Hall & Taylor, 1996; Lane & Ersson, 2000). Institutions have both formal (constitutions, common law and regulations) and informal (conventions and codes of conduct) rules. These general institutions, the school argues, appear in all states in one form or the other. What is more, institutions adapt. That is, they are strategically added or deleted as actors’ needs and preferences change. What is interesting with this school is that it distinguishes between organizations and rules. Formal structure does not equate to institution. In other words, this definition of institution will designate the legislature, the executive, judiciary and the bureaucracy as organizations or public bodies/players that are simply the agents of institutional rules (North, 1997; Lane & Ersson, 2000).

³¹ For the purposes of this dissertation, I use the thin definition provided by rational choice institutionalism (North, 1997; Lane & Ersson, 2000). However, it should be noted that the sociological school takes an entirely different approach to the definition of an institution. It does not limit the definition to an entrenched norm or rule but includes culture, knowledge, technology, paradigms, people and their behavior, and organizations (Hall & Taylor, 1996; Lane & Ersson, 2000). As such, this school treats these factors as small institutions that make part of a whole and that the connections between the parts “fit together as a pattern that define the parts” (Lane & Ersson, 2000, p. 5). This interpretation of institutions is defined by a cultural/national identity, which is in contrast to the rational school that believes that institutions are general present in one form or another across states. The sociological school believes that each state has its own distinct institutions due its cultural context.

The historical institutionalism school has taken a middle ground approach analyzing institutions. It, however, seems to adopt a definition that is consistent with the rational choice school. Institutions are defined as “the formal and informal procedures, routines, norms and conventions embedded in the organizational structure of the polity or political economy...In general, historical institutionalists associate institutions with organizations and the rules and conventions promulgated by formal organization” (Hall & Taylor 1996, p. 938). The school contributes to the analysis of institutions through two means by: 1) arguing that you can retrace history through in the development of specific institutions; and 2) theorizing that an initial institution will set its development along a specific path that cannot be easily altered.

The rules affect the structures and functions of these organizations. An institution, by this definition, determines what the organization is prohibited and/or permitted to do. I, for the purposes of this dissertation, used the definition provided by Douglass North, which allows me to focus on just the rules of the game and provide a more powerful comparative analysis than a legalistic focus solely on high-level, formal governing bodies. Institutions are, therefore, “humanly devised constraints used to restrict human interaction” (North, 1997, p. 23) that can be manifested both formally and informally.

In this study, institutions are both independent and dependent variables. Institutions are operationalized as the prevailing rules and common practices of organization within states and at the CARICOM level. As an independent, institutions are a) the formal rules that *previously* governed Caribbean integration, and b) the rules and structures of politics (including, but not limited to, laws and constitutions) in each member state. But the dependent variable of this study is also institutional in nature: I seek to explain the development of new regional formal rules governing Caribbean integration, and the rules and mechanisms devised for the Caribbean Court of Justice (CCJ) in particular.

Small State. A small state is difficult to define; however, the standard criteria for defining a small state include population size, land area, level of development and position within the international system (Hey, 2003; Vital, 1967; Braveboy-Wagner, 2008). As it relates to population size, “small states” can range from as high as 30 million (Vital, 1967) to as low as 300,000 (Plischke, 1977). However, a population of less than 10 million tends to be the accepted benchmark (Kuznets, 1963; Ramsaran, 1989; Taylor, 1971). According to Braveboy-Wagner (2008), “when we look at the bulk of the world’s

territories, about 129...have populations below 10 million, a reasonable upper limit for a small state given that the top states of the world have more than 1 billion people” (p. 9). Land areas of less than 20,000 km² are also considered “small” (Kuznets, 1963; Ramsaran, 1989; Taylor, 1971).

Land size and population alone cannot define a state; the state’s power in relation to other states must be considered. This in turn depends on the state’s level of development. States defined as “developing” or “less developed” are states that have a low human development indices, middle to low standard of living; middle to low gross domestic product (GDP) per capita, and middle to low gross national income (GNI) per capita (Black, 1997; IMF, 2013; Graham & Newnham, 1998; World Bank, 2013b). Though “less developed” is not synonymous with “small,” it has been noted that the majority of small states are former colonies in the global south, i.e. “developing” countries (Barrow-Giles, 2002; Buddan, 2001).

These factors shape the state’s capacity and its position within the international system. Low state capacity results in “fewer diplomatic and information-gathering resources” (Hey, 2003, p. 4), which reduces small states’ power internationally. Thus, I define a small state for my purpose is a developing country with a population size of less than 10 million and land size of less than 20,000 km² —a category into which both Jamaica and Trinidad & Tobago fall.

Globalization, Neoliberalism and Trade Patterns. Globalization is not a new phenomenon. It has and will continue to have an impact on various aspects of life – economics, politics, and culture. For Gordon (2001), globalization is both an objective

and subjective phenomenon.³² David Held (1997) gives an image of globalization as a “spatial phenomenon, lying on a continuum with ‘the local’ at one end and ‘the global’ at the other” (p. 1). Additionally, it is recognized as a vehicle for transmitting ideas, goods, and services from ‘the local’ to ‘the global.’

The pace of transmission has a lot to do with the ideas and ideologies behind globalization. There have been different approaches over the centuries but since the resurgence of neo-classical economics in the 1970s, the pace of the transmission of ideas, goods, and services has increased exponentially. Rebranded as neoliberalism, classical economic doctrine has resulted in the advancement of a free market economy through the process of liberalization (the main tenet of neoliberalism), privatization, deregulation and the limiting of the role of the state in the economic and social spheres locally, which has translated into free trade at the global level.

The transmission of these neoliberal principles from ‘the local’ to ‘the global’ are attributed to the capitalist classes and pro-business academics in Britain and the United States using international organizations, such as the International Monetary Fund (IMF), to support their position that state intervention hinders economic growth (embedded liberalism) and that the market, if left alone, can self-correct social and economic problems (neoliberalism) (Harvey 2005). In other words, they supported “liberty,” which is equivalent (in this view) to the freedom of exchange and contract. David Harvey (2005) also found that technological and financial advances have increased production flexibility and have strengthened the mobility of capital to do offshore manufacturing.

³² It is objectively a greater interconnectedness of people that has brought about new forces and tensions. It is subjective because people believe that nothing is as it seems and thus question all that was once held as truth. People are now open to new ideas of what is to come and should come (Gordon, 2001).

William Robinson (2004), in *A Theory of Global Capitalism*, asserts that the world is experiencing a fourth phase of capitalism – transnational capitalism/globalization, which emerged during the 1970s. This neoliberal globalization has amounted to the intensive and extensive growth of world capitalism via the transnationalization, marketization and commodification of production, capital and social services (privatization of services) and the increased spread of capitalism across territories. There has been a rise in the number of transnational corporations (TNCs), cross border acquisitions, mergers and strategic alliances. These developments have resulted in the diminishing importance of the nation-state, and the growing influence/importance of the global economy.

Harvey (2005) and Robinson (2004) also opined that neoliberal globalization has led to great economic advances, though with some internal contradictions (overproduction and underconsumption; the crisis of state legitimization; and an ecological crisis). Therefore, neoliberal globalization is not only visible but it has affected all aspects of life through the homogenization, hybridization and polarization of culture. Globalization is economic at its core but has influenced the political and social spheres too.

In this dissertation, neoliberalism was equated to economic globalization. Neoliberal globalization was treated as an independent variable and operationalized as the country's structural adjustment policy. This included, but was not limited to, the country cutting social expenditures, ensuring investment stability (by supplementing foreign direct investment with the opening of domestic stock markets), and removing price controls and state subsidies. Additionally, neoliberal globalization is

operationalized as the occurrence of trade liberalization (the lifting import and export restrictions), devaluation (this results in an increase in exports, a decrease in imports, an increase in the value of currency, and a decrease in attractiveness], deregulation (an increase in incentives to export), fiscal discipline (an increase in interest rates), and privatization (an increase in government revenues, and a decrease in expenses).

Trade logistics/patterns are simply the trends in the movement of goods and services between a country and other states. This was treated as an independent variable and operationalized from the annual statistical trade reports from the CARICOM Secretariat and the Jamaican and Trinidadian Ministries of Trade and Commerce. It was divided into 2 categories:

1. Trade balances between the CARICOM member state and the United States and the EU from 1980 to 2001.
2. Trade balance between the CARICOM member state within the CARICOM region between 1980 and 2001.

CONCLUSION

This chapter presented an overview of the cases under investigation, the data sources and methodology used, and the operationalization of the key concepts. In the proceeding chapters readers should expect that what was discussed in this chapter will provide the basis for the analysis of elite influence in the development and structure of the CCJ.

CHAPTER 4:

JAMAICA

INTRODUCTION

In the chapter I discuss factors that determined Jamaica's degree of influence on the formation and establishment of the CCJ. This discussion focuses on three levels of analysis: the international, the regional, and the national/domestic levels. The international level addresses the literature and theory on the effects of neoliberal globalization on small states, large state/small state influence on small state foreign policy, and the domino effect of rising economic blocs on a state's desire to deepen its region's economic integration. In order to apply these theories to the Jamaican experience, an overview of international economic trends is presented. At the regional level I discuss the applicable theories of regional integration. This is followed by my examination of how the CCJ Agreement negotiations fit or differ from the established regional integration theories and how Jamaica's status as a relatively large state within CARICOM affected these negotiations. The domestic level reviews theories of ideological cleavages, civil society participation, and small state foreign policy, which is followed by an overview of Jamaica's political and civil society development. This section concludes with an analysis of the influence of the political, economic, and knowledge elites, and the public on Jamaica's position on the final structure of the CCJ.

OVERVIEW

Jamaica is the third largest island in the Caribbean and the largest English speaking island in the region. It gained independence from the British in 1962 and has

maintained a stable two party parliamentary system that regularly switches between the social democratic People's National Party (PNP) and the free enterprise/conservative Jamaica Labour Party (JLP). It also maintains a mixed economy with tourism, manufacturing, and agriculture being its main foreign exchange earners.

Jamaica has always played an integral part in the Anglo-Caribbean integration movement. In the first instance, Jamaica assisted in the drafting of a constitution for a federation in 1932, and held the 1947 Montego Bay Conference where attendees accepted the principles of federation. This was followed by the formation of the West Indies Federation (1958-1962) after 10 years of negotiations between the British Government and the new and emerging Caribbean leaders led by Jamaican Norman Manley. Jamaica was later influential in transitioning CARIFTA into CARICOM and was also instrumental in CARICOM states adopting the Revised Treaty of Chaguaramas (RTC) and moving towards a single market and economy.

INTERNATIONAL DYNAMICS OF REGIONAL INTEGRATION

Theory. The international environment affects states differently. There are three international factors that steer small states towards regional integration. The first is neoliberal globalization, the second is whether the policies of powerful states and organizations favor regional integration, and the third consists of the domino effect of regional blocs.

Neoliberal globalization has played a great part in intensifying a new form of regional integration known as 'open regionalism' (Acosta, 2004; de la Reza, 2003). Globalization is a phenomenon that creates the rapid deepening and widening of trade, finance, and production integration across national boundaries. Neoliberalism is an

economic doctrine that supports free markets and free trade through the process of liberalization, privatization, deregulation and the limitation of the role of the state in the economic and social spheres.

Neoliberal globalization offers both advantages and disadvantages to Small Island Developing States (SIDS). It allows for their convergence with the world economy but competition from neoliberalism in this sphere is often cutthroat (Bernal, 2000; Ohiorhenuan, 2000). Second, it makes SIDS vulnerable and volatile and forces them to adopt survival strategies in order to navigate this new harsh environment, the most evident being greater regional integration (Bernal, 2000; Blake, 2000; Byron, 2000).

Regional integration is, therefore, thought to be essential to overcoming the expected limitations that individual SIDS face due to their size and levels of development. This is expected to make SIDS more competitive in the international economy. Second, regional integration protects against exogenous shocks that can be damaging to small state competitiveness. Increased mobility of capital and labor within the region should amount to increased market elasticity and productivity, which in turn increases the region's capability to pull through these shocks, which should facilitate economic growth and development (Bernal, 2000; Blake, 1997; Demas, 1965). Third, neoliberal globalization leads to regional integration because it strengthens SIDS' position on the international stage by increasing their bargaining power against external threats and through negotiating foreign trade and economic policies (Braveboy-Wagner, 2008; Pollard, 2003).

Regarding small state foreign policy, it is believed that large developed/powerful states dictate the movements of the international system and that small dependent/weak

states are largely affected by these external forces (Elman, 1995). Paul Sutton (1987), Robert Jervis (1978), Stephen Walt (1987), and Jack Snyder (1991) have argued that small/developing states are reactionary and likely to adapt to external constraints because of vulnerability to economic competition, a lack of cushioning for foreign policy mistakes, their low positions/influence in the international system, and bandwagoning.

A powerful state's or international organization's ability to influence the foreign policy of smaller dependent states can be described by either the Bargaining Model or the Dependency Model. The Bargaining Model notes that the relationship is determined by promises and sanctions that will reflect the preferences of the larger more powerful state/organization (Kay, 1967; Keohane, 1967; Mason, 1964; Moon, 1983; Westwood, 1966). Edward Mason (1964) and Andrew Westwood (1966) observed that the reward/punishment behavior primarily occurs when a large powerful state gains compliance from the small dependent state through the issuance of military aid and economic assistance. The Dependency Model maintains that the relationship is based on a longstanding structural dependence that gives the smaller, weaker state less freedom in determining their actions (Amin, 1974; Cardoso & Faletto, 1979; Frank, 1968; Galtung, 1971; Kaplan, 1975; Payer, 1974). Dependency-producing transactions come in the form of aid and foreign direct investment. They are believed to establish and maintain an asymmetrical relationship between the powerful and weaker states as the powerful state provides enough help to integrate the weaker state into the international system at the minimal level, which in turn keeps the weaker state dependent on the powerful state. Therefore, a powerful state or organization's support for neoliberal globalization and

regionalism will have an effect on small states' foreign policy with the latter gravitating towards regional integration measures.

Lastly, with the increase in regional groupings worldwide, states within close geographic proximity will most likely form their own regional bloc due to a domino effect or the pressures of inclusion. Richard Baldwin (1997, 2004) and Sanoussi Bilal (2001) argued that if geographically close states decide to deepen an already established economic bloc or form a new regional economic bloc, non-members within close proximity will be induced to join the organization. This is as a result of these states already being natural trading partners and/or the negative effects of trade and investment diversion for non-members. Therefore, non-members will seek to join the economic bloc to eliminate any costs associated with exclusion. In instances where these states are barred from joining, all excluded countries will form their own regional bloc. This process will cause a domino effect and the creation of many new economic blocs.

Background. The international environment from the 1970s onward has seen classical economic doctrine being reintroduced under the term, "neoliberalism." There was the call for the return to a free market economy through the process of liberalization, privatization, deregulation and the limitation of the role of the state in the economic and social spheres locally, which has translated into free trade globally. This has been attributed to the capitalist classes, and pro-business academics and governments in Britain and the United States, and further perpetuated by international organizations, such as the International Monetary Fund (IMF) (Harvey, 2005). They decried state intervention and blamed it for hindering economic growth. They argued that the market, if left alone, can self-correct social and economic problems (Harvey, 2005).

William Robinson (2004) observed that this neoliberal globalization has amounted to the intensive and extensive world capitalism via the transnationalization, marketization and commodification of production, capital and social services, which has unified states under a shared economic system. As a consequence, there has been a rise in the number of transnational corporations (TNCs), cross border acquisitions, mergers and strategic alliances. These developments have resulted in the diminishing importance of the nation-state, and the growing influence/importance of the global economy.

Through the proliferation of neoliberal globalization there was an increase in world trade beginning in the late 1970s until the global recession in 2008 (WTO, 2011). Statistics supplied by the WTO and displayed in Table 2 show that for each decade the percentage change in the volume of goods exported worldwide showed a positive change with the exception of 2001 where the drop off is attributed to the dotcom crisis (WTO, 2008, p. 19).

Table 2

Annual Percentage Change in the Volume of World Merchandise Exports, 1970 – 2005

Year	Exports (% change)
1970-1980*	5.3
1980-1990*	3.9
1990-2000*	6.5
2001	-0.2
2002	3.5
2003	5.6
2004	9.7
2005	6.5

KEY: * = the average annual percentage change for that decade. World Trade Organization (2011) International Trade Statistics 2011 online.

Through the principle of competitiveness, the WTO has become the seat for negotiating trade agreements (Barrow-Giles, 2002). Also, Article XXIV of the WTO

Charter has allowed for the concurrence of free trade areas and customs unions with the WTO (Andrew cited in Barrow-Giles, 2002, p. 55). Since the formation of the WTO, regional trade agreements in either form have become more common. The WTO (2013) notes that 2/3 of 379 regional trade agreements in effect today, inclusive of free trade agreements, customs unions, common markets, and economic and monetary unions, were formed after 1995. The most notable manifestation in the region came in the form of NAFTA (WTO, 2013), which has been attributed to the US's first overt support for the principle of regionalism.

Additionally, with the spread of neoliberal globalization came the homogenization and hybridization of culture, politics, and economics (Harvey, 2005; Robinson, 2004). Communism was no longer viewed as an effective alternative to capitalism and democracy, making the world unipolar and bringing an end to the Cold War. It was observed that with

...the collapse of the Berlin Wall the European bloc turned its focus inward, deepening its integration process with the signing of the Single European Act (SEA) and channeling its energy and resources towards the democratization, liberalization and rebuilding of Central and Eastern Europe. The United States also turned its interests elsewhere...most significantly to the North American region with the signing of the North American Free Trade Agreement (NAFTA). (Thorburn & Morris, 2007, p. 25).

The regional outlook of NAFTA and the inward looking of Europe in the signing of SEA in 1992 is said to bring with them a new wave of regionalism that “[drew] on the experience of the European Union... [and encouraged] parallel initiatives in political evolution and economic development and integration without engaging in a close federal structure to achieve its objectives” (Teló, 2007, pp. xii-xiv). This, he says, paved the way

for similar approaches to regional integration across Latin America and the Caribbean, Africa, and Asia creating a domino effect worldwide.

Jamaica, like all other CARICOM states, faced economic challenges due to a changing international environment starting in the late 1970s. Jamaica faced a sharp increase in oil prices that gave rise to growing debt, budget deficits, balance of payment deficits, an increased cost of living, and the PNP government adopting the IMF's Structural Adjustment Programs (SAPs) in order to access loans and manage debt in the 1977 (Hall, 2001; The Jamaica Gleaner, July 8, 2012). This made the IMF "an important participant in the decision making process" in Jamaica (Barrow-Giles, 2002). So much in fact, that the relationship between the Jamaican government, the US government, and the IMF in the early 1980s was described as a "cozy honeymoon" (Thorburn & Morris, 2007).

Jamaica, throughout the 1980s and 1990s, adopted the IMF's SAPs of "liberalization of trade and reduction of tariffs; liberalization of exchange rates; reform of public institutions; privatization of development institutions; and constrained fiscal policy through expenditure cuts, tax reforms and the sale of public assets" (Barrow-Giles, 2002, p. 7). The SAPs were designed to make Jamaica more open to and competitive on the international market; however, while embracing these neoliberal principles, Jamaica began failing the IMF performance tests by the mid-1980s because the SAPs resulted in higher inflation rates, increased debt, and an uncertain economy because the devaluation of currency further increased the state's import bill while not proportionately increasing

the state's exports (Barrow-Giles, 2002; Harris, 1997; Thorburn & Morris, 2007).³³ This is evident in the disparity between the growth rates of Jamaica's imports and exports with its major trading partners (See Figures 2, 3, and 4). Jamaica also had its debt balloon to US\$4.3 billion in the 1980s (Hall, 2001). Even with these shortcomings, Jamaica has maintained its commitment to neoliberal economics and has, in part, looked to CARICOM to overcome them.

To ease these difficulties from international trade while embracing neoliberal SAPs, Jamaica endorsed the 1984 Nassau Understanding. The Nassau Understanding resolved that

... [it] essentially involves a conscious and determined shift to a new development path to accelerate development, while adapting to major external or internal shocks to the economic system... Heads of Government stress the cardinal importance of revitalising intra-regional trade... In discussing the role of CARICOM in structural adjustments, Heads of Government reaffirm the spirit of Caribbean co-operation and solidarity which has always constituted the foundations of the Community. (CARICOM Secretariat, 1984)

Prime Minister Edward Seaga was quoted at the Nassau Conference of the Heads of Government as stating, "Jamaica has taken the lead in economic adjustment by devaluing its currency, reducing budget deficits, increasing foreign exchange and eliminating price controls... the most significant result of the Caricom meeting was a decision in principle to apply the structural economic adjustment program at the regional level" (The Globe and Mail, July 7, 1984). This declaration demonstrates Jamaica's acceptance of neoliberal principles for economic development and growth, a position that Jamaican political scientists Diana Thorburn and Dana Marie Morris (2007) describe as "being pushed by

³³ It should be noted that Jamaica was able to reduce the inflation rate from a high of 80% in 1991 to 8% in 1998. Jamaica still struggles with high debt, a falling currency, and a wide trade deficit (PIOJ, 2009). All while continuing to ascribe to neoliberalism.

‘the nexus’ of the IMF, World Bank and United States Agency for International Development (USAID)” (p. 22).

Jamaica later endorsed the 1989 Grand Anse Declaration given the changes in the international system. The declaration recognized that “the Heads of Government of the Caribbean Community inspired by the spirit of cooperation and solidarity...need to work expeditiously together to deepen the integration process and strengthen the Caribbean Community...to respond to the challenges and opportunities presented by the changes in the global economy” (CARICOM Secretariat, 1989a). The meeting communique further clarified that “the globalisation of the world economy was creating new centres of economic power, with states combining into large economic groupings and unified markets” (CARICOM Secretariat, 1989b).

The International Environment’s Influence on CCJ Development.

The Neoliberal Globalization Effect. The same pattern of increased international trade evidenced in Table 2 is true for Jamaica. Figures from the Statistical Institute of Jamaica (STATIN) show the country’s monetary increases in imports from, and exports to its main trading partners – the United States, the European Union (EU), and CARICOM. It is interesting to note that imports from the US increased at a faster rate than exports. Trade with the EU fared better for Jamaica with imports from and exports to the EU increasing at almost the same rate. Trade with the EU increased because of the long established colonial trade relationship between Jamaica and Britain (Barrow-Giles, 2002; Thorburn & Morris, 2007). Trade with other CARICOM members, however, differed with exports to CARICOM states remaining stagnant and Jamaica’s import bill from CARICOM states increasing significantly. Statistics further show the percentage

share of exports to Jamaica's main trading partners also increased, if only marginally (see Figures 2, 3, and 4).

According to STATIN and the IDB, Jamaica's share in merchandise exports to the US under the period of investigation, started from 33% in 1985 to a high of 40% in 1998 before eventually declining to 31% in 2001 (Harris, 1997, p. 70; Jessen & Vignoles, 2005, p. 65). For the EEC/EU, the share was 24% in 1985 and ended on a high of 30% in 2001 (Harris, 1997, p. 70; Jessen & Vignoles, 2005, p. 65). CARICOM, on the other hand, experienced a decline from 7% in 1990 to 4% in 2001 (Harris, 1997, p. 70; Jessen & Vignoles, 2005, p. 65).

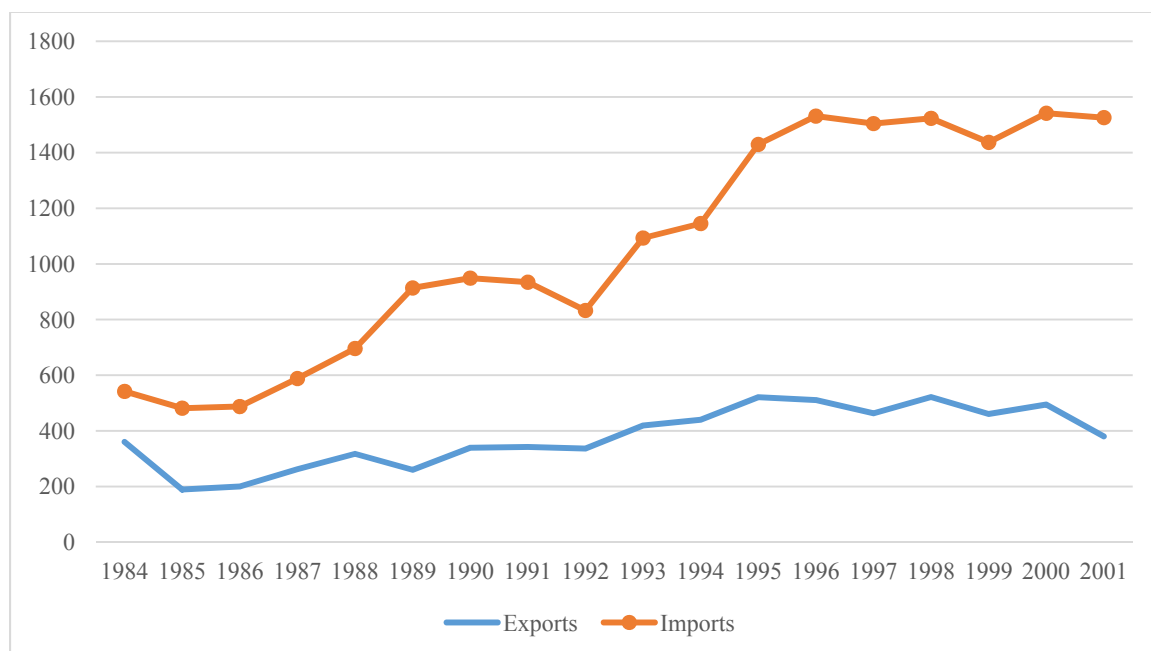


Figure 2. Jamaica's Trade with The US in \$US Millions, 1984 – 2001. Adapted from figures from the Statistical Institute of Jamaica (STATIN) for the years 1984-2001 available on the Bank of Jamaica (BOJ) website. The exchange rates existing at the time are used to convert to U.S. dollars.

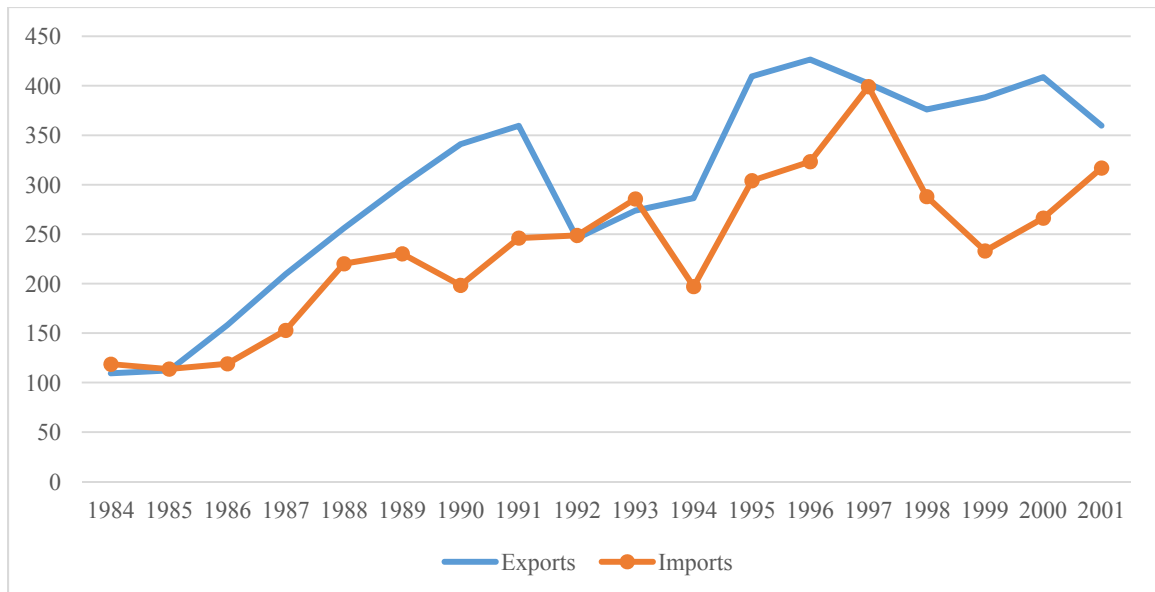


Figure 3. Jamaica's Trade with The EU/EEC Including The United Kingdom in \$US Millions, 1984 – 2001. Adapted from figures from the Statistical Institute of Jamaica (STATIN) for the years 1984-2001 available on the Bank of Jamaica (BOJ) website. The exchange rates existing at the time are used to convert to U.S. dollars.

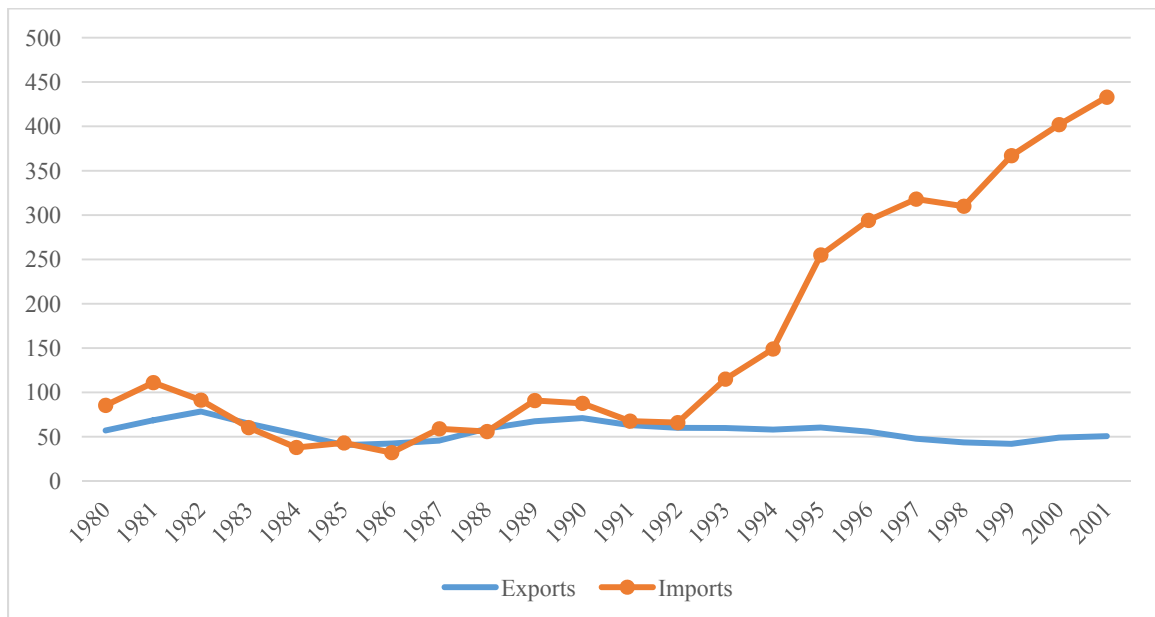


Figure 4. Jamaica's Trade with CARICOM in \$US Millions, 1980 – 2001. Adapted from figures from the Statistical Institute of Jamaica (STATIN) for the years 1980-2001 available on the Bank of Jamaica (BOJ) website. The exchange rates existing at the time are used to convert to U.S. dollars.

Jamaica adapted to neoliberal globalization in the following ways. It increased trade to and from Jamaica, but exports were not been able to keep pace with imports on account of increased external competition in trade as Jamaica began converging with the world economy³⁴ (Barrow-Giles, 2002; Thorburn & Morris, 2007). In Jamaica, convergence was made possible through the adoption of neoliberal principles. Like the developed states that promote neoliberal capitalism, the Jamaican economy limited the involvement of the state in the market by privatizing and divesting national industries (Barrow-Giles, 2002; Thorburn & Morris, 2007). Further, since the late 1980s, Jamaica has liberalized the economy by eliminating controls on its exchange rate, removing restrictions on investment, trying to decrease inflation, and reducing tariff and non-tariff barriers to trade (Barrow-Giles, 2002; PIOJ, 2009; Thorburn & Morris, 2007). Also, Jamaica attempted to reduce the size of the government and its spending.

Increased competition from neoliberal globalization brought vulnerability and volatility. Jamaica had difficulty in transitioning its manufacturing sector, which in the 1980s and early 1990s was Jamaica's largest exporter, from an import substitution, preferential access industry to an export-led industry (Harris, 1997). The structure of the economy did not allow exporters to improve their competitiveness. Neoliberal policies liberalized and opened the economy, but the local economy experienced a number of stresses: increases in operating costs, particularly for electricity and security; minimal resources were directed towards training and the purchase of new machinery; high inflation; a devalued dollar; and increased risk and instability, which eroded demand for

³⁴ Convergence occurs when more than one state's economy become similar with respect to method of economic organization, social policy, interest rates and so on (Black, 1997).

Jamaican goods (Harris, 1997). As a result, Jamaica lost more than half its market share in exports on the global market by the end of the 1990s and a fall in manufacturing from a high of 22% of GDP in the 1980s to just under 16% in 2001 (IDB, 2005).

For instance, Jamaica had enjoyed preferential access to the EU and the US until the mid-1990s (Jessen & Vignoles, 2005). Since the restructuring of the global economy both the EU and the US altered their relationship with Jamaica. As a result, Jamaica has seen a reduction in exports in traditional exports such as bananas and sugar to the EU. Since the removal of non-tariff barriers to the EU market, Anneke Jessen and Christopher Vignoles (2005, p. 6) calculated that Jamaica saw an average decline of 13% in banana exports since 1998, and an average 10% decline in sugar exports since 1994. This proves significant since 90% of these goods are exported to the EU (Jessen & Vignoles, 2005). For the US, they noted that Jamaica's apparel industry lost preferential access with the formation of NAFTA, which resulted in the rise in Mexican apparel imports to the US (Jessen & Vignoles, 2005, p. 6). There was further decline in Jamaican apparel exports to the US in 2005 with increased competition from Asian producers as global liberalization continued to take hold (Jessen & Vignoles, 2005, p. 7). It is against this background I investigate the impact of world trade on Jamaica and the CARICOM region and its members' decision to strengthen economic integration and design appropriate institutions to manage its operation.

Jamaicans have viewed neoliberal globalization as promoting Caribbean regional integration for both convergence and competition in the international economy. In 1989, "Michael Manley had said that Jamaica must use CARICOM as an opportunity to improve its competitiveness if it was to be able to compete with the wider world" (The

Jamaica Gleaner, May 9, 2004). He is further quoted as saying that the “only way small countries will advance is if they can, as rapidly as possible, get together to create a single economy with economies of scale” (The Financial Post, August 2, 1989). The Preamble of the RTC, signed twelve years later, was written with this in mind. It expresses that CARICOM members recognize “that globalization and liberalization have important implications for international competitiveness” (CARICOM Secretariat, 2001, p. 1). Article 6§(c), (d), and (e) further states that the objectives of CARICOM are “accelerated, co-ordinated and sustained economic development and convergence; expansion of trade and economic relations with third States; [and] enhanced levels of international competitiveness.”

Out of my small sample of twenty-four Jamaican members of the elite, twenty interviewees recalled that CARICOM, in the context of globalization, was viewed a means by which to prepare the region to better converge or trade with third countries. A government minister asserted,

By the late 1980s the increased pace of global integration had further quickened our [Jamaica’s] reaction in terms of deeper integration and that...was done to meet the challenges posed by third countries...there was the recognition that single market was needed to deepen the integration arrangement and then the single market and economy and the treaty had to be revised to build new institutions and create policy sets so that the community still exists. (JM13, Interview, July 26, 2012)

Additionally, Jamaicans viewed regional integration as a means of protecting volatile and vulnerable SIDS from the effects of increased competition in the international environment. The preeminent Jamaican economist, Byron Blake, who was director of economics and industry for CARICOM in 1989 expressed that “Caribbean countries are being forced to make this move because of external factors...All these

changes have forced Caribbean countries towards the conclusion that they will have to be more dependent on each other, both in trade and financial matters” (Financial Times, August 1, 1989, p. 6). In conjunction with this view, of the twenty Jamaican respondents who viewed CARICOM as a means for preparing the region to better converge/trade with third countries, eighteen noted that CARICOM was also used as a means of survival given the new challenges and opportunities posed by changes in the international economic environment. For them CARICOM was used to promote internal trade and the honing of the region’s trading skills on a small scale before taking on the “big fish” (the global economy) and becoming more competitive on the international stage. While Jamaican elites viewed the effects of neoliberal globalization as prompting their decision to strengthen regional economic integration, another international factor – the post-Cold War/ Liberal Multilateralism – was considered.

The Post-Cold War/Liberal Multilateralism. Former Prime Minister of Jamaica, PJ Patterson³⁵ (2010) noted that, in general, “[one] of the apparent contradictions in the current intense new process of globalization is the drive for deeper collaboration by countries in close, and sometimes, not so close geographic proximity” (p.3). He further acknowledged that in the late 1980s,

the world had changed inexorably; The Cold War had ended, [globalization] reflected the diktat of a unipolar world [and the] magic of the market was the only game in town...It was largely due to these and other far-reaching changes imposed on the Caribbean, that impelled Caribbean Leaders to establish in 1989 the West Indian Commission which produced that comprehensive landmark Report – Time For Action (Patterson, 2012, p. 16).

³⁵ Percival James Patterson, Leader of the PNP and Prime Minister of Jamaica from 1992-2006.

In this new unipolar world, with the Uruguay Round of the General Agreement on Tariffs and Trade (GATT) negotiations and the formation of the WTO, it was expected that multilateralism would replace the region's favored bilateralism with third states. However, the Uruguay Round negotiations offered "no sure benefits, and held a number of serious potential threats" to the CARICOM region (West Indian Commission [WIC], 1992, p. 21). Essentially, the hindrances and duration of negotiations during the Uruguay Round have been attributed to the increased appeal for strengthening regional economic integration and institutions in order to achieve trade liberalization (Hall, 2003a; WIC, 1992). This led to the provision for regional trade agreements under Article XXIV, which has influenced Jamaica's support for enhancing CARICOM and its institutions. A senior academic that specializes in international affairs, economics and law admits,

...Jamaica reacted, particularly from the Grand Anse Agreement, to globalization...and the regional arrangements that have been committed or admitted to the WTO arrangements. Jamaica sees that [CARICOM] fits into that global model of regional arrangements that will facilitate globalization and liberalization. (JM09, Interview, July 25, 2012)

Jamaica, as a signatory of the WTO, has significantly reduced trade tariffs and met most of its Uruguay Round obligations, more so than other CARICOM members, some say to its detriment (Jessen & Vignoles, 2005, p. 50). Robert Buddan (2004) noted Jamaica went into the spin because of the fast pace of change and the high degree of liberalization required by the WTO and other international organizations.

Consequently, Jamaicans, as well as other CARICOM member states, saw further integration as a complement to US unilateralism and global multilateralism. Jamaican Louise Bennett, when interviewed by the WIC on the issue in 1992, responded with "Han' stronger than finger...One finger kyan ketch flea" (WIC, 1992, p. 23). This

essentially means that if united, we as a region will be better able to face the changing international environment.

It should be noted that global changes alone did not inspire Jamaican elites towards regional integration. There was also the influence of powerful states and organizations, namely the EU and the US.

EU Influence and Support. The EU has directly influenced Caribbean regional integration. CARICOM's use of the EU model is known as 'extra regional echoing' (Avery, 1973). This describes European integration as "a major stimulus for similar endeavors in other regions and still remains the model for most integration efforts" (Avery, 1973, p. 550). CARICOM leaders view the EU as a success and want to imitate it. The EEC model provided a blueprint for transforming CARIFTA into CARICOM. It was influential on CARICOM's development because it placed primacy on economic and functional cooperation, which was viewed as a means of overcoming political and ideological differences (Demas, 1987).³⁶ Given the failure of the politically-driven West Indies Federation, Jamaica and other Anglo-Caribbean states looked for a different model to promote the developmental strategies needed for regional and national sustainability (Barrow-Giles, 2002; Boxill, 1997; Payne, 2008). The region looked to the Treaty of Rome that established the EEC as a model for the Treaty of Chaguaramas, which

³⁶ The EU, an ideologically, culturally, and economically diverse bloc, began as the six state European Coal and Steel Community (ECSC). Its focus was to establish a common market for steel and coal in order to prevent any future war between France and Germany (Wood and Yeşilada, 1996). It later evolved into the European Economic Community (EEC) that extended the common market to goods, services, capital, and labor.

launched CARICOM.³⁷ This model was fervently promoted by Jamaican Prime Minister Michael Manley and the Jamaica Manufacturers Association (JMA) in the late 1960s and early 1970s prior to the signing of the treaty (Gilbert-Roberts, 2013).

In later years, when the international environment changed, it was the creation of a European single market under SEA that sparked debate on the development of the CSME (Mullerleile, 1995). *The Jamaica Gleaner* reported that in 1989, Prime Minister Michael Manley, a keen supporter of European integration, called for the deepening of economic integration in order to improve Jamaica's competitiveness. "CARICOM became one of the first regional organizations outside of Europe to declare in favor of a single market and economy. It was a prescient decision. Since then SMEs have become popular goals of many regions under the concept of open regionalism" (*The Jamaica Gleaner*, May 9, 2004). Manley noted that changes in the EEC gave the region a reason to look at its own integration efforts. He stated, "The formation of a single market in Europe in 1992 should provide us with an inescapable point to try to settle practical questions for our own common market" (*Financial Times*, August 1, 1989, p. 6). Further, he argued that the "EEC's integration would also blaze a trail for the Caribbean to have to accelerate the parallel process of integration" (*The Guardian*, June 17, 1989). The CSME and other recommendations coming from WIC were fashioned from the then EEC, namely the establishment of a Caribbean Court of Appeal,³⁸ a CARICOM Charter of Civil Society, a

³⁷ It should be noted that by the late 1970s and 1980s, CARICOM was described as a flawed version of the European Economic Community (EEC). CARICOM was, and is still, considered one rung lower than the EU. CARICOM does not have the ability to implement and enforce decisions as does the EU. Decisions have been delayed or stalled because the mechanisms found in EEC rules were missing from the CARICOM institutions/rules (Lewis, 2001).

³⁸ Later renamed the Caribbean Court of Justice (CCJ).

CARICOM Assembly of Parliamentarians, a Council of Ministers and the establishment of a CARICOM Commission with executive responsibilities (WIC, 1992).³⁹

The EU has further influenced the Caribbean integration process through the negotiation process of the CARIFORUM-EU⁴⁰ Economic Partnership Agreement (EPA). The EPA acknowledges the importance of regional integration among the Caribbean states. The proclamations page reaffirms the signatories “commitment to support the regional integration process among CARIFORUM States, and in particular to foster regional economic integration as a key instrument to facilitate their integration into the world” (European Commission, 2008, p. 4). The language of the EPA ensures the integration process by encouraging and improving its prearrangements.⁴¹

The EPA offers a break for a deeper, more even integration through the CSME than CARICOM has been able to accomplish on its own. The Economic Commission for Latin America and the Caribbean (ECLAC) (2008, p. 16) said it best as it observed that “the EPA seeks to advance the CSME process by locking in Caribbean-wide harmonized regional policies throughout the entire Agreement.” This advancement of the CSME increases the relevance of the CCJ as an interpreter and adjudicator of CARICOM rules and law.

³⁹ As previously noted, the latter was not adopted as all CARICOM agreements since its establishment rest on the principle of economic cooperation and have not supplied pointers for developing a political unit.

⁴⁰ CARIFORUM is a regional organization that includes CARICOM member states and the Dominican Republic that negotiates aid arrangement and economic partnership agreements with the EU.

⁴¹ See CARIFORUM-EU EPA articles 1 and 4. Article 1 (b) of the EPA avows its commitment to “[promoting] regional integration, economic cooperation and good governance thus establishing and implementing an effective, predictable and transparent regulatory framework for trade and investment between the Parties and in the CARIFORUM region.” Article 4 (4) elaborates by declaring that “without prejudice to the commitments undertaken in this Agreement, the pace and content of regional integration is a matter to be determined exclusively by the CARIFORUM States in the exercise of their sovereignty and given their current and future political ambitions.”

The EU funded CARICOM regional integration under the Lomé Convention from 1975 to 2000. The Convention “was an international aid and trade agreement between the [African, Caribbean and Pacific States] ACP and the European Community (EC)” with funding coming from the European Development Fund (EDF) (CARICOM Secretariat, 2011). It was replaced with the ACP/EU Cotonou Agreement that promotes regionalization and the integration of ACP countries into the international economy through reciprocal trade agreements and funding from the EDF (CARICOM Secretariat, 2011). The EDF has been used to fund regional organizations such as the University of the West Indies and is “geared towards the Caribbean as a regional unit, thereby facilitating both formal and functional regional integration” (Mullerleile, 1995, p. 130).

The EU and CARICOM’s aid relationship is built on overcoming vulnerabilities in the latter region’s quest to deepening economic integration while providing economic and social development. Luis Ritto (2002) observed that between “1976 to 2000 € 353 million were allocated to regional integration and co-operation, with focus on business and trade facilitation, the development of an integrated 3rd level education system, transport infrastructure, tourism development, disaster preparedness, drugs control and health” (p. 25). Between 1975 and 2012, Jamaica alone has received EDF support towards regional integration efforts amounting to € 840 million (Delegation of the European Union to Jamaica, Belize, The Bahamas, Turks and Caicos Islands and Cayman Islands, n.d.). Further, the Commission of the European Union ordered a country evaluation of their efforts in integrating Jamaica into regional and international markets. It found that since 1993, their financial and technical interventions resulted in Jamaica’s

economy being diversified enough to be marginally competitive at the regional and international levels (EC, 2012, p. 180).

The EU's 1996 Green Paper on the future of the Lomé Convention contributed to the deepening of the CARICOM economic bloc and associated institutions, as CARICOM had to find an alternative to the previous preferential system that was challenged by the WTO on behalf of the US banana producers. The Green Paper, prompted by changes in the international environment, sought to outline the EU's position on regional integration. It laid out the challenges the Caribbean would face if states took on globalization and liberalization individually. It lists the marginalization of the CARICOM region, problems managing the economic transition under the new regime, and the formation of NAFTA as some of the main challenges the region would face. As such, the EU sought to make "regional economic integration strategy increasingly attractive. The main aim of integration would be to provide an economic and trade framework that would offer step-by-step liberalization and prepare the region's economic operators for competition" (EC, 1996, p. 32a). This, they proposed, would be achieved through technical and financial cooperation between the two. Therefore, EU support would evolve from a "protection partnership" to "regional economic partnership" (Lewis, 2008, p. 12).

A former Caribbean Ambassador to the EU and WTO asserts that "[if] [CARICOM] wasn't getting support from the EU it would have collapsed long ago" (JM14, Interview, July 27, 2012). A trade specialist and former head of a Pan Caribbean multinational company also supports this view. He stated, "The EU has been the largest contributor to the regional integration. They have brought an awful amount of money into

the Caribbean” (JM17, Interview, July 31, 2012). Such efforts from the EU demonstrate that Jamaica and CARICOM cannot exist without development aid.⁴²

US Influence and Support. US support, or lack thereof, has affected Jamaica’s desire to deepen Caribbean economic integration and adopt regional institutions that would promote this venture. When Jamaica experienced preferential treatment and support from the US, desires for Caribbean integration waned. In the Cold War Era (1953-1990), Jamaica received a lot of support from the US. The US was concerned with the spread of communism and became interested in developing a relationship with the newly-independent Jamaica. Under the leadership of Edward Seaga, Jamaica sought to develop its export market and petitioned the US for a Caribbean version of the “Marshall Plan.” It was this petition that led to the US offering its most recognizable policy of this era – the Caribbean Basin Initiative (CBI), which was a unilateral policy that provided economic assistance to Latin America and the Caribbean and laid out trade measures between the US and the individual countries (Henke, 2000).

While the CBI restricted access to parts of the US market, Jamaica benefited from an increase in its foreign exchange earning capacity, in investment, jobs and export production (Barrow-Giles, 2002; Grant, 1997; Thorburn & Morris, 2007). However, US transnational corporations (TNCs), namely Hanes and Fruit of the Loom, were the biggest beneficiaries and experienced great surpluses to the eventual deficits garnered by Jamaica (Barrow-Giles, 2002; Grant, 1997). The CBI strategy has been blamed in part for stymieing Caribbean economic integration. Former Prime Minister, PJ Patterson recalled

⁴² EU influence and support have proven to be a double-edged sword. The EPA and gradual phasing out of preferential access to Europe have placed CARICOM in a difficult position from which there is nothing it can do.

“[somewhere] in the 1980s our exports to CARICOM began to fall as Jamaicans industrialists were told that the CARICOM market was too small to matter. They were told to concentrate on the extra regional market and more significantly, extra-regional imports” (Patterson, 2012, p. 20). Figure 4 demonstrates this fall in the 1980s and statistics show that intra-regional trade fell from 13.5% in the early 1980s to 7.8% in the early 1990s (CARICOM Secretariat, 2005, p. 117).

The CBI reduced Jamaica exports to other CARICOM states as Seaga encouraged Jamaican manufacturers and traders to focus on the US as it meant “free entry to the markets of the United States (with important exceptions), incentives for encouraging investment and a sizeable increase in aid and technical assistance” (Mills, 1989, p. 162). For instance, CBI foreign direct investment in export processing zones (EPZ) or free zones resulted in Jamaican manufacturers increasing employment from 960 in 1983, to 14,220 in 1992 (ECLAC, 2004, p. 347). Also, foreign direct investment (FDI) for the apparel industry saw employment increasing from “6,191 in 1982 to 28,700 in 1992” (ECLAC, 2004, p. 347).

By the Post-Cold War Era (1990 onwards), the US was driven by new concerns and the diminished interest towards the Anglo-Caribbean (Grant, 2000). The US had turned its interest to the Middle East and the former Soviet bloc at the expense of Jamaica. For instance, US\$ 25 million that was earmarked for Jamaica was diverted to Poland in 1990 (The Weekly Gleaner, May 15, 1990 cited in Mullerleile, 1995, p. 166). Subsequently, Prime Minister Michael Manley twice visited the US to gain assurance that aid to Jamaica and the rest of CARICOM would not be further diverted to the former Soviet bloc (Mullerleile, 1995, p. 166).

Jamaica also found itself losing the preferential treatment it had under the CBI. With the introduction of NAFTA, the US's free trade area with Mexico and Canada, Jamaica saw a fall in US FDI for EPZs and the apparel industry. As a result, employment at EPZs fell to 6,000 in 1998, and the apparel industry found employment decrease to less than 6,000 in 1997 (ECLAC, 2004, p. 347). Jamaica was now viewed as a part of Latin America and considered to be an insignificant trading partner (Sullivan, 1993). This loss in market share resulted in Jamaica, as an individual country and as part of CARICOM, formally asking to be listed as eligible for membership of NAFTA (Journal of Commerce, April 18, 1994, p. 5A).

Under the Clinton Administration, the US became interested in replacing a preferential trade agreement with trade liberalization and full reciprocity on both sides (Grant, 2000; Maingot, 1994) under a proposed Free Trade Area of the Americas (FTAA). During negotiations for the FTAA, the US expected Jamaica, a small developing state, to compete equally with more developed Latin American states, such as Brazil and Argentina. However, the CARICOM states, led by Jamaica, with a strategic alliance with most Latin American countries stalled the 2005 talks that would have launched the Free Trade Areas of the Americas (FTAA) given the unfair advantage the US would gain in the region (The Jamaica Gleaner, November 4, 2005). Tony Heron (2004), a former Research Fellow at the Caribbean Policy Research Institute (CaPRI) in Jamaica, observed that the US used the NAFTA and FTAA processes for the "dual process of 'locking-in' the neo-liberal economic reforms introduced in Latin America and the Caribbean during the 1980s, while, at the same time, providing the US with additional leverage in the multilateral trading arena of the GATT and post-GATT system" (p. 51).

These circumstances led Jamaica to look to CARICOM to deepen and widen regional economic integration in order to foster development and survival. The United States adoption of regionalism, therefore, influenced Jamaica's desire to do the same. The manner of deepening economic integration came in the form of the adopted WIC suggestions discussed earlier. At the height of the NAFTA/FTAA negotiations Prime Minister PJ Patterson opined, "If we cannot create the single market we will hardly be ready to participate in the hemispheric free trade area which we decided should come by 2005... We must either step up the pace now or languish forever behind" (Financial Times, July 14, 1995, p. 4).

The regional integration efforts, however, did not translate into Jamaica increasing its share in intra-regional exports. Instead, total and share percentage in CARICOM exports continued to decrease. Total CARICOM exports fell from US\$75 million in 1990 to US\$54 million in 2001, and its share percentage fell from 7% to 4% for the same period (See Figure 4; Jessen & Vignoles, 2005, p. 65). This is on account of both rising local operating costs and Trinidad & Tobago's cornering of most of the regional market since the mid-1980s due its governments' tax and export incentives, which encouraged global and regional export expansion (Harris, 1997; IDB, 2005)

On the widening of regionalism, Heron (2004) noted that the Association of Caribbean States (ACS)⁴³ was established in 1994 as a direct response to NAFTA. It is based on Jamaican Prime Minister Michael Manley and Venezuelan President Carlos Andres Perez conception of a Latin American alternative when the US established the

⁴³ The ACS includes 25 countries in Latin America and the Caribbean and provides a market of 200 million people. It was considered the most ambitious arrangement to link Anglo and Latin Caribbean countries.

terms of membership to NAFTA (The Jamaica Gleaner, May 9, 2004). The ACS seeks to improve and broaden CARICOM-Latin American relations so as to increase CARICOM's market. Heron (2004) maintains that its significance is yet to be determined. However, Robert Buddan (2004), Jamaican scholar Norman Girvan (2000b), and Hall (2001) argue that the ACS was established to increase CARICOM's bargaining power relating to the globalization effects and the possible creation of the FTAA. Girvan (2000b) recognized:

One of the significant developments of the 1990s was the expansion of certain traditional regional structures in the Anglophone Caribbean to embrace non-English speaking countries. The expansion of CARICOM's membership and the establishment of CARIFORUM and of the Association of Caribbean States (ACS) were key institutional expressions of this trend. Expansion of regionalism represented one of the responses to a changing external environment. (p. 1)

Based on these events, I agree that Braveboy-Wagner's (2003) suggestion is persuasive. She notes, during this era "the Caribbean is being forced to look inward and the latest thrust of regional integration has not been as a result of the region's own design, but out of the perception of there being no other option" (Braveboy-Wagner, 2003, p. 35). This occurred even though the expected benefits to Jamaica were not realized.

Influence and support from the US and the EU provided evidence of international trends towards the development of regional economic blocs.

The Domino Effect. This is one of the reasons for CARICOM's move towards deepening its economic integration and the adoption of new institutions. Then Prime Minister of Jamaica, Michael Manley,⁴⁴ at Tenth Conference of the Heads of Government

⁴⁴ Michael Manley, leader of the People's National Party (PNP) from 1969-1992 and Prime Minister of Jamaica from 1972-1980 and 1989-1992.

held in Grand Anse, Grenada in 1989, recognized the effects of the international economy on CARICOM and the development of economic blocs.

Increasingly, we occupy a globalized economy... Those are the realities that are compelling the formation of the great economic blocs which confront us, but the mistake we would make, is to think that it is the economic blocs that are the underlining reality. It is the globalization of the world economy that is forcing the formation of the blocs. That is the reality. (Manley cited in Hall, 2003a, p. 84)

Jamaican scholar Kenneth Hall reported that this, the regionalization in the Americas and Europe, in addition to globalization and liberalization renewed the CARICOM states' interest in regional economic integration and supporting regional institutions. He wrote:

...regionalism seemed to have gained a new lease on life with creation of the North American Free Trade Area (NAFTA) and the decision of the European Economic Community (EEC) to dismantle tariffs by 1992 and create a single market. The time for action had come... This issue compelled the Community... to reinvent and reposition itself... The reform of the existing institutions of the Caribbean Community and the creation of new ones to accommodate the new trends and direction of the integration process necessitated major institutional restructuring... In 1997, the Community took the first steps to restructure organizations and institutions. (Hall, 2003a, pp. 28, 30, & 39)

As the Jamaican elite recognized these external factors some recalled the impact they made in influencing their role in the creation of a regional court.

The Neoliberal Globalization Effect – A Jamaican Retrospective. By 1989, CARICOM had reached a point where change was necessary given shifting world circumstances and philosophies that were attributed to accelerated globalization. Hall wrote:

[between] the time of its establishment in July 1973 and the end of the 20th century, the Caribbean Community (CARICOM) has undergone profound change. The transformation was proceeded from the recognition that the political and economic philosophies that underpinned its original structure are no longer applicable and cannot accommodate the forces released by globalization... With

the onset of globalization, the leaders of the community understood that their approach to international affairs and its institutions had to undergo a major transformation. Beginning in 1989, a number of wide ranging decisions were taken with the intention of bringing the Community into the 21st Century. But economic difficulties by the Community in the 1980s...and the emergence of the forces of globalization, demanded its restructuring (Hall, 2003b, pp. ix-xi).

The CCJ, along with other newly adopted institutions,⁴⁵ is further described as “a product of the drive to create institutions compatible with the new international environment in which the community finds itself [and that these] new institutions...has (sic) in fact given the Caribbean a new political and economic personality” (Hall, 2003b, p. 33).

As stated earlier, the sample of twenty-four Jamaican respondents argued neoliberal globalization and its ripple effects were the main reasons for CARICOM moving towards a proposed economic union and its supporting institution, the CCJ. In addressing the specific events leading to the establishment of the CCJ, six of the twenty-four Jamaicans interviewed had direct influence on the movement towards an economic union and a Caribbean regional court through writing the articles of the RTC and/or in the capacity as head of government, government minister, or opposition representative. Eight other respondents contributed based on interviews conducted by the WIC, and one person contributed through his role as commissioner on the WIC.

When these fifteen were asked about whether they suggested there be a court with original jurisdiction at this interim only five (all of whom were directly involved) suggested such a court. They argued that with increased economic integration there would be an increase in trade and a corresponding increase in potential disputes, therefore, such a court was needed. A former Caribbean Ambassador to the EU and WTO

⁴⁵ The Revised Treaty of Chaguaramas, the CARICOM Single Market and Economy (CSME), The Charter of Civil Society, and Assembly of Caribbean Community of Parliamentarians.

stated “it was absolutely essential that you had a regional court that arbitrated in disputes that arise from time to time and that was the natural progression of any trade arrangement that existed...that is why I view the CCJ as being so important because it structured and formalized the arbitration process in a way it wasn’t before” (JM14, Interview, July 27, 2012). The eight interviewed by the WIC noted that they did not suggest the Court but supported the idea. Six of this eight are a part of the economic elite. The one respondent, who was a development economist and WIC commissioner, noted that there was overwhelming support for a Court of Appeal with appellate and original jurisdictions by all the heads of government when the report had initially been read to them. He/she noted,

[the] court was really not controversial at all. None of the governments had a problem with it...As a matter of fact the arrangements for financing the court which would involve the CDB⁴⁶ borrowing money and setting up the trust fund was supported by everyone...They thought that the idea of Caribbean jurisprudence was excellent. (JM24, Interview, August 16, 2012).

Essentially, this means that fourteen out of the fifteen Jamaican interviewees acknowledged the link among neoliberal globalization, economic integration and the development of a court with original jurisdiction. By extension, the region too supported this position. It was later reported that the “Heads of Government underscored the centrality of the Caribbean Court of Justice in the institutional structures of the Community, including its importance to the successful functioning of the CARICOM Single Market and Economy” (CARICOM Secretariat, 1999).

International Dynamics: Discussion. The evidence suggests that external factors, particularly the international trade driven by neoliberal globalization, have played

⁴⁶ Caribbean Development Bank

a great part in intensifying regional integration within CARICOM. Additionally, this move towards deepening integration is an example of the influence of a powerful state and/or organization policy on the foreign policy of smaller dependent states. This has been in the form of the neoliberal policy endorsed by the IMF and the promotion of regionalism driven by Western Europe and the US.

Jamaican leaders recognized the need to strengthen regionalism and adopt new institutions as a means of competing and conforming to new economic policy regimes and survival within and beyond the regional level. Surprisingly, even though the reason behind this transformation is mixed, displaying features of both the bargaining and dependency models, Jamaica is a capital importing state and heavily dependent on foreign direct investment. Therefore, its regional policy, to some degree, will reflect the preferences of a larger more powerful state/organization. Dependence on EU assistance, adherence to WTO rules, the admiration for the EU, CARICOM negotiations with the EU and the US on specific issues, and the call by larger states to negotiate with CARICOM as a bloc as opposed to individual states were all reasons for greater integration efforts. All these points demonstrate that Jamaica, in some instances, has sought to bargain and act strategically so as to maximize its benefits, namely to ensure economic growth, increase efficiency and to signal to third parties that the country was a sound investment option. In other words, policy makers from Jamaica took the actions and promises of the other large states and international organizations into consideration and then made choices that reflected its self-interests as much as possible. This was mainly evident by the manner in which Jamaica and the rest of CARICOM handled the NAFTA/FTAA

negotiations and the outcome of the CARIFORUM-EU Economic Partnership Agreement negotiations.

Nevertheless, external constraints due to vulnerability to economic competition and a lack of cushioning for foreign policy mistakes, the country's low position/influence in the international system, and the country's impulse to bandwagon is also demonstrative of the dependency model. We have seen the adopted and internalized values of the more powerful state/organization resulting in a change in the social and political structure of the weaker state to the point that the elite in the weaker state developed interests, perceptions and values comparable that those of the elite of the larger more powerful state/organization (Amin, 1974; Cardoso, 1979; Frank, 1968; Galtung, 1971). The adoption of neoliberalism through the SAPS, resulted in the shared thinking between the developed and developing states thinking. Seaga's unwavering support for the SAPs and his close relationship with President Reagan are indicative of this internalization and adoption of the neoliberal view. Unlike prior Jamaican leaders, Seaga was raised in the US during his formative years and was Harvard educated, which provided the foundation for this unwavering support. Further, the hardline democratic socialist stance of the PNP has been softened to one more open to free market enterprise after Jamaica adopted the IMF's SAPs in the late 1970s. The PNP has since espoused the tenets of neoliberalism with no attempt to revert to its former position to the point that it again returned to the IMF to extend funding in 2012, and has made further attempts to limit government spending and intervention. Also, Jamaica, though it participated, had little to no influence on the Uruguay Round of GATT negotiations that led to the formation of the WTO and had to largely observe from the sidelines as the WTO ruled to

end preferential treatment of ACP banana imports to the EU, a position it had to accept (Barrow-Giles, 2002).

The discussion now moves to the regional level of analysis in order to determine how Jamaica's background and regional elite behavior affected its bargaining position on the creation and structure of the CCJ.

REGIONAL DYNAMICS

Theory. The manner in which CARICOM regional institutions are created have been explained by using the theories of neo-functionalism or liberal intergovernmentalism. Neo-functionalism indicates that economic elites and interest groups should lead the charge of regional integration by first competing then collaborating with one another so as to form supranational institutions and various forms of 'spill overs' (Haas, 1968; Lewis, 2002). The precondition for such action is a shift in elite focus from national self-interest to cooperation for purely practical reasons. Spill over is theorized as a process in which integration in one economic area carries over to other related economic and socioeconomic areas due to the creation of new needs, pressures, and dilemmas (Haas, 1968; Haas and Schmitter, 1964). This is owing to the fact that the integration of one economic sector cannot be isolated, which eventually results in states adopting similar standards and regulations across various sectors (George, 1996).

As more sectors become integrated and regulated, the focus of various elites and interest groups (trade unions, lobbyists, private sector representatives, and so on) will shift from the national to regional level in order to gain influence in decisions that will affect them. This strengthens the power of already established supranational institutions

and creates the need for new regional institutions to address the needs and wants of these elites. Hence, economic and socioeconomic integration would eventually create political integration in the form of the establishment of supranational institutions (Haas, 1968; Boxill, 1997; Schmitter, 2004), which furthers and deepens regional integration.

Liberal intergovernmentalism, to some extent, reconciles intergovernmentalism with neo-institutionalism and the liberal theory of national preference formation in order to provide an all-inclusive approach to studying regional integration. Like its predecessor, liberal intergovernmentalism holds that national governments/the political elite play the primary role in the integration process because it is these national governments' preferences and 'history making decisions' (Peterson, 1995) that dictate whether or not regional integration will be initiated or deepened. However, it maintains that a government's national preferences are primarily motivated by economic benefits and local political and social pressures. Knowing its national preferences, governments will create its substantive gains by bargaining with other member states at the regional level (Moravcsik, 1998). A state's bargaining power is determined by asymmetrical interdependence and concessions that result in all members sticking to the final agreement/commitment (Moravcsik, 1998). To maintain this commitment national governments will create regional institutions "to delegate or pool decision-making...to pre-commit governments to future decisions, to encourage future cooperation and to improve future implementation of agreements" (Moravcsik, 1998, p. 73). The institutional choice can range from intergovernmental cooperation to the transfer of sovereignty.

Country Background. Jamaica is considered one of the most influential member states of CARICOM. It has been at the forefront of every attempt at regional integration within the region.⁴⁷ It has been argued influence is based on its size and current classification (Braveboy-Wagner, 2003; CARICOM Secretariat, 1973). Jamaica is 10,991 square kilometers and has a population of approximately 2.9 million people (CIA Factbook, 2011). CARICOM classifies it as a More Developed Country (MDC) based on its country size, and the size and diversity of its economy (CARICOM Secretariat, 1973). Jamaica has a mixed economy with a Gross Domestic Product (GDP) based on purchasing-power-parity (PPP) of Int\$ 23.868 Billion in 2010 (IMF, 2012). Its primary source of income are services, manufacturing, and agriculture. It provides the largest market within CARICOM⁴⁸ and is the bloc's largest importer of intra-regional goods and services (CARICOM Secretariat, 2005).

Due to its status, Jamaica is the second largest contributor to CARICOM's regional organizations. Presently, Jamaica's contribution to the CARICOM Secretariat stands at 24% (Thorburn & Morris, 2007, p. 48). Additionally, its contributions to other CARICOM organizations ranges from 23% to 29% (CARICOM Secretariat, 2005). Jamaica alone contributed US\$27 million of the US\$100 million designated to the trust fund used for the financing of the CCJ (Franklyn, 2005; Gilbert-Roberts, 2013; Payne, 2008; Pollard, 2004). Table 3 displays Jamaica's contributions to CARICOM from the signing of the CCJ Agreement and RTC to the launch of the CCJ.

⁴⁷ See introduction to the chapter.

⁴⁸ Haiti is actually the largest market with a population size of approximately 9.8 million (CIA Factbook 2013); however, CARICOM lists it as an LDC given its current lack of resources, which hinders its ability to trade regionally. Additionally, it does not currently participate in the CSME.

Table 3

Jamaica's Contribution to CARICOM in Jamaican Dollars, 2001 – 2005

Year	Contribution in Jamaican dollars (millions)
2001	84.0
2002	83.3
2003	81.8
2004	133.2
2005	158.6

Note. Adapted from *Jamaica's Foreign Policy: Making the Economic Development Link* (p. 48), by D. Thorburn and D. Morris, 2007, Kingston, Jamaica: CAPRI.

There are growing questions over the fairness of Jamaica continuing its MDC status (Hall, July 5, 2009). While Jamaica is large and its resources envied, it records the highest debt to GDP ratio and one of the lowest GDP per capita within CARICOM. Jamaica's debt to GDP ratio stands at 140% and is considered one of the highest in the world (Haughton, October 23, 2013). Jamaica saw GDP per capita PPP at Int\$ 8,742.829 in 2010 (IMF, 2012). This is well below several fellow CARICOM states for the same period. Antigua and Barbuda (Int\$ 17,692.52), St Lucia (Int\$ 12,390.57), and St Kitts and Nevis (Int\$ 15,870.96), which are a quarter of Jamaica's size. They are considered Less Developed Countries (LDCs) within CARICOM (CARICOM Secretariat, 1973; IMF, 2012), yet seem to be in better standing than Jamaica. Additionally, Jamaica has seen a fall intra-regional exports, but it has become CARICOM's number one intra-regional importer. This creates a trade imbalance for the state within the economic bloc. However, even with the shortfall in wealth and trade Jamaica is still among the four most influential states in CARICOM (CARICOM Secretariat, 2005). The other three are Barbados, Guyana, and Trinidad and Tobago (Braveboy-Wagner, 2003; Payne, 2008).

Jamaica's Regional Influence on CCJ Development. Cooperation and collaboration has not been fully realized among various elites at the regional level. There have been attempts at transnational ties but the links made were weak and their regional influence limited. The Jamaican knowledge elite has established links through the regional university – The University of the West Indies – and the political elite collaborates through various intergovernmental meetings at the CARICOM level. However, the economic elite has not been able to maintain regional ties. This slows the economic integration process and its complementary institutionalization and governing complexity.

Jamaican trade unions and economic organizations had been at the forefront of regional integration in the 1960s and 1970s. The Jamaica Manufacturers Association (JMA) has been credited for getting the Jamaican government to join CARIFTA, CARICOM's precursor, in 1968 (JMA, 2008; JM11, Interview, July 26, 2012; Payne, 2008). The local manufacturers and businessmen continued to support CARICOM at its formation as CARIFTA had resulted in an increase in exports to all member states (JMA, 2008). However, the tide turned and the local economic elite was either ignored or remained silent on regional integration issues. Subsequent to the formation of CARICOM, most of the economic integration proposals have come from economists, the UWI academia, and/or technocrats attached to the CARICOM Secretariat (Boxill, 1997; Hall, 2001; Payne, 2008). By the time the 1980s came around, the Jamaican economic elite had experienced stagnant trade with other CARICOM states due to hardships associated with neoliberal globalization, high debt, and two oil crises. Their lifeline came in the form of the Edward Seaga's promotion of the CBI and as such, regional matters

were of less interest to them than international trade with the US (Hall, 2001; Ramphal 2012; Payne, 2008).

The Caribbean Association of Industry and Commerce (CAIC) was one attempt at creating a Pan Caribbean business lobby. It was once considered a good representative and interest group for the economic elite across CARICOM in the 1980s and 1990s.⁴⁹ Mullerleile (1995) recalled the CAIC as “the most important employer organization of the Commonwealth Caribbean [that] sees itself as the training and co-ordination center of the private sector, with special emphasis on CARICOM” (p. 71). He further outlined that it helped exert “influence on political decisions in the region, in order to ‘seek to influence...regional policy, in ways that help to build an environment favourable to the growth and development of private enterprise, the improvement of regional and intraregional trade, and the region’s social and economic integration’” (Mullerleile, 1995, p. 72). It has weakened over time due to lack of resources.

Of the twenty-four members of the various elites interviewed, three from the economic elite, two from the knowledge elites and one from the political elite recalled that CAIC tried and failed to increase regional collaboration. A former head of the Private Sector Organization of Jamaica (PSOJ) recalls “[from] the private sector we tried to regionalize through the CAIC and that isn’t doing an awful lot and I think financing from the member states has been one of the issues that led to its relative inactivity. It had provided a channel through which the concerns of the private sector have within the different countries can make their own concerns heard” (JM06, Interview, July 23, 2012). Information on the CAIC’s possible influence on the CCJ is limited.

⁴⁹ It is considered informal because it is not an official organ of CARICOM.

Outside of the CAIC there have been a few members of the Jamaican private sector who have attempted to build transnational ties with their CARICOM counterparts. For instance, the Grace Kennedy Group, the largest Pan Caribbean Company within CARICOM, has been able to acquire and/or start many businesses and financial institutions in the Canada, US, the UK, Africa, and other CARICOM territories. Currently, it owns and operates food retail, food manufacturing, distribution, bill payment services, currency exchange services, financial services, remittance services, and insurance companies in at least nine CARICOM full and associate member states (Grace Kennedy Group, 2013).

Nonetheless, the various members of the Jamaican elite have determined that the shortcoming in the development of transnational ties has been due to a number of constraints. All the economic elite respondents acknowledged that they have on occasion attended regional meetings; however, they often have to do so at their own expense, which is not economical; hence, the high level of absenteeism at this level. A senior executive with the JMA said that “Cost is the main reason the JMA doesn’t participate more regionally” (JM08, Interview, July 24, 2012). Travel across the region is more expensive and grueling than travelling to the US or the UK. Travelers may have multiple stops before arriving to your final destination and even though you are travelling within the bloc each stop cost the equivalent of arriving at a new international destination (CARICOM Secretariat, 2005).

In addition to the cost of transportation and geography being recognized as a constraint to economic and knowledge elites getting more involved at the regional level, a lack of will (three respondents), lack of resources (two respondents), not knowing the

proper channels (two respondents), and a lack of expertise (one respondent) were also listed as constraints. Regarding lack of expertise, a senior executive with the JMA notes that the organization does not have a trade specialist (JM08, Interview, July 24, 2012). On lack of will, a trade specialist blames insularity and competition between CARICOM states (JM17, Interview, July 31, 2012). Insularity and competition emerges on account of CARICOM member states trading in the similar goods and services. This results in low complementarity among CARICOM states that would help to foster spill over into other industries, thus, diminishing the desire for elites to cooperate with one another and drive regional integration. (Hall, 2001; Pollard, 2003; Ramphal, 2012). This is most evident in the continued ‘trade war’ between Jamaica and Trinidad and Tobago manufacturers. These elites produce many of the same goods but continue to be at enmity with one another due to the apparent unfair advantage Trinidad has, which are lower fuel costs and better machinery.

Concerning not knowing the proper channels, one exporter and jurist remarked “We just accept the [regional] rules as is...and it may be because we don’t know who is in charge to get things [changed]...Is it MFAFT, MIIC, JEA?”⁵⁰ (JM03, Interview, July 19, 2012). One respondent, an opposition member of parliament, did state that there are no constraints but rather, “[People] are just not attracted to [regional policymaking and associated institutions]. No desire, no attraction. It may have to do with the process of how we got there” (JM02, Interview, July 19, 2012).

⁵⁰ Ministry of Foreign Affairs and Foreign Trade, Ministry of Industry, Investment, and Commerce, and Jamaica Exporters Association.

We find that the Jamaican economic elite lack the motivation to develop transnational ties. There is a disconnect between regional matters and the need for their involvement. Gaining information from the private sector and proper communication among elites across member states are major problems (Witter, 2004). The Jamaican economic elite is under the impression that when decisions are made at this level, that information will either not be made available or be made available long after a regional meeting. Thus, their reduced interest. When the economic elite do attend regional meetings their influence is still limited. This is on account of CARICOM's formal structure, which does not lend itself to elite participation outside of government officials and technocrats (IDB, 2005).

Given the formal structure of CARICOM, the Jamaican government/political elite was motivated by economic benefits and local political and social pressures, and it spearheaded the negotiations with other CARICOM member states that determined the institutional design of the CCJ. Once the Jamaican position was determined at the national level,⁵¹ interstate negotiation and bargaining were conducted with the smaller CARICOM states through The Conferences of the Heads of Government and PREPCOM.⁵² Given that heads of government are influenced/informed by members of outer circles⁵³ to a minimal degree. The constraints of transnational interaction and negotiations between Jamaica and the other member states reflected the relative

⁵¹ See the domestic dynamics below. In summary, the national government took recommendations from the legal fraternity, bureaucrats, opposition, the economic elite, and the knowledge elite. They gauged these recommendations against changes in the international environment, the potential benefits of establishing a regional enforcement mechanism to ensure the country's economic gains, and to a lesser degree, mass perceptions.

⁵² A group of Attorneys-General that outlined the structure and design of the CCJ.

⁵³ Economic and knowledge elites.

bargaining power of member states and their desire to overcome shared problems (See Figure 5).

Through the Conference of the Heads of Government mechanism, Kenny Anthony, former Prime Minister of St Lucia and the Grenadines, recalls that in 1997,

the governments of Jamaica and Barbados proposed that what was then styled the 'Caribbean Supreme Court' be renamed the Caribbean Court of Justice in recognition of the fact that the court would be invested with both an original and appellate jurisdiction. In effect, then, Jamaica has been intimately involved with shaping of the court as an institution from the very beginning and at very fundamental levels (Anthony cited in Franklyn, 2005, p. 283).

The name change was adopted by political leaders at the Nineteenth Conference of the Heads of Government held in St Lucia and the Grenadines in 1998 (CARICOM Secretariat, 1998). Even though the WIC suggested a regional court with both jurisdictions in 1992, drafts for the Caribbean Supreme Court previously focused on the appellate jurisdiction. The name change and the adoption of an original jurisdiction found its way into the subsequent 1998 draft CCJ agreement (Pollard, 2004). Changes to the agreement (1) reflected the name change (Article III § 5); (2) clearly expressed that there are two jurisdictions (Article III § 1a and 1b) and outlined the role and operation of each jurisdiction (Original Jurisdiction – Part II [Articles XI – XXIV] and Appellate Jurisdiction – Part III [Article XV]); and (3) the need for judges to have background in international law, particularly international trade law (Article IV § 1).

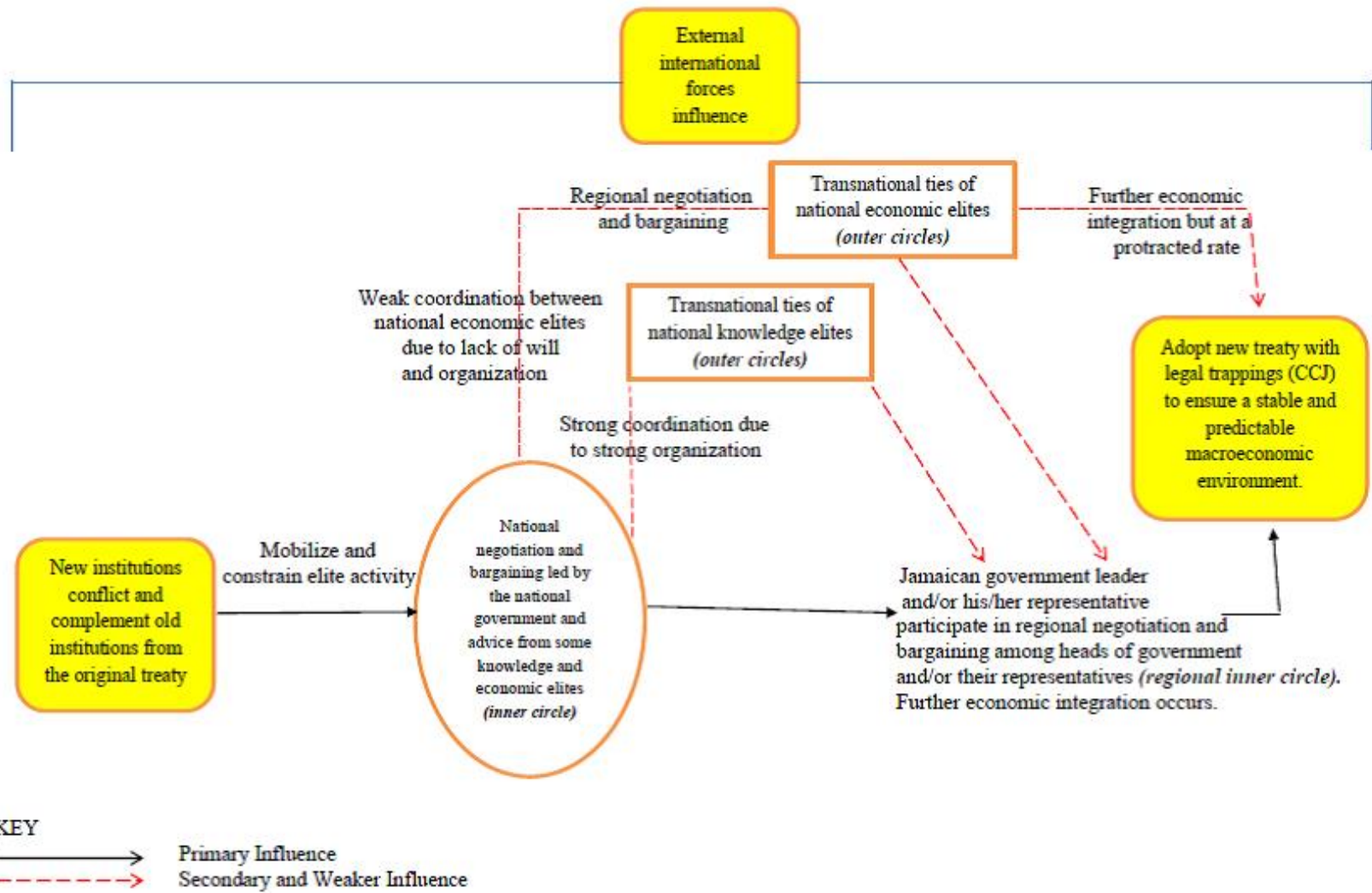


Figure 5. Jamaican Elite Activity and Institutional Development During the Regional Integration Process.

Details of the substantive bargaining, that is the potential concessions and/or threats among the CARICOM states, could not be determined due to the denial of access to the minutes of the Conferences of the Heads of Government. However, the degree of influence from the Jamaican government cannot be denied given that the suggestion made by it and Barbados was unanimously voted for by the Conference, (Boxill, 1997; Gilbert-Roberts, 2013; Lewis, 2002; Payne, 1980; Payne, 2008). The bargaining did lead to a new institutional choice of a regional court that would not only oversee the region's criminal and civil cases, but one that would interpret and enforce the RTC.

Concerning Preparatory Committee on the Caribbean Court of Justice (PREPCOM), Jamaica again dominated. PREPCOM membership consisted of six out of the fifteen member states of CARICOM – Jamaica, Trinidad and Tobago, Barbados, Guyana, St Kitts and Nevis, and St Lucia and the Grenadines. The former four states are designated as MDCs, while the latter two are considered LDCs. As a consequence, one calculates that the larger and/or wealthier states had an approximate sixty-seven percent influence on the CCJ structure. Jamaica held the Deputy Chair position on this committee and oversaw a number of the drafts when the Chair was unable to attend committee meetings.⁵⁴ Accessibility to these drafts was denied, which limits my ability to more precisely determine the substantive bargaining and more specifically Jamaica's influence in these meetings. However, the degree of influence from Jamaica has been recognized

⁵⁴ In a parliamentary speech on May 9, 2003 then Attorney General of Jamaica, A.J. Nicholson, noted that the agreement establishing the CCJ went through eight drafts (Nicholson in Franklyn, 2005, p. 223).

because eighty percent of the CCJ Agreement reflected the submissions provided by the Jamaican elites (Pollard, 2004).⁵⁵

It is suggested that there was general collaboration and healthy debate among the PREPCOM representatives on what the final structure of the CCJ should be (Pollard, 2004). Duke Pollard (2004, p. 38) remarked that PREPCOM took an inclusive approach to the development of the Agreement establishing the CCJ. A member of PREPCOM supported that point stating, “Jamaica was the deputy chair of the preparatory committee. Barbados was the chair...The other AGs on the committee were from Guyana, Trinidad and Tobago, St Kitts Nevis, St Lucia and Barbados. We all learnt a lot from each other and talked it out...It [the final structure of the Agreement establishing the CCJ] was the idea of all of us within PREPCOM” (JM18, Interview, July 31, 2012). But given that most of the suggestions from Jamaica ended up in the final document, the inclusive argument seems illusive. Inclusiveness should have amounted to a more balanced document that reflected a more equal representation from both MDC and LDC representatives.

Regional Dynamics: Discussion. Neo-functionalism maintains that the economic elite and interest groups should be at the center of regional integration process. However, if neo-functionalism on its own was to have explained negotiations and bargaining surrounding the development of new institutions there should have been the opening up of the regional arena to all types of elites. It was expected that transnational ties between Jamaican and other member state’s economic and knowledge elites would develop as they become more aware of regional rules and compete and coordinate with one another

⁵⁵ For the specific suggestions provided by the Jamaican elite refer to Table 6.

resulting in “incremental [and strategic] economic reform along the line of least resistance” (Hooghe & Marks, 2008, p. 4). However, while this was true for the Jamaican knowledge elite, who had established links through the regional university – The University of the West Indies, this was not so true for the economic elite. There were attempts at transnational ties, but the links were weak and their regional influence was limited. Therefore, liberal intergovernmentalism is the superior theory in explaining Jamaica’s path towards greater integration with other CARICOM member states and the establishment of the CCJ. National preference formation, interstate negotiation and bargaining, and Jamaica’s reasons for/against a move towards the transfer of sovereignty to a regional organization (the CCJ) can be traced through the available documentation.

Jamaica’s high degree of influence is on account of its size. Its size accounts for the state’s ability to train and secure skilled personnel who would help to develop, promote, and provide alternative proposals for the development and structure of the CCJ (Braveboy-Wagner, 2003; Buddan, 2001). Conclusively, the greater the expertise and experience of the personnel, the more powerful and influential the state. This increases the state’s likelihood of participating in and influencing regional negotiations and bargaining.

Smaller states would be faced with a narrow range of institutions and more centralized governments (Buddan, 2001). Consequently, these states would be less likely to offer resources and services that would provide the experience and expertise needed to provide the best proposals for the CCJ’s institutional design. The experience and expertise would be limited to a few persons within the central government or would have likely migrated to other foreign countries where they would be better compensated.

Therefore, the LDCs may be more dependent on an external actor, in the form of Jamaica, “to supplement...and compensate for their relative incapacity” (Buddan, 2001, p. 15). One interviewee spoke about the differences in skill and expertise between Jamaica and the smaller Eastern Caribbean countries. A former head of the JMA stated “we try to give [small Eastern Caribbean countries] ideas because Jamaica has gone through things...They are a few years behind us, not necessarily economically but their government agencies are behind. And when you go down to those countries to do business you show them what we have done and help them to avoid some of the problems we have had” (JM20, Interview, August 8, 2012).

An added explanation for Jamaica’s high degree of influence at the Conferences and PREPCOM may be on account of its domestic politics. Throughout this whole process Jamaica had single party majority governments. This meant that the political leadership and its agents were very powerful given the security their party held locally. This would have translated into their aggressiveness during regional negotiations. This is discussed further in the domestic dynamics section of below.

In sum, Jamaica’s large allotted CARICOM contributions to CARICOM, its designated economic status, its large size, domestic politics, and the Eastern Caribbean’s dependence on the Jamaican market (CARICOM Secretariat, 2005) are determining factors that result in the country’s high degree of influence on decisions made affecting all CARICOM member states. This confirms Jacqueline Anne Braveboy-Wagner’s (2003, p. 45) observation that “within the region, relative size (Jamaica) and wealth (Trinidad and Tobago) are significant: they translate into greater *regional* influence, and the assumption of strong global and hemispheric roles *on behalf of* the region.”

The discussion now moves to the domestic level of analysis in order to explain how Jamaica's local elites' negotiations and bargaining defined national preference on the structure of the CCJ.

DOMESTIC DYNAMICS OF REGIONAL INTEGRATION

Theory. Domestic dynamics involve the interaction between the state and society. Neither is mutually exclusive, and events and actions in one dimension will affect the other. The state addresses the laws and policies formulated, the structure of government, and the politicians that manage the state. The society addresses the rights and opportunities citizens garner based on the demands they make on the state. Society entails civil society and individual participation and influence. Civil society is a set of associations people create and act through the public sphere outside of the household. It acts as "a sphere of action that is independent of the state and is the counterweight to the state" (Buddan, 2001, p. 107).

Democracy, defined as a system "for arriving at political decisions in which individuals acquire the power to decide by means of a competitive struggle for the people's vote" (Schumpeter, 1947, p. 269), provides the political system with the rules of the game that structure behavior and interaction among human beings. In the context of the Anglo-Caribbean, democracy is practiced through the Westminster Parliamentary Model (Verney, 1959).

The main features of the Westminster parliamentary system consists of the following: the role of the head of state is separate from that of the head of government, the executive is drawn from the assembly and is directly responsible to it, and the leader of the party that commands the support of government becomes the Prime Minister and

forms the government (Derbyshire & Derbyshire, 1991). The main principle that governs the system is parliamentary supremacy and sovereignty.

In the Westminster system, citizens using individual action or civil society may influence state policy through three avenues. The first avenue is through their local member of parliament (Derbyshire & Derbyshire, 1991; Shugart & Carey, 1992; Weaver & Rockman, 1993). The second avenue is by way of the state bureaucracy. The third avenue is via the executive (Sartori, 1994; Weaver & Rockman, 1993). However, given the executive dominance associated with the parliamentary system, a citizen or group would effectively try to approach the cabinet members in the first instance (Derbyshire & Derbyshire, 1991).

The effectiveness of a civil society group in affecting policy via the above avenues depends on three factors – civil society's organization, its values, and the environment (Association of Development Agencies [ADA], 2006; Witter, 2004). Organization relates to the group's composition, size, stability, and resources. Values reflect whether an interest group practices and promotes democracy and tolerance, is accommodating, and can organize others around the same issues (Putnam, 1993). The environment covers the political, social, and economic culture and circumstance of a country and the established relationship between civil society and government. Policy will, therefore, be affected by the domestic political, economic, socio-cultural elites and the public.

Effectiveness is further determined by the structure, form, and mode of the relationship between state and citizen. According Michael Witter (2004, p. 7), structure is the “set of arrangements for facilitating participation... [that are] not left to chance or to

ad hoc personal contacts.” These arrangements are made through contracts signed between the state and the civil society group, public bodies that consist of both the state and civil society representatives, and/or the state assigning an official to oversee coordination between the two groups. Form is the process by which the arrangement is carried out (Witter, 2004). This includes but is not limited to civil society’s recurring meetings with and regular consultations from state officials and the submission of reports to the state and the media. Mode is the “type of participation... [that ranges] from passive observation to active voting on decisions” (Witter, 2004, p. 7-8). It also includes offering expert advice.

Background. In the Jamaican context, the relationship between the state and civil society is affected by two conditions – the condition of colonization and the condition of slavery. The condition of colonization refers to the historical fact that Jamaica had been governed by and in the interest of a mother country and not for the local people (Barrow-Giles, 2002; Buddan, 2001; Johnson, 2011; Mills, 1997; Ryan, 1999). The condition of slavery is the degree to which the legacy of slavery had undermined the conditions for a free and politically active society (Barrow-Giles, 2002; Buddan, 2001; Johnson, 2011).

The condition of colonization saw Jamaica adopting a form of the Westminster parliamentary system called the Whitehall model.⁵⁶ In conjunction with the legacy of a Crown Colony Government (CCG) it produced limited representation with authoritarian and anti-democratic features in the form of charismatic leadership and Caribbean styled patronage politics (Buddan, 2001; Barrow-Giles, 2002; Munroe, 1999; Ryan, 1999). It

⁵⁶ It contained all of the features of the British parliamentary system but also included a written constitution, an official Leader of the Opposition, the nomination of Senators to the Senate and a Bill of Rights that constrains parliament (Mills, 1997; Ryan, 1999).

further used a single-member district plurality (SMP) electoral formula that results in the “candidate who receives the most votes, whether a majority or plurality, [being] elected” (Lijphart, 1999, p. 146). This led to a stable two party system and produced single party majority governments (Barrow-Giles & Joseph, 2006; Emmanuel, 1992). During the period of investigation, governments in Jamaica tended to be majorities from one political party or the other.

Table 4

Electoral Outcomes in Jamaica from 1980 – 2002

Year	Political Party	Number of Seats Won in the House of Representatives (T=60 seats)	Percentage of Seats Won in the House of Representatives (T=100%)
1980	JLP	51	85
	PNP	9	15
1983 ⁵⁷	JLP	60	100
	PNP	-	
1989	JLP	15	25
	PNP	45	75
1993	JLP	8	13
	PNP	52	87
1997	JLP	10	17
	PNP	50	83
2002	JLP	26	43
	PNP	34	57

Note. Adapted from *General Elections & Voting in the English-Speaking Caribbean 1992 – 2005*, (pp. 115-116), by C. Barrow-Giles and T. Joseph, 2006, Kingston, Jamaica: Ian Randle Publishers.

However, the public has still been able to influence governmental decisions due to the country’s relative small size (Munroe, 1999; Witter, 2004). Political elites are in regular contact with the public through numerous formal and informal familial and social circumstances. Additionally, Jamaica is known for its “proliferation of Talk Shows on

⁵⁷ The PNP did not contest this election.

radio and television, [from which] leaders are forced to hear the voices of citizens throughout the day” (Witter, 2004, p. 10; Johnson, 2011; Munroe, 1999).

Whether or not they listen to the public rests largely on the political elite’s discretion. It was found that between the period of emancipation and the start of the nationalist movement in the 1930’s, Jamaican society was paternalistic (Taylor, 1999). Persons identified with their immediate locality and paid no attention to, had little knowledge of, and seldom spoke about politics. They also did not have the ability to influence policy. There was low black self-esteem, deference to leaders, and the acceptance of white authority and colonial/Eurocentric values (Buddan, 2001). During the nationalist period to the 1960s, there was the rising middle class, the promotion of Caribbean and Jamaican identities, and the growth of local power through the founding of new political parties, the establishment of trade unions, and the acquisition of voting rights that led the movement towards self-government. The foreign interest political elite continued to ignore the public but negotiated and collaborated with the newly-formed local political parties and labor unions so as to maintain order within the Jamaican society (Johnson, 2011; Witter, 2004). Any protest was coordinated by the political parties and labor unions. In recent years, however, when the public is ignored and it has resulted in civil unrest. Since the late 1980s the Jamaican public has been more active in affecting policy. The most notable instance was the April 1999 gas riots that spread across the country after Prime Minister PJ Patterson announced a 31% increase on the price of gasoline (The Jamaica Gleaner, April 28, 2009).⁵⁸

⁵⁸ The Prime Minister was initially defiant and suggested that there would be no rolling back of the tax; however, he had to backtrack when the people would not let up in their protest. It was only when he established a committee consisting of the business elite and other civil society members that the disquiet

Jamaican civil society has been identified as professional organizations, trade unions, non-governmental organizations (NGOs), academia, religious organizations, the private sector, political parties and community-based organizations (ADA, 2006; Buddan, 2001; Johnson, 2011; Witter, 2004). The Jamaican civil society saw its genesis with the end of slavery and the establishment of free villages by Jamaican Baptist and Moravian missionaries without the assistance of and with hostility from the Jamaican state (ADA, 2006; Buddan 2001; Johnson, 2011; Witter, 2004). With free villages came the development of professional associations to organize and train professional, commercial, industrial, and agricultural workers (ADA, 2006; Buddan, 2001; Johnson, 2011; Witter, 2004).

By the nationalist period, civil society groups found purpose in constructing a new order towards self-government. They became more politically oriented, which later blurred the lines between the state and civil society. To begin, trade unions took on a political character by becoming arms of the political parties in the 1950s.⁵⁹ Second, through Norman Manley, leader of the PNP, with support from the private sector, who formed numerous volunteer and civic organizations under Jamaica Welfare in 1937, which later became a government-owned entity (ADA, 2006).

ended. The committee made recommendations on how to lower the tax increase and resolve the impasse (The Jamaica Gleaner, April 28, 2009; Johnson, 2011; Witter, 2004). It is from this experience that the modern Jamaican political elite has aimed at balancing its authoritarian tendencies with greater participation from the public.

⁵⁹ Trade unions (The Bustamante Industrial Trade Union (BITU) in 1938, The Trade Union Congress (TUC) in 1942, and The National Workers Union (NWU) in 1952) and political parties (The People's National Party (PNP) in 1938 and The Jamaica Labour Party (JLP) in 1943) arose due to social unrest in the country. The BITU, established in the 1938, was headed by Alexander Bustamante, who was also leader of the JLP. The NWU was formed by the PNP to counter the BITU in 1952 (ADA, 2006; Johnson, 2011).

In the post-independence era, particularly in the 1970s under the PNP's center-left democratic socialist government, Jamaica saw many civil society groups being funded by the state (Barrow-Giles, 2002; Buddan, 2001). The late 1980s saw a fall in state funding to civil society groups with the introduction of SAPs. This led to a rise in groups seeking to challenge the state on the negative effects of these SAPs on welfare and development as well as a rise in independent groups that focused on post materialist issues such as democracy, human rights, women rights and environmental issues (ADA, 2006; Buddan, 2001; Johnson, 2011; Witter, 2004).

With this history, the relationship between civil society and the state in Jamaica can best be described as swinging between eras of cooperation and conflict. The 1960s and 1970s saw more cooperation and the blurring of the lines between the two. By the 1980s the decline in financial support from the state saw less collaboration and more conflict as civil society began to challenge the state's handling of the economy under its voluntary adoption of the tenets of neoliberalism. The 1990s saw the re-emergence of collaboration between some interest groups and the state, which Michael Witter (2004, p. 14) attributes to government's recognition of "the legitimate role of civil society as a partner in governance, in large part because of its regional and international commitments" (p. 14). This essentially demonstrates that Jamaican political leaders and civil society do not interact in a vacuum as their interactions are also affected by foreign commitments and adopted foreign worldviews.

Domestic Elite Influence.

Political Elite Influence. My research shows that both political parties in Jamaica, which are located close to the center moderately to strongly favored regional integration

and its supporting institutions. Six members of the right of center party, the Jamaica Labour Party (JLP),⁶⁰ and four members from the left of center party, the People's National Party (PNP),⁶¹ were interviewed. It was found that all members of the PNP supported further economic integration and the CCJ wholeheartedly (both the original and appellate jurisdictions), while three of the six from JLP members rejected further economic integration. All six JLP respondents supported the CCJ's original jurisdiction but not its appellate jurisdiction. Hence, the court of original jurisdiction is supported by both parties and they all see great potential for this court as it begins to hear more cases in this jurisdiction.

The left of center political party has supported regional integration and its institutions more than the right of center party; however, this did not entirely prove the cleavage theory of party positions on integration. The expected vast differences between various types of parties and ideologies on the issue of regional integration, as seen in Europe, are negligible in Jamaica. Also, it should be mentioned that given that the center-left PNP had been in power for the development stages and establishment of the CCJ (1989-2005), the position of government remained consistent during that time and any objections from the center-right JLP did not hinder the effort to any significant degree (See Table 4). Governments in Jamaica tend to consist of single party majorities. Thus, the political leadership wields a lot of power in policymaking given this majority and the security garnered in the individual leader's position within his/her party.

⁶⁰ The Jamaica Labour Party (JLP), which also espouses welfarism, is more conservative in its approach and is representative of a right of center political party.

⁶¹ The People's National Party (PNP), built on the ideals of social democracy, is representative of the left of center political party.

My research suggests that the greater ideological influence on the individual/government is the ideology of nationalism (largely espoused by the JLP) versus the ideology of regionalism (largely espoused by the PNP). These two ideologies are not mutually exclusive. According to Ian Boxill (1997, p. 29), an ideology of regionalism will allow for the “commonality of perception, explanation and action in relation to regional integration among the people of the region.” It will exist when there is a strong sense of community among the participants due to a perceived regional identity, and when the action towards and explanation for regional integration is identical for said participants. Such an ideology will shape the political, economic and social institutions necessary to perpetuate regional integration while establishing a process that will disseminate ideas, beliefs, attitudes and values to support the integration process.

The ideology of nationalism promotes a distinct identity and social differentiation and tends to exist when there is limited interaction and divergent economic goals and political systems with other states. Nationalism is inwardly directed. An ideology of nationalism will resist anything that tries to rise above the power and authority of a state. It does so by setting restrictions on the development of supranational organizations and a regional identity. It seeks to limit supranational institutions so that there is very little intervention in how a state exercises its sovereignty (Bolles, 1963; Kacowicz, 1998). The ideology of nationalism and the ideology of regionalism will always coexist, but that which is most dominant is dependent on the actions of the political elite because they are the source of ideation and ideology. The ideology to which they throw their greatest support will be the dominant ideology.

In this sense, historical events (such as the failure of the West Indies Federation) and a leader's attachment to and affection for other CARICOM countries have dictated party position on regional integration and its institutions. There is no formal position on integration in the parties' manifestoes or other official documents. It stems from the position held by the founder of each party and said position has been carried down to each new leader. Norman Manley, founder of the PNP, was one of the main Caribbean negotiators during consultations between the British Government and the new and emerging Caribbean leaders. These negotiations produced the federal formula named the West Indies Federation. Norman Manley stated the Federation was "the shortest road to our political ambition of nationhood in the West Indies" (Mordecai, 1968, p. 42).

Alexander Bustamante, founder of the JLP and an agitator for self-government prior to the establishment of the Federation, stated that the Caribbean colonies were given a federation instead of self-government, which they advocated for, and as such it was doomed to failure (Padmore 1997, pp. 6-7). Bustamante later played upon Jamaica's isolation from the rest of the Anglo-Caribbean and campaigned for Jamaica's withdrawal from the West Indies Federation, while Manley believed and hoped Jamaicans would continue to support the Federation. This resulted in a highly politicized referendum in 1961 that led to Jamaica leaving the West Indies Federation. The final results saw 54% of the votes supporting withdrawal and 46% wanted to remain in the Federation (Neita, June 23, 2011; The Jamaica Gleaner, June 14, 2000).

Since this era, subsequent party leaders and senior party members have continued along the trend of the parties' founders. All of the PNP party leaders have continuously supported strengthening regional integration. Jamaican political scientist Terri-Anne

Gilbert-Roberts (2013, p. 231) noted that PNP leaders “Norman Manley, Michael Manley, and PJ Patterson are among those counted as stalwarts of the integration movement.” Michael Manley, one of the founders of CARICOM, had been described as being one of the biggest advocates among the Anglo-Caribbean political leaders for the common market proposal that would later transform CARIFTA into CARICOM in 1973 (Gilbert-Roberts, 2013; Payne, 2008). Additionally, he is credited as being a part of the new wave of interest with his re-election to Prime Minister in 1989. It is recorded that he had “pledged once more to involve Jamaica more fully in the activities of the region” (Payne, 2008, p. 263).

PJ Patterson, PNP leader and Prime Minister during the CCJ negotiations and establishment, pushed fervently for its ratification in the Jamaican parliament as a show of Caribbean unity and the removal the last vestiges of the colonialism (Franklyn, 2005; Ryan, 2001). The current PNP leader and Prime Minister, Portia Simpson Miller, continues to reaffirm Jamaica’s commitment to CARICOM and has had her government table legislation to have the CCJ’s appellate jurisdiction ratified (The Jamaica Gleaner, October 28, 2013).

JLP leaders, on the other hand, have more often than not called for Jamaica to go on its own or limit the power of CARICOM’s supranational institutions. With Seaga, “[the] region was left with no doubt that during the 1980s CARICOM matters were a much lower priority in Kingston than the question of Jamaica’s dealings with Washington” (Payne, 2008, p. 259). Additionally, as JLP leader and Prime Minister, he fought other proposals that sought to integrate regional security and health and establish a regional parliament (Payne, 2008, p. 262). By the 1990s and 2000s, Seaga was an ardent

opponent against CARICOM moving towards an economic union that would become a reality under the full realization of the CSME. He proposed that CARICOM adopt strategies that would result in economic cooperation as opposed to economic integration so as to restrict CARICOM's influence over Jamaica's economic policy (Gilbert-Roberts, 2013; Seaga, 2004, 2006). Recently, Gregory Mair, Opposition Spokesman on Industry, Commerce and Energy, has stated that “[p]robably we should start putting Jamaica first...this arrangement with CARICOM, what has been the advantage, the benefit for the people of Jamaica?” (The Jamaica Gleaner, April 23, 2012). The current leader of the JLP, Andrew Holness, has stated he did not believe Jamaica's economic interests were being served by CARICOM and supported his spokesman's call for a temporary withdrawal from the economic integration pillar of CARICOM (The Jamaica Gleaner, August 2, 2013).

An even more pronounced determinant than the ideologies of nationalism and regionalism is the influence of partisanship. It is the party leader's position on the issue that dictates the stance of the party. This is on account of the high discipline associated with political parties in parliamentary systems. This feeds into the ongoing opposition for the sake of opposition, which dictates Caribbean politics. Jamaica is known for its political tribalism that divides both government and society into two camps under the auspices of the PNP and JLP. This undermines trust between the camps and solidifies divisiveness in the country, which further frustrates long-term policy development and continuity when there is a change in government (Anderson-Manley, April 23, 2007).

On occasion, even when parties agree on a policy direction, the opposition party will resist said policy; however, once this party regains power it will ‘reimagine’ it and

present it as its own. One jurist criticized the political parties because “[when] one party is in power they are pushing the CCJ as a good thing but once they are out of power they say something different and I think that is the type of intellectual dishonesty that needs to come out and especially where you have strong tribal politics” (JM03, Interview, July 19, 2012). A senior JLP member and jurist extends this view to include all CARICOM member states. He/she notes “that the fierce competition amongst political forces have been a hindrance to the development of the CARICOM region. Politicians unfortunately behave like dons. They want their own turf and a lot that could be accomplished have been hindered because one country is of the view that we’re not going to do that” (JM07, Interview, July 24, 2012).

A prime example of this is that both parties supported the idea of a Caribbean Court throughout different times in history. One junior academic with a specialization in Caribbean politics remarked,

Hugh Shearer⁶² in 1970, Prime Minister of Jamaica, proposed something like a CCJ that would have been consistent with the development of regionalism and...settle disputes at the Caribbean level. By 1974, Seaga became leader of the JLP and...The idea sort of fell away, ironically, at a time when CARICOM was formed because the JLP’s position was that the CCJ was a way of returning to federation through the back door. And, that phrase “federation through the back door” became a consistent phrase used by the JLP right up to the end of Seaga’s period. (JM01, Interview, July 17, 2012)

However, by the 1987, Seaga was one of the first prime ministers who supported Trinidad’s pitch for a Caribbean Court of Appeal (Payne, 2008, p. 262). As the opposition throughout the 1990s and the early 2000s, he reverted to his original position and became an ardent opponent of the Court on the bases of Jamaica’s economic

⁶² Leader of the JLP from 1967- 1973 and Prime Minister of Jamaica from 1967-1972.

uncertainty, the potential lack of independence of the Court, and the desire to remain with the Privy Council (Payne, 2008; Ryan, 2001; Seaga, 2004).

In all, the idea that ideological cleavages predict policy is modest as best. It is more a matter of degree than a black and white scenario. The explanation is more complex and less stark. While it is more obvious that one party throughout its history is more nationalist and the other maintained a more regional outlook, I found that the political parties' disagreement on furthering regional integration rests largely on partisanship. What you have is grandstanding, the pursuit of ambitions, and the desire to win votes that politicizes issues to suit the party. This feeds into the political party, in this case the JLP, playing up nationalism for political ends and downplaying the Caribbean as an identity among its allies. This results in a lack of support among followers for the strengthening or establishment of more supranational institutions that would further tie Jamaica to other CARICOM states. For them, CARICOM acts as a secondary factor in Jamaica's development.

The opposite is also true as the other political party, the PNP, plays up regionalism for political and economic ends because it believes that through a closer political and economic union Jamaica can best serve its citizens. For them, CARICOM does act in a secondary role but complements the national agenda. Thus, interest in the CCJ and regional integration remains positive, but staggered, and is based on the discretion of the party leader and his/her influence over others in pursuit of this agenda.

Economic Elite Influence. The economic elite should be among the key stakeholders as early preferences towards CARICOM were largely economic. By extension, this ought to have improved the organization of and the unity of mind among

all economic elites, which would have led to their greater influence on the political elite towards furthering economic integration; however, this did not occur in its entirety. As previously revealed, economic elite groups influenced Jamaica into joining CARIFTA and many local businessmen supported the formation of CARICOM (JMA, 2008; JM11, Interview, July 26, 2012; Payne, 2008). However, by the 1980s, the tide turned and the local economic elite remained silent on regional integration issues. To this effect, a member of the opposition and former foreign affairs and foreign trade minister argued that during the development of the CCJ in the late 1990's there was "[no] collaboration with any economic or sociocultural elite. There were outside collaborations with a few politicians talking to the legal fraternity...there was this informal [opposition] committee set up [to review the proposed CCJ]" (JM05, Interview, July 20, 2012). A trade specialist and former head of a Pan Caribbean multinational company agreed as he/she recalls, "I worked for two years with the Attorney-General and his CCJ committee. I stayed the whole two years and I was the only private sector member on it" (JM17, Interview, July 31, 2012).

As previously disclosed the lack of economic elite involvement in regional integration has been a result of neoliberal policies under Seaga and the corresponding changes in the international environment. This changed the composition of the group. Jamaica, like the rest of the CARICOM region,⁶³ became saturated with merchants and traders as opposed to industrialists, manufacturers, and producers. A senior academic who specializes in Caribbean politics and integration observed that the "economic elite

⁶³ Trinidad is the exception. This is discussed in Chapter 5.

that has the most influence is not the productive elite but the merchant elite, the ones that import. A lot of the protectionisms come from there” (JM22, Interview, August 16, 2012). One manufacturer and former government official recalled that under the WTO Agreement,

...the fledgling producer has to compete with a producer from a first world country...and it was more competitive. So, the local manufacturer had to go out of business and...went into the business of importing. And, once they saw where it was more lucrative to import and get rid of all the hassles with machines...more people followed and the manufacturing community just shrank... it was 22% of GDP at one stage and now is just around 12%. (JM19, Interview, August 2, 2012)

Jamaica’s interest in Caribbean integration was maintained through the few local Pan Caribbean manufacturing businesses that remained and the subsidiaries of other CARICOM multinational corporations (McDonald, 2005; Pollard, 2004). A senior academic of international business opines, “if you didn’t have the Grace Kennedys,⁶⁴ the Goddard Group,⁶⁵ the Neal and Massys,⁶⁶ and have these people doing things and getting things integrated, nothing is going to happen” (JM21, Interview, August 15, 2012).

Consequently, the majority of the local economic elite did not exert much influence on national government representatives (the political elite) in support for greater regional economic integration, with the exception of large Pan Caribbean economic elites, until they experienced losses or increased competition in international and traditional markets.⁶⁷ Members of the Jamaican economic elite sought to take

⁶⁴ GraceKennedy is a Jamaican owned Multinational Corporation. It is the largest of its kind in the Caribbean.

⁶⁵ The Goddard Enterprises Limited is a Barbadian owned Multinational Corporation.

⁶⁶ Neal and Massy Limited is a Trinidadian owned Multinational Corporation.

⁶⁷ See the International Dynamics section of this chapter.

advantage of the market that garnered the greater economic gains, which at the time was primarily the US market (McDonald, 2005). This dynamic divided the economic elite forming the outward focused economic elite, which primarily consists of merchants and traders, and the inward focused or Pan Caribbean economic elite, which is composed principally of Jamaican manufacturers and CARICOM multinational corporations (JM19, Interview, August 2, 2012; McDonald, 2005). As trade patterns changed for the worse in traditional markets, the outward focused economic elite did aggressively turn their attention to the already established regional market they had ignored. This was done in order to realize the greatest possible returns. They supported the establishment of new regional institutions that favored their economic goals and protected their interests.

This support, however, was less in the form of direct involvement in the development of the CCJ's original jurisdiction,⁶⁸ but more in indirect support for its role. The *Jamaica Observer* conveyed that “[the] business sector said it fully supported the regional Caribbean Court of Justice (CCJ) as a trade court, except for a minor concern over the issue of interpretation that it said could undermine the role of the court” (Henry, March 27, 2005). It also included a statement from the PSOJ that declares

[as] business, we require foreseeability and credibility in a regional justice system, which will seek to safeguard our rights and uphold our responsibilities as laid out in the Treaty of Chaguaramas... The court... was essential to the furtherance of the objectives of the Treaty of Chaguaramas and, in particular, the development of the CSME as a purveyor of important benefits and advantages to businesses throughout the region. (Henry, March 27, 2005)

Knowledge Elite Influence. The knowledge elite show greater consensus on the benefits of regional integration and the need to strengthen associated organizations, like

⁶⁸ To be discussed in more detail in the degree of influence section below.

the CCJ, to ensure CARICOM's success. All seven members of the knowledge elite⁶⁹ recognize that CARICOM has found success in functional cooperation areas such as health, education, and foreign policy, but lacks the same success in trade and economic integration.

The knowledge elite influence is limited for some, but very open for others. From interviews with the seven members of Jamaica's knowledge elite, those with limited influence mainly write papers and articles on the subjects of regional integration, regional and national policies, and the CCJ, for which no direct link can be made as to whether these points were received by the political elite and/or forwarded to PREPCOM. One junior academic with a specialization in Caribbean politics pointed out that "I teach and publish on the subject [of the CCJ] and hoped some of the ideas filtered through." He further noted that influence is limited because

governments of the region were not taking enough advantage of the resources of UWI and that is a result of an absence of mechanisms for governments to know what those resources are to access the research and findings from the different departments, and be guided by the different recommendations. (JM01, Interview, July 17, 2012)

For other members of the knowledge elite, they have been called on to sit on committees, formulate working papers for government officials, and/or represent their country at CARICOM gatherings or CARICOM at an international forum, thus, being active on two levels - policy development and initiatives and in research (JM10, Interview, July 25, 2012). The difference between these two groups is seniority, which is based on the academic's years of research and/or his/her holding a diplomatic or political

⁶⁹ This is inclusive of one person who is also a member of the economic elite and another individual who is a member of all elite groupings. They were included due to their contributions to this field.

position at one time or another. This was deduced from the interviewees' responses and status in and outside of UWI. Of the seven members of the knowledge elite, four were senior academics, while three were junior academics. All four fit at least one of the criteria for direct influence on policy, while the remaining three were restricted to the simply teaching and publishing in newspapers, books, and journals on the topic.

There still exists an unevenness in the direct influence of the knowledge elite.

Another senior academic and administrator observed:

We have dozens of people making commentary and producing proposals on regional policies...they act as consultants to governments and...they sit on statutory boards within groupings in CARICOM. We send our experts to stand in those meetings...scholars use their intellectual capacity whether wanted or unwanted. A lot have been written but we don't know how it has been taken... There is a communication problem. Even if you write people and they don't respond you feel frustrated. People work with people they know. They may be better at networking and been around longer" (JM15, Interview, July 30, 2012).

With specific reference to the local committee established to provide PREPCOM with Jamaican submissions, no member of the knowledge elite sat on this committee. It consisted of four members of the political elite and one member of the economic elite.

Influence of Mass Public Opinion. There were a few public education exercises carried out in Jamaica before and after the signing of the CCJ Agreement. I was unable to determine whether these exercises influenced the political elite or merely served as a forum for the public to learn about the role of the Court.

The methodology used by the WIC and a very few surveys done among ordinary citizens on the topic during the period under investigation confirm that CARICOM and other researchers and pollsters focused most of their attention on and questioning to the elite members of society. The WIC held five public consultations in Jamaica – two in

Kingston, and one in Mandeville, Montego Bay, and Port Antonio, respectively.

However, according to Appendices E and F of the WIC Report, most of the Jamaican submissions to the commission came from representatives from the government and opposition, UWI academia, civil society groups, and the media. Like the public education program, I was unable to determine whether these meetings influenced the political elite. This is due to a lack of access to these records.

Any survey or poll conducted before or after the signing of the CCJ Agreement centered on hotly debated or divisive aspects of the appellate jurisdiction of the Court. However, the responses to these surveys do provide insight into the ordinary man's view of the Court, which can be telling for the public's degree of involvement in the structuring of the Court. In an unpublished survey conducted between May and June 2003, entitled *Draft Report on Jamaican Perceptions of Regional Integration*, 1581 Jamaicans from all walks of life were questioned about their knowledge of institutions associated with regional integration. When asked about the CCJ, the researchers found that unprompted, only 6.9% of the respondents associated the CCJ with regional integration; however, when prompted this figure increased to 57.7% with 35.4% having no knowledge of the link between the two (SALISES Research Team, 2003, p. 3).

Table 5 shows responses from 1577 respondents who were asked additional questions about the CCJ.

Table 5

Jamaicans' Responses to Questions Asked by the SALISES Research Team about the CCJ

(N=1577)

Question	Yes	No
Have you heard about the CCJ?	77.8%	22.2%
Is the CCJ a regional court of justice? ⁷⁰	39.5%	60.5%
Is the CCJ a court to settle disputes from the CSME?	10.5%	89.5%
Should the CCJ be final court of appeal only for matters of regional disputes?	70.5%	29.5%

Note. Adapted from *Perceptions of Regional Integration (May/June 2003 Survey)* (pp. 4-5) by the SALISES Research Team, 2003, Kingston, Jamaica: Unpublished.

These responses show that the public education programs did not work in Jamaica as the public was unable to recognize the original jurisdiction role of the Court. It also shows there is a high probability that the public did not contribute to the structure and establishment of the CCJ's original jurisdiction. The lack of knowledge on original jurisdiction could be a result of the very public focus and debate on the appellate section of the Court, and whether Jamaica should remain with the Privy Council.

The public was bombarded with a proliferation of newspaper editorials and articles⁷¹ and discussions on public talk radio and in parliament⁷² on the CCJ. The debate, however, was among highly skilled professionals, tertiary educated individuals, and the middle to upper class members of society. Groups, such as the Jamaicans for Justice (JFJ), contended Jamaica was being hasty in leaving the Privy Council and joining the CCJ (Franklyn, 2005; Ryan, 2001). They labelled it the 'hanging court' and suggested that a step towards joining the CCJ was a step back for human rights (Franklyn, 2005; Ryan, 2001). Additionally, the JFJ, the JLP, and the Jamaica Bar Association (JBA)

⁷⁰ Only the 77.8% of the respondents who answered yes to the previous question answered this question.

⁷¹ No less than fifty written in the Jamaica Gleaner, The Jamaica Herald and the Jamaica Observer between the years 1999 to 2005 by politician and attorney Delroy Chuck, representatives from the Jamaica Bar Association, political scientists Robert Buddan, Rosalea Hamilton, and Steven Vasciannie, columnists Ricky Singh, David Jessop and Sir Ronald Sanders, and human rights activist Jamaicans for Justice.

⁷² See Delano Franklyn's 2005 book, *We Want Justice: Jamaica and the Caribbean Court of Justice*.

called for updating the local justice system before any consideration be made to join the appellate section of the CCJ (Pollard, 2004; JBA, 1999, 2000; Ryan, 2001). One JLP member, Delroy Chuck, even went as far as to suggest the country have its own final court of appeal, while Opposition Leader Edward Seaga ardently supported the retention of the Privy Council (Ryan, 2001). By extension, these and other civil society groups, mainly trade unions and professional organizations, demanded there be a referendum to allow the public to choose whether or not Jamaica should join the CCJ's appellate jurisdiction (Pollard, 2004; Ryan, 2001; *The Jamaica Gleaner*, November 29, 2000). The JFJ believed that without a referendum there was “an erosion of people's rights and freedoms... We hold as fundamental our right as citizens to participate in the process of our governance... the people, not the Government are the highest law of the land” (*The Jamaica Gleaner*, November 29, 2000).⁷³

The citizenry was well aware of the discussions on the CCJ's appellate jurisdiction as *The Jamaica Gleaner* Don Anderson poll conducted among 1,000 Jamaicans of voting age between May 9 and May 19, 2003 found that 51.6% of the people were in support of establishing the court as a final court of appeal (*The Jamaica Gleaner*, May 28, 2003). It also noted that 63.4% of persons polled were in favor of holding a referendum. Surprisingly, Don Anderson observed that the “strongest support for this referendum comes from the young voters 18-24 and from persons in the lower socio-economic groups” (*The Jamaica Gleaner*, May 28, 2003). The debate had captured the imagination of even the lowliest.

⁷³ The idea was eventually struck down by the PNP government as it noted that the constitution gave it a right to adopt the CCJ's appellate jurisdiction with a simple majority in the two houses of parliament (Franklyn, 2005).

The lack of knowledge about original jurisdiction was initially suspected to be originate from the subject political culture prevalent in Jamaica. Yet, this is not the case. While the ordinary person is more concerned with his material interests, Jamaica's struggling economy, and the high incidence of crime and corruption in the country (Powell, Bourne, & Waller, 2007; Ryan, 2002), it was found that the citizen will pay attention to issues that are hotly debated, namely, the CCJ's appellate jurisdiction. The CCJ's original jurisdiction did not become a reality to Jamaicans until the favorable ruling in the *Shanique Myrie vs Barbados* case on October 4, 2013.⁷⁴ Jamaicans have since been made aware of their rights under the RTC and now know they have an objective advocate in the CCJ.

Varying Degrees of Domestic Elite Influence. Most respondents, who are members of the economic and knowledge elite, noted they were not consulted on the original jurisdiction of the CCJ; however, they declared they had put their support behind it.⁷⁵ Only a few could confirm there was limited consultation. A former head of the PSOJ recalled "that various business organizations like the PSOJ's Trade and Policy committee, JCC, JEA were consulted in the process of planning for the CCJ. I don't know of the specific suggestions" (JM06, Interview, July 23, 2012). It was also found there were members of the socio-cultural elite that submitted specific proposals. An

⁷⁴ Shanique Myrie, a Jamaican, on March 14, 2011 was denied entry into Barbados and endured inhumane treatment before being deported to Jamaica the next day. It was found that Barbados breached her right as a CARICOM national, who is not an undesirable, to freely enter and stay in another CARICOM state for up to six months under Article 45 of the RTC. Myrie, after the verdict, proclaimed that "the ruling should serve as a lesson to other Jamaicans not to remain silent when they are wronged" (Loutoo, October 5, 2013). The ruling has led to changes in immigration practices in line with the RTC in Barbados and St Kitts and Nevis, which have large Jamaican populations (The Jamaica Gleaner, October 5, 2013; October 18, 2013).

⁷⁵ See *The Jamaica Observer* quote provided on page for additional evidence.

advocacy group, JFJ, submitted proposals calling for proportionality in the selection of judges and the creation of two courts with one jurisdiction instead of one regional court with two jurisdictions (Ryan, 2001).

The legal and political elites, on the other hand, were approached and proved very influential. Most of the submissions from the JBA, the JLP, and the AG committee were accepted by PREPCOM. The JBA was extremely influential on decisions taken by PREPCOM and many of their suggestions made their way to the Final Agreement.⁷⁶ According to Duke Pollard (2004), a former CCJ Justice and legal advisor to CARICOM, “approximately 80 per cent of the proposals of the Jamaican Bar Council⁷⁷ were addressed and accommodated in the text of the Agreement. If some were rejected this may be attributed to the consensus approach adopted for the exercise. For, in the ultimate analysis, the Agreement was intended to be a regional instrument reflecting a regional consensus” (p. 29). Pollard further recalls that the JBA’s degree of influence is a result of their response to the drafts of the Agreement. The drafts were sent to the Presidents of CARICOM member states bar associations and that the JBA was the only one of these organizations to provide official recommendations to the Jamaican Attorney-General.

The response was as masterly in its activity as it was resoundingly resonant in its protracted quiescence... To its credit, The Jamaica Bar Association did submit... commendable proposals to amend the texts of the Draft Agreement Establishing the Caribbean Court of Justice and the Draft Enabling Bill. The majority of the proposals were accommodated in the texts of these instruments which were considerably enhanced as a result. (Pollard, 2004, p. 38-39)

The JLP has also been considered very influential on the structure of the final CCJ Agreement. Many of the suggestions came from concerns that arose years before the

⁷⁶ See Table 6 for the JBA’s specific proposals.

⁷⁷ Sub-committee of the JBA.

formation of PREPCOM and the signing of the CCJ Agreement. It is noted that at the Ninth Conference of Heads of Government held in Antigua and Barbuda in 1988, Edward Seaga, Prime Minister of Jamaica, shared his concerns about the independence of the Court from political sway (CARICOM Secretariat, 1988; P.J. Patterson cited in Franklyn, 2005, p. 4; Robert Pickersgill cited in Franklyn, 2005, p. 98). Seaga, in a parliamentary speech made in May 2003, stated,

[in] the original model of the CCJ, as discussed in 1988, there was no provision to insulate the appointment of judges from political influence. This was the original objection voiced by me at the time...and, overtime new proposals have been incorporated by which seemingly non-political procedures have been introduced for selecting members of the Regional Legal Services Commission which will regulate the Court of Justice. (Edward Seaga cited in Franklyn, 2005, p. 16)

Another formula that came out of this concern was the independence in the financing of the Court outlined in Agreement establishing the CCJ Trust Fund. Though the original concern from the Jamaican Prime Minister bred the Trust Fund idea, I found that throughout the draft process, the PREPCOM representatives from Barbados, St Lucia, and Jamaica,⁷⁸ were very influential in the final design of Article 28 and the Agreement for the CCJ Trust Fund.

Those JLP proposals that were rejected centered on positions held on the structure of the Court. The JLP wanted a court similar to the ECJ and US Supreme Court, but one that was free from political influence. Courts from the UK and Hong Kong were also considered (JM07, Interview, July 24, 2012). Additionally, the JLP demanded proportionality in the selection of judges who sat on the bench (JM07, Interview, July 24, 2012). Those in support of the proportionality position think it is unfair to have judges

⁷⁸ Agreement in the Caribbean Court of Justice Draft Instruments (Articles XI § 1, and XIII § 2 and 3) was prepared by Barbados and Jamaica. St Lucia Prime Minister Kenny Anthony suggested the US\$100 million figure for the trust fund.

who do not understand Jamaican culture sit and preside over Jamaican issues. They believe it important there be a Jamaican judge as Jamaica contributes twenty-seven percent to the Trust Fund and because of its large population and land size.⁷⁹ PREPCOM rejected this proposal because it wanted the best judges to sit on the court (Pollard, 2004). Other proposals related to the appellate jurisdiction of the Court, which this research is not investigating (Ryan, 2001).

Trade unions⁸⁰ did not provide proposals for submission to PREPCOM. However, like the economic and knowledge elites, they offered support for the institutions. Prior to the signing of the CCJ Agreement, the *Jamaica Gleaner* reported, “Member unions of the Jamaica Confederation of Trade Unions (JCTU) are in favor of a Caribbean Court of Justice (CCJ) operating as a commercial court, prior to any decision to move on to a full, final appellate court” (The Jamaica Gleaner, December 14, 2000).

The structure of the relationship between the government and an elite member or group⁸¹ as it relates to submission of CCJ proposals came in the form of a joint government committee. The form of participation was the irregular submission of reports and informal discussions. The mode of participation was to supply technical information. There was a local CCJ Committee that included the Attorney-General and four other individuals. It consisted of four members of the political elite and one member of the economic elite (JM17, Interview, July 31, 2012). These five persons read submissions

⁷⁹ During the time of the interviews there was a Jamaican judge who was newly appointed; however, he has been rejected by some political elites as Jamaican as he was raised in Barbados and England.

⁸⁰ Trade unions as listed as a part of the political elite because of Jamaica’s history of trade unions being arms of the main political parties.

⁸¹ This will be used in place of civil society from now onwards.

from other political, economic and socio-cultural groups (JM17, Interview, July 31, 2012; JM18, Interview, July 31, 2012). Ten of the twenty-four Jamaican respondents had direct influence and submitted proposals on the structure and design of the CCJ. Of the ten respondents, eight are part of the political elite, one was a member of the economic elite⁸² and one was from the knowledge elite. Of the remaining fourteen, they all recall their own support for the Court’s original jurisdiction and the support provided by the local economic and socio-cultural elite were informal discussions that came in the form of editorials and interviews in the local media. The outcome from consultation in Jamaica is listed below in Table 6.

Domestic Dynamics: Discussion. From the arguments I can rank political leaders (the government and the opposition), the economic elite, the knowledge and the extended socio cultural elite, and the general public in order of importance and influence on CCJ development. The ranking is consistent with an Association of Development Agencies Table 6

Proposals that were Accepted and Rejected from the Jamaican Contingent

Specific positions accepted and in the various agreements establishing the CCJ	Specific positions rejected
<ul style="list-style-type: none"> • All cases presented and legal documents submitted to the court must be in English (<i>economic elite member on the AG’s submission committee</i>). • Articles 5 – 7 - Independence of the court through the establishment, composition and role of a Regional Legal Services Commission in charge of appointing judges and Article 28 and Agreement for establishing the CCJ Trust Fund CCJ Trust 	<ul style="list-style-type: none"> • Proportionality (based on population and size) in the judges sitting on the court (<i>JLP, JFJ</i>). • Create a court similar to the US Supreme Court, The Hong Kong Supreme Court, the UK Supreme Court or the ECJ (<i>JLP</i>). • The court should be established in Jamaica (<i>JLP</i>). • Separating the court by separating jurisdiction (<i>JLP, JBA, and JFJ</i>).

⁸² This economic elite member was the only private sector representative on the Attorney General’s CCJ committee. The other members were from the political elite. He would be one of 5 persons that read submissions from other political, economic and socio-cultural groups.

<p>fund to eliminate political influence (<i>JBA and JLP</i>).</p> <ul style="list-style-type: none"> • Opening up the pool for choosing judges from the entire Commonwealth (<i>JBA</i>). • Article 4 - That judges must have a background in trade and international law (<i>Attorney-General</i>). • The wording of the Articles (<i>JBA</i>). • The private right of action so that private individuals could bring matters before the court (<i>JBA</i>). • Be an itinerant court (<i>JLP</i>). • Article 3 - The name of the court (<i>The Prime Minister</i>). • Manner for withdrawal from the Court (<i>JBA</i>). • Dividing the Agreement/Instruments into 3 distinct parts – general part and 2 parts addressing original and appellate jurisdiction separately (<i>Solicitor-General</i>). 	<ul style="list-style-type: none"> • Appoint fewer judges and when you are meeting you invite a few chief justices and/or court of appeal judges to sit with you so that in the beginning if you appointed five instead of nine or even seven then you could always invite a couple of chief justices from another territory that the case was not coming from to sit with you so as to blend the experience right around the Caribbean as a second tier court (<i>JLP</i>). • Changing the name of the court from the CCJ (<i>JBA and JLP</i>).
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(ADA) (2006, p. 27) study on power and influence of different Jamaican civil society groups.⁸³ The influence of an elite member or group, as noted earlier, is determined by civil society's organization and values, and the structure, form, and mode of the relationship between the state and the group. Like the findings of Witter (2004) and the ADA (2006), I found that those groups who consulted with government or public who supported the CCJ's original jurisdiction were highly organized with a constitution, held elections, conducted frequent reporting and specialized subgroupings, were well-financed and headed by middle to upper class members of society. Most notable of these groups were the Private Sector Organization of Jamaica (PSOJ), The Jamaica Exporters

⁸³ This list will only include those groups and elites under investigation in this dissertation. Those with the most power and influence included political parties, the legislature, parliament, business leaders, trade unions, the private sector, medium and small business operators, and the US. Those with average power and influence included CARICOM, the EU, church organizations, and tertiary institutions. Those with the least power and influence included senior citizens, children, farmers, and advocacy civil society organizations.

Association (JEA) and The Jamaica Manufacturers Association (JMA), who represent the economic interest, the Jamaica Chamber of Commerce (JCC), who represents Jamaica's professionals, and Jamaicans for Justice (JFJ), who advocate for human rights and anti-corruption. It was also observed that those groups that had longevity and connections with the two major political parties, that is the BITU and NWU, were also vocal on the subject. Given their composition, status and resources, it is obvious the groups constitute elite members of society. Most of these groups were consulted by or influential on national government to one degree or the other as it relates to the CCJ.

The economic and socio-cultural elite influence was limited to what was submitted to the local CCJ committee, which may or may not have filtered through to PREPCOM, and/or public statements issued after the formal signing of the Agreement establishing the CCJ. One interviewee, a senior academic of international business, argued that "they [the economic and socio-cultural elite] didn't have much say or they chose not to have much involvement until it started shaping up and becoming a reality" (JM21, Interview, August 15, 2012). Where there were diverging views, it centered around differences of opinion on the appellate jurisdiction of the Court, which this research is not investigating, or where technical portions of the submissions to PREPCOM were rejected.

Therefore, when speaking about the influence on this particular regional institution, it was noted that "[the] drivers towards the CCJ was (sic) the politicians. It was a political monument" (JM02, Interview, July 19, 2012). The political elite was found to be the most influential, followed by the economic elite, the knowledge elite and the public.

Given the overview of the degree of influence from these groups and individuals, my initial presumption about inner and outer circles also proved correct. The inner circle does consist of political leaders in government and the opposition and a limited number of economic leaders, bureaucratic technocrats, and academics. Attorneys and jurists who were not included in the initial assumption were also a part of the inner circle. The outer circles in order of influence consisted of junior opposition members of parliament, the private sector and non-governmental organizations, the knowledge elite, the media and the general public.

I found that the discussions by members of the outer circles helped, to a limited degree, shape the context in which decisions are made in the inner circle at the regional and national levels. The political elite did depend more on the opinions of the economic, knowledge and other political elites outside of government than the opinions of the public. All avenues ended with the national executive members having a direct influence on the further expansion of regional integration institutions. It was the Jamaican government and/or its representative who defined its economic interests based on current circumstances, the national leader's ideology and personal preferences, and previous decisions and institutions. The government would later negotiate and bargain the state's position at the regional level on the structure of the new institutional framework, the CCJ and the CSME, to ensure economic development. (See Figure 6).

CONCLUSION: LESSONS LEARNED

I investigated three levels of analysis. At the international level, my findings confirmed both hypotheses. First, the data verify that “increased global trade intensifies

the desire for regional economic integration which results in the demand for the judicial governance of the latter activity” (H1a). This was confirmed as Jamaica’s international trade grew but only at a marginal rate, which encouraged Jamaica to review its position in the regional market and throw its support behind economic integration and the creation of the CCJ that would elicit a stable regional environment in order to ensure national development.

By extension, my research also confirms that “increased regionalization in the Americas and Europe will renew GCSS’ interest in regional trade and supporting regional institutions” (H1b). It was Jamaica’s fall in exports to the US with the formation of NAFTA and its leading role in stalling FTAA negotiations as well as the EEC adoption of the SEA that made the local political elite take the creation of the CSME and the CCJ more seriously as means of preparing CARICOM states for trade liberalization on a larger scale.

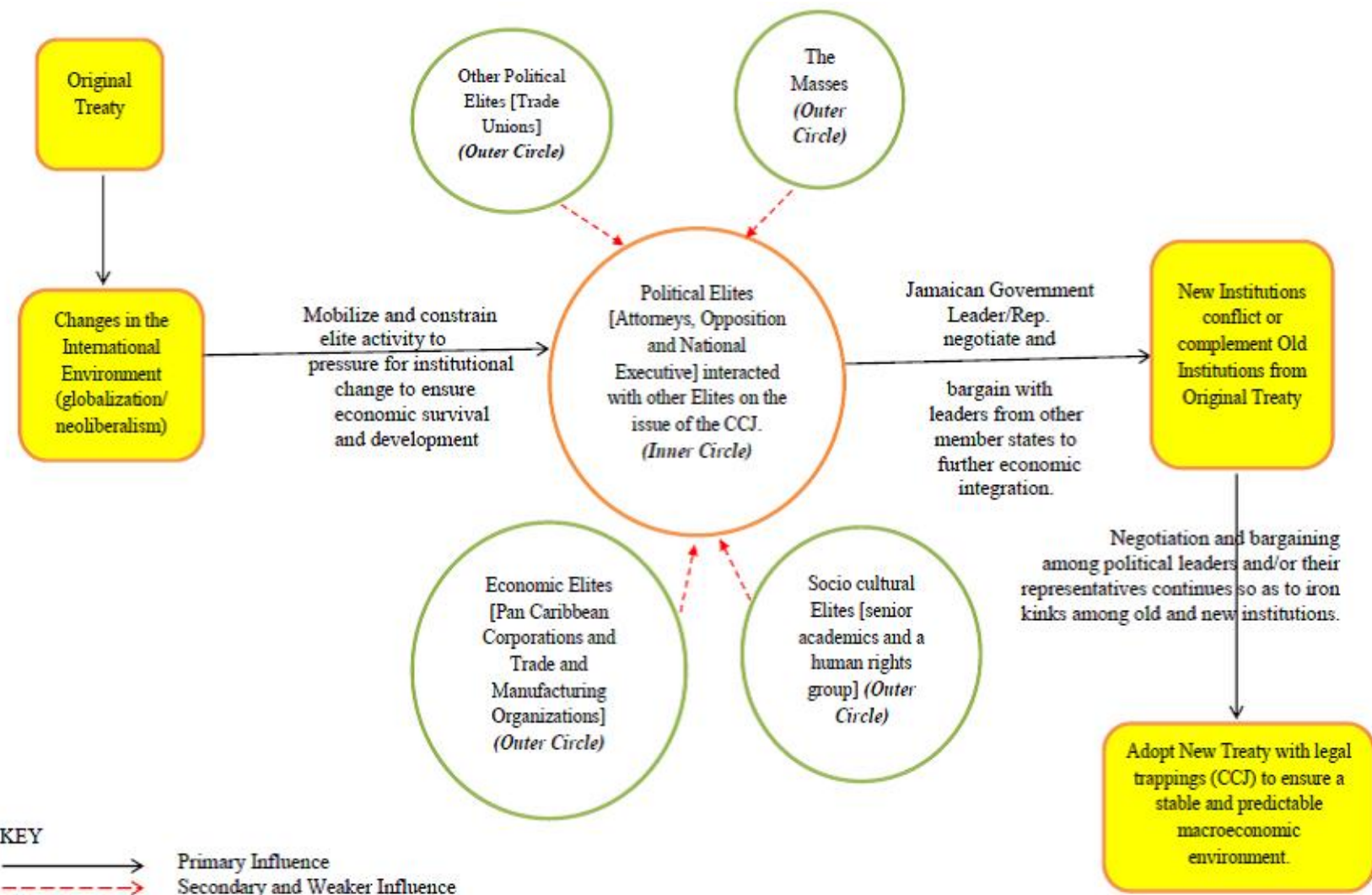


Figure 6. Domestic Elite Activity and Institutional Development in Jamaica During the Regional Integration Process.

At the regional level, the hypothesis that the “largest and/or wealthiest within the bloc will have the greatest influence in the promotion of/negotiation for regional integration and its institutions” (H2) was also confirmed. Jamaica’s size (population, land, and market), status, and contributions to CARICOM are factors that contribute to its great influence. It used its influence to first support the proposal for a regional court and later as a member and deputy chair of PREPCOM. The state’s size resulted in skilled and experienced personnel who developed and provided proposals for the structure of the CCJ. So much so that eighty percent of the final CCJ Agreement reflected Jamaica’s submissions. Interestingly, domestic politics, that is Jamaica’s single party majority government, made its political leadership and agents more forceful and influential at the Conferences and in PREPCOM.

At the domestic level, I was not surprised that the hypothesis H3a: “the decision to promote/negotiate for new regional institutions rests almost entirely on the political elite” was confirmed. The literature and CARICOM institutional design establishes the political elite as the initiators and interlocutors of regional policy. Additionally, the political system and culture dominant in the Caribbean breed authoritarian personalities who dictate the ideology and make political decisions without the input of the public. The political elite, however, did not ignore the opinions of others. They took interest in the opinions of the elites in the formulation of the CCJ. This confirms another hypothesis that elite public opinion rather than mass public opinion will influence the political elite’s decision to promote/negotiate for regional integration and its institutions (H3b). Jamaica had established a temporary local CCJ committee that included economic and political elites and accepted written submissions for various legal, political, economic and socio-

cultural elites. The public remained largely ignorant of the original jurisdiction of the CCJ. As a country that is viewed as being largely isolated and at times more nationally minded, the aggressive approach to an institution that would oversee and ensure the proper function of the RTC and the CSME is refreshing.

Also, the hypothesis that proposed that the left of center political parties will support regional integration and its institutions more than right of center parties (H3a(i)) could not be confirmed because even though the two main parties varied in support for regional integration, they held the same position on the original jurisdiction of the Court and agreed that Jamaica should remain a part of CARICOM. Where there was contention, it was restricted to differing positions about the structure of the Court and whether Jamaica should join the appellate jurisdiction of the Court.

Finally, it confirmed that better organized economic and knowledge elite have greater influence on the political decision makers (H3b(i)). This is on account of their greater access to government offered to those groups that were highly organized with a constitution, held elections, did frequent reporting, had specialized subgroupings, were well-financed and headed by middle to upper class members of society, namely the JMA, PSOJ, JEA, JFJ, and the senior UWI academics. It should be noted that while these groups have greater access to the political elite such meetings are infrequent.

With what was learned about Jamaica in this chapter, I will now turn my attention to hypothesis testing, analysis, and discussion for the case of Trinidad & Tobago.

CHAPTER 5:

TRINIDAD & TOBAGO

INTRODUCTION

Like the previous chapter, this chapter discusses the factors that determined the degree of influence Trinidad had on the formation and establishment of the CCJ. It follows a similar structure and addresses the same literature/theories. That is, the discussion will focus on three levels of analysis: the international, the regional, and the national/domestic levels by addressing:

1. Trinidad & Tobago's experience with changing international trends through the application of the literature/theories on the effects of neoliberal globalization, large state/small state influence on small state foreign policy, and the domino effect of rising economic blocs on a state's desire to deepen its region's economic integration;
2. the effects of Trinidad & Tobago's status as a relatively wealthy state on its influence on the CCJ Agreement negotiations through the utilization of theories of regional integration; and,
3. Trinidad & Tobago's domestic elite and mass influences on regional integration, and more specifically, the CCJ's development and structure.

OVERVIEW

The Republic of Trinidad & Tobago is at the southernmost tip of the Lesser Antilles. It gained independence from the British in 1962. The Republic had maintained a

one party parliamentary system from 1956 until 1991 that has since switched to a stable two party system that regularly alternates between the longstanding, largely Afro-Trinidadian supported, People's National Movement (PNM) and the relatively new, and largely Indo-Trinidadian supported United National Congress (UNC). It also maintains a mixed economy with petroleum and manufacturing being its main foreign exchange earners.

Trinidad has always played an integral part in the Anglo-Caribbean integration movement. During the nationalist movement of the 1920s and 1930s, Captain Andrew Ciprani of Trinidad sought regional integration through federation. This was followed by Eric Williams' participation in negotiations that resulted in the West Indies Federation and his and subsequent Trinidadian prime ministers' proposals of varied regional integration formulas to ensure Anglo-Caribbean unity.

INTERNATIONAL DYNAMICS OF REGIONAL INTEGRATION

Background. Trinidad faced economic challenges resulting from the changing international environment much later than most CARICOM countries. As a petroleum producer and exporter, it benefitted from the increase in world oil prices during the two oil shocks in the 1970s. However, by the early 1980s with the fall in oil prices and demand, the country began experiencing balance of payments problems, a shrinking economy, and increased debt (Braveboy-Wagner, 2008; Mullerleile, 1995). The Economic Commission for Latin America and the Caribbean (ECLAC) recorded an “economic contraction of 33 per cent between 1983-1989, with unemployment doubling over the same period. External debt grew somewhat less precipitously, from under 10 per cent of GDP in 1980 to about 30 per cent in 1988” (1995, p. 9). Trinidad, in order to

address these problems, had to undertake neoliberal reforms from the mid-1980s into the 1990s (ECLAC, 1995). In 1986, Trinidad approached the IMF and signed on to a standby arrangement (Braveboy-Wagner, 2008; Trinidad and Tobago Newsday, November 18, 2010). It again approached the IMF in 1988 for foreign exchange assistance (Hintzen, 2003).

The SAPs, under the standby arrangement, resulted in Trinidad becoming more open to and competitive on the international market. It is noted that Trinidad's state of preparedness and strong commitment to neoliberal reform accounts for this (ECLAC, 1995). The prescribed devaluation of the dollar, considerable cuts in public spending, public asset divestment, and the removal of trade barriers in the mid-1980s resulted in the country's high degree in trade openness at almost one hundred percent trade to GDP ratio, "one of the highest ratios in the Western Hemisphere" (Jessen & Vignoles, 2004, p. 2; Hintzen, 2003). While Trinidad saw an increase in exports and revenue from trade, the economy continued to decline until 1989. The country faced a recession due to a fall in real income, an increase in unemployment and poverty levels, and a rise in inflation that made goods more expensive in the local market (Mullerleile, 1995; Ryan, 1989). In all, efforts at market liberalization under the IMF agreement have been credited for Trinidad's rebound in the mid-1990s onwards.

Like Jamaica, Trinidad endorsed the Nassau Understanding and the Grand Anse Declaration. It did the former so that "structural adjustment [would] bear fruit, [and] intra-regional trade should be re-activated" (Mullerleile, 1995, p. 51). The latter was endorsed because of the vision of its Prime Minister, ANR Robinson. In a paper entitled "The West Indies Beyond 1992", presented at the Heads of Government Meeting in

Grand Anse, he reviewed the changes in the world environment and the need for CARICOM to adopt open regionalism.

The International Environment's Influence on CCJ Development.

The Neoliberal Globalization Effect. There is a similar pattern of increased international trade as seen in Table 2 in the previous chapter. Figures from the US Department of Commerce and the Inter-American Development Bank (IDB) show the country's monetary increases in imports from and exports to its main trading partners – the United States, the European Union (EU), and CARICOM. It is interesting to note that exports to the US increased at a similar rate to imports from the same. Unlike Jamaica, exports to the US exceeds imports into Trinidad. This is on account of petroleum exports amounting to nearly ninety percent of all exports to the US (ECLAC, 1995; Jessen & Vignoles, 2004). Trade with the EU fared worse. Though imports from and exports to the EU increased at almost the same rate, Trinidad went through cycles of inconsistent export levels to the EU. Trade with CARICOM shows an almost opposite mirror image to that of Jamaica. The import bill from CARICOM states remained stagnant, while Trinidad's exports to CARICOM states increased significantly over the period.

According to the IDB, Trinidad's share in merchandise exports to the US under the period of investigation started from a high of 53.9% in 1990 to 57.4% in 2001 (Jessen & Vignoles, 2004, p. 42). For the EEC/EU the share was 9% in 1990, and ended at 9.7% in 2001 (Jessen & Vignoles, 2004, p. 42). CARICOM also experienced an increase from 11.6% in 1990 to 19.9% in 2001 (Jessen & Vignoles, 2004, p. 42).

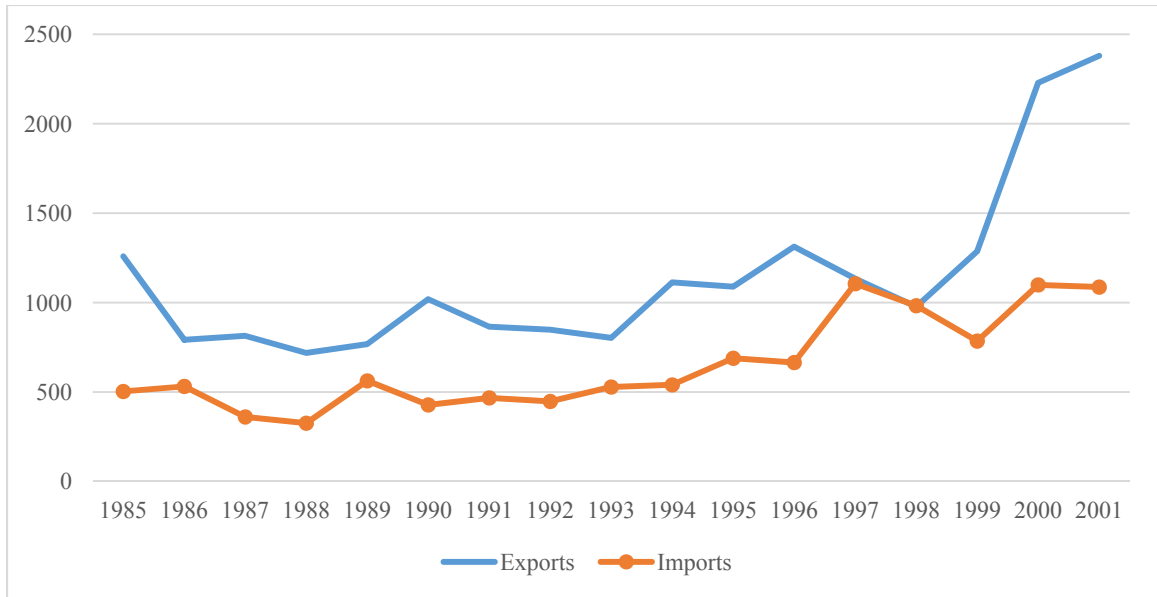


Figure 7. Trinidad's Trade with the US in \$US Millions, 1985 – 2001. *Note.* Adapted from figures from the United States Census Bureau database. The exchange rates existing at the time are used to convert to U.S. dollars.

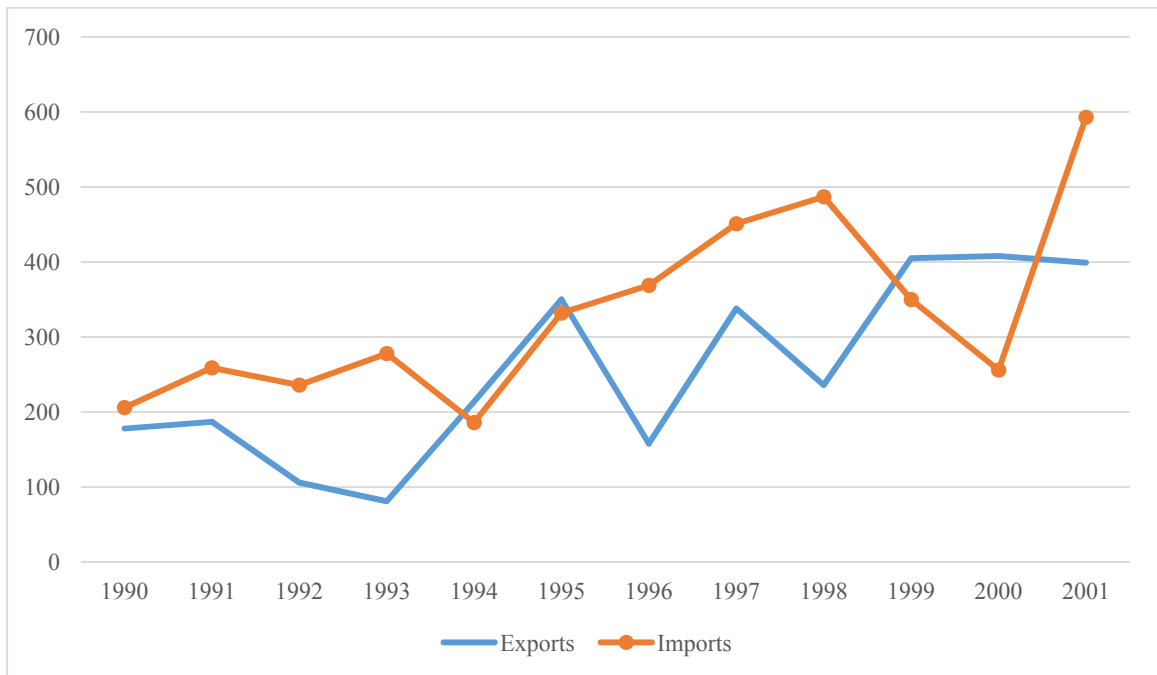


Figure 8. Trinidad's Trade with the EU in \$US Millions, 1990 – 2001. *Note.* Adapted from the Inter-American Development Bank database in A. Jessen and C. Vignoles. 2004. *Trinidad and Tobago: Trade Performance and Policy Issues in an Era of Growing Liberalization*, pp. 42-44.

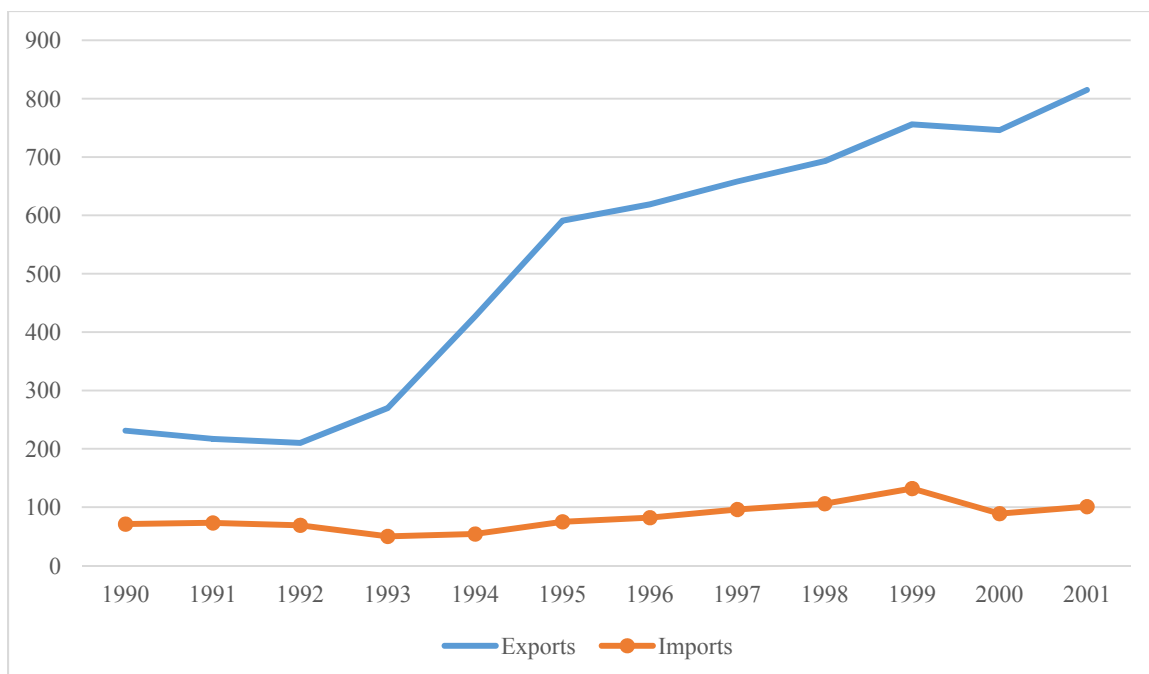


Figure 9. Trinidad's Trade with CARICOM in \$US Millions, 1990 – 2001. *Note.* Adapted from the Inter-American Development Bank database in A. Jessen and C. Vignoles. 2004. *Trinidad and Tobago: Trade Performance and Policy Issues in an Era of Growing Liberalization*, pp. 42-44.

Trinidad & Tobago adapted to neoliberal globalization in the following ways. It increased trade to and from Trinidad but more importantly, exports outpaced imports with the exception of trade to the EU. The faster rate of increase in exports is attributed to Trinidad's preparedness for increased competition in trade beginning in the 1970s and the adoption of neoliberal principles in the mid-1980s (ECLAC, 1995; IDB, 2005; Jessen & Vignoles, 2004).⁸⁴

⁸⁴ Unlike other CARICOM states, the Trinidadian government, through the use of petrol dollars, was able to encourage an enabling economic environment that developed a strong private sector that showed considerable interest in the regional and international trade and effectively contributed to the country's national and regional trade positions. Like Newly Industrialized Countries (NICs) of East Asia, Trinidad protected selected manufacturing industries and nurtured them through export subsidies and subsidized credit, steering firms toward new forms of production, setting export targets and rewarding those firms that met or surpassed them (Harris, 1997; IDB, 2005).

Adopted neoliberal principles, discussed in the Background, included two prescribed devaluations of the dollar, considerable cuts in public spending and public sector wages, decreased pecuniary support for the

Increased competition and trade is also attributed to the reduction in global tariffs. Trinidad, like other CARICOM states, had enjoyed preferential access to the EU and the US until the mid-1990s (Jessen and Vignoles, 2004). Since the restructuring of the global economy under the Uruguay Round of the GATT and the WTO, both the EU and the US altered this relationship. However, unlike other CARICOM states that experienced great financial and trade shortfalls with the loss of preferential access, Trinidad was not as negatively affected by this change because of its unique economic structure. Its primary industry is the natural gas, petroleum and petrochemical industry, which amounts to eighty percent of the country's earnings with manufacturing and agriculture being a close second and third (World Travel and Tourism Council, 2012). For the rest of CARICOM, states garner their highest earnings from traditional agriculture and mining industries and the growing tourism industry.

The reduction in tariffs on petrol products have since led to increased purchases and earnings for Trinidad as opposed to a reduction in tariffs on traditional products such as banana, sugar, and apparel, which have been the worse hit industries under the new regime (IDB, 2005; WTO, n. d.). In the latter, Trinidad saw only minimal damage as the government had restructured and minimized dependence on the dwindling agricultural industry in the mid-1980s (Financial Times, March 7, 1985, p. 44). With that, Trinidad sought to expand its service industry, particularly air travel, so as to participate in the fastest growing export market in the world (IDB, 1995; Jessen & Vignoles, 2004). So far, the Trinidadian government, since privatizing British West Indies Airways (BWIA), now

private sector, public asset divestment, the removal of subsidies, the desertion of state projects, and the removal of trade barriers (Jessen & Vignoles, 2004; Hintzen, 2003).

named Caribbean Airlines, has seen an eighteen percent annual increase in its share of the earnings (Jessen & Vignoles, 2004).

Trinidadians have viewed neoliberal globalization as promoting Caribbean regional integration as a means for both convergence and competition in the international economy. Former Prime Minister Patrick Manning recalled that the “region cannot refute the irreversibility of globalization and trade liberalization which were making small island states more vulnerable in a rapidly changing global environment...[a] Caribbean Single Market⁸⁵ represents that indispensable mechanism for ensuring the future survival, security and prosperity of our region” (Caribbean Media Corporation, June 28, 2006).

From my small sample, nine out of the twelve Trinidadian interviewees agree that CARICOM, in the context of globalization, is a means by which to prepare the region, and more specifically Trinidad, to better integrate/trade with third countries. A trade specialist, describes

regional integration as one step to prepare ourselves for free trade and what we need to do regionally is look to regional integration preparing us for the inevitable global free trade, global village, however you want to define globalization. Because if we just throw ourselves into that kind of environment we can't compete with these giants out there. (TT26, Interview, September 4, 2012)

Like Jamaica, Trinidadian elites viewed the effects of neoliberal globalization as prompting their decision to strengthen regional economic integration. They also considered another international factor – the post-Cold War/ Liberal Multilateralism.

The Post-Cold War World/Liberal Multilateralism. Trinidadian Prime Minister ANR Robinson, in his presentation at the Tenth Conference of the Heads of Government

⁸⁵ A Single Market would move CARICOM from an imperfect common market towards an economic union, thus deepening regional integration.

in 1989, acknowledged that the world was becoming multipolar. He attributes the need for the revitalization of Caribbean integration to changes in the global environment. He accounts for the dissolution of the USSR and the end of the Cold War as contributing to the diminished importance of the Anglo-Caribbean and the need to alter the CARICOM design from the protectionist model implemented in 1973 to one that embraced open regionalism (Gilbert-Roberts, 2013; Payne, 2008; Robinson cited in Hall, 2001; Hall, 2003a, 2003b). If not, “[against] this background of historical change and historical appraisal the Caribbean could be in danger of becoming a backwater, separated from the main current of human advance into the twenty-first century” (Robinson cited in WIC, 1992, p. 3). It was through this speech that the West Indian Commission (WIC) was proposed to prepare CARICOM states for survival in this brave new world (Payne, 2008).

In this new multipolar world, it was expected that multilateralism would replace the region’s favored bilateralism with third states. However, as stated before the effect of the formation of the WTO did not have as a significant effect on Trinidad as it did on CARICOM countries given its already strong economy and preparedness for competition as well as its minimal focus on traditional products. The desire to strengthen regional integration rested more with CARICOM being Trinidad’s second largest market behind the US (ECLAC, 1995; Jessen & Vignoles, 2004).

While global changes did not inspire Trinidadian elites towards strengthening regional integration as much as it did Jamaican elites, there was the influence of powerful states and organizations, namely the EU and the US.

EU Influence and Support. The EU has influenced Caribbean regional integration. Trinidadian politician, Winston Dookeran (May 30, 2012) acknowledges that the EU in all its previous forms has resulted in what Avery (1973) called ‘extra regional echoing’⁸⁶ with some minor alterations. Former Prime Minister ANR Robinson, in 1989, also attributed his desire to see CARICOM economic integration strengthened due to the fact that the EU had gathered tremendous steam and was pushing ahead drastically towards a Single Market and Economy (Gilbert-Roberts, 2013; Payne, 2008; Robinson cited in Hall, 2003a; Hall, 2001). Later, former academic at the UWI St Augustine Vaughn Lewis (2008), attributed Trinidad’s and the wider CARICOM’s move to adopting stronger regional arrangements and institutions to the EU desired transition from the Lomé/Cotonou Agreements to the Economic Partnership Agreements (EPA) as laid out in its 1996 Green Paper.⁸⁷

The loss of preferential access to the EU and its evolution towards an economic union has been credited with CARICOM not just pursuing the deepening of economic integration but also enlarging the region’s trade bloc. On the former, Prime Minister Robinson explained, “The decision of the EC to follow up the Single Europe Act with a single European market by 1992...calls for a heightened sense of urgency from Caribbean governments in the face of the challenges that already confront them” to which he called for greater Caribbean unity (Journal of Commerce, December 9, 1988, p. 1A; The Globe and Mail, December 5, 1991).

⁸⁶ Extra regional echoing describes European integration as “a major stimulus for similar endeavors in other regions and...the model for most integration efforts” (Avery, 1973, p. 550).

⁸⁷ For more details, see the EU influence section in Chapter 4.

On the latter, Trinidadian economist and former CARICOM Secretary-General, Sir Edwin Carrington, maintained that the Association of Caribbean States (ACS), a trade bloc comprised of CARICOM and thirteen other Latin American and Caribbean countries, was expected to offer a coordinated approach to international negotiations with the EU and NAFTA (Carrington cited in the *Journal of Commerce*, August 17, 1995, p. 3A).

Since 1986, EU financial support to Trinidad for regional integration and cooperation has amounted to over € 100 million (Delegation of the European Union to the Republic of Trinidad and Tobago, n.d). As the base for the CARICOM Agency for Crime and Security (IMPACS), Trinidad received € 800,000 to improve the region's institutional capacity to thwart illegal drug activity (Delegation of the European Union to the Republic of Trinidad and Tobago, n.d). With Barbados, Belize, and Guyana, Trinidad & Tobago received € 13.2 million for the construction of a Regional Weather Radar Warning System that would reduce the region's vulnerability to adverse weather conditions (Delegation of the European Union to the Republic of Trinidad and Tobago, n.d). Finally, the EU earmarked € 1.3 million to the CCJ to ensure the rule of law and the sustainability of the Court (Lilla, 2008). More specifically, these funds were to be used for "strengthening the capacities of the Law Library, enhancing the ICT development, building the public awareness capacity of the CCJ and facilitating cooperation with the European Court of Justice" (Lilla, 2008; p. 126).

Trinidadian economist and former CARICOM Secretary-General, Sir Edwin Carrington, further emphasized the importance of EU's support for CARICOM and the CCJ. In 2007, he acknowledged,

Without the CCJ, the CSME⁸⁸ would not be effective in the role that is envisaged for it. It would be remiss of me if I fail to acknowledge the important role the European Union plays, as the largest and most important donor in terms of regional programs to the Caribbean. I am indeed deeply grateful to the EU for this expression of confidence in the CCJ and the Region as a whole. (Carrington cited in CARICOM Secretariat Press Release, August 21, 2007)

US Influence and Support. US influence and support also affected Trinidad's desire to deepen Caribbean economic integration and adopt regional institutions. Where Jamaica focused on US preferential treatment and support, which resulted in waning support for Caribbean integration, Trinidad did not experience a similar decrease in support for integration for several reasons. First, in the neoliberal globalization section of the chapter. Second, its petroleum industry did not attract preferred access as the free zones and the apparel industry had in other CARICOM states under the CBI (ECLAC, 1995; IDB, 2005; Jessen & Vignoles, 2004). The US, an energy dependent country, placed and continues to place most of its foreign direct investment (FDI) into Trinidad's petroleum industry (ECLAC, 1995; IDB, 2005; Jessen & Vignoles, 2004). As Trinidad's largest US export it continues to benefit from ever increasing sales to the US. Even when Trinidad experienced an economic slowdown in sales to the US in the mid-1980s, it continued to experience increased intra-regional exports (Mullerleile, 1995). This, while not compensating for the losses in the US market, proved beneficial to the Trinidadian economy, which more than quadrupled its exports to CARICOM by the end of 2001. Between 1985 and 1989, Trinidadian exports, including petrol sales, to the US fell by 38.9% from US\$1258.7 million to US\$768.1 million until it rebounded by 32.8% to US\$1019.9 million the next year (U.S. Census Bureau, Foreign Trade, n.d.). For the same

⁸⁸ CARICOM Single Market and the Economy.

period, there was no change in the value of Trinidad's intra-regional exports at US\$231 million. However, the Financial Times maintained that there was a spike in exports between 1987 and 1988 before reverting to the initial value of US\$231 million in 1989. It records that Trinidad had "been helped by the improvement in trade among Caricom members last year when the value rose to Dollars 364 m, 14.6 per cent higher than 1987. This followed an 8 per cent increase for 1987 which ended the five-year decline, including a 32 per cent fall in 1986" (Financial Times, August 1, 1989, p. 6). All the same, Trinidad saw the potential for future losses in profits and market share with the introduction of NAFTA. Like Jamaica, Trinidad, as an individual country and as part of CARICOM, formally asked to be listed as eligible for membership of NAFTA (Journal of Commerce, April 18, 1994, p. 5A).

US support and influence steered Trinidad towards strengthening regional integration at the beginning of negotiations for the proposed NAFTA and later the FTAA. Trevor Baldeo, then manager of investment promotion for the Trinidad & Tobago Industrial Development Corporation, was quoted as saying, "We are concerned [about NAFTA]...but when taken in the context of what's happening globally, you have to see it as an opportunity. I was actually happy to hear that the sentiments expressed at this [Sixth Caribbean Basin Business Conference] are leaning towards a quick [Caribbean] integration process" (Journal of Commerce, September 5, 1991, p. 4A).

Additionally, NAFTA also spearheaded Trinidad's support for the development of another regional bloc – The Association of Caribbean States (ACS). It even campaigned for and was selected as the seat of this organization. Edwin Carrington, Trinidadian

diplomat and former Secretary General of CARICOM, at the inaugural summit of ACS noted that it provided the region with

new opportunities for the pursuit of collective initiatives by as many as 40 states, countries and territories, comprising some 200 million people, united by the waters of the Caribbean. The ACS will have an estimated gross national product of \$ 500 billion, and an annual trade volume of about \$ 180 billion. The ACS has the potential to create a trade bloc bigger than all except for the European Economic Area, Nafta and the Association of South East Asian Nations (Asean). (Journal of Commerce, August 17, 1995, p. 3A)

As revealed in the previous section, Carrington also argued it would provide a united front among Latin American and Caribbean countries in international negotiations with the EU and NAFTA (Journal of Commerce, August 17, 1995, p. 3A). To corroborate this point, Norman Girvan, a Jamaican economist who headed the Trinidadian based ACS at its inception, said “that the bargaining challenge posed by NAFTA is beyond the capacity of the CARICOM group and requires a wider grouping” a role the ACS was expected to fill (The Ottawa Citizen, September 10, 1992, p. A13).

FTAA negotiations concerned Trinidad because trade liberalization under the agreement would have affected market access for eighty percent of its goods to the US, Latin America, the Caribbean, and Canada (Jessen & Vignoles, 2004, p. 54; IDB, 2005; WTO, n.d.). The possibility of an erosion in exports to Latin America and CARICOM renewed Trinidad’s determination to have the CSME and the CCJ realized so that CARICOM states would be better prepared from the competition that would come from the US, Canada, and Latin America (IDB, 2005).

Prime Minister Patrick Manning in 2002, proclaimed,

given the fact that we no longer exist in a bi-polar world, the effects of globalization, pose a threat to smaller economies such as ours. This situation is further aggravated when the Free Trade Area of the Americas becomes a reality in

2005. Mr Chairman, the establishment of the CARICOM Single Market and the Economy (CSME) is paramount...in an increasingly globalized world...Trinidad and Tobago stands ready to play its part in this process [as] evidenced by our role as host of the Caribbean Court of Justice. (Manning cited in Hall, 2003a, p. 814)

His predecessor, Basdeo Panday, made a similar proclamation a year earlier (Hall, 2003a).

Influence and support from the US and the EU provided evidence of international trends towards the development of regional economic blocs.

The Domino Effect. Literature from Trinidad does not speak directly to the domino effect of regionalization, however, speeches from Prime Ministers ANR Robinson, Patrick Manning, and Basdeo Panday acknowledge that closer union of the EU under SEA and the formation of NAFTA provided the incentive for region on a whole to adopt ‘open regionalism’ (Hall, 2003a). Trinidadian scholars only focused on the WIC findings that “international and regional integration would necessitate a search for new institutional forms for managing these processes. These forms had to be appropriate to the character of the trends” (Lewis, 2008, p. 2). From the small n of twelve interviewees, six acknowledged this domino effect. A CEO of a Pan Caribbean Company, recalls the Trinidadian government realizing “that the world is changing and that Europe is coming together, NAFTA is forming, Mercosur forming” (TT27, Interview, September 5, 2012). He added that they recognized “we needed to come together but we don’t have a mechanism or framework. They said, ‘Let’s improve the framework.’ I think this is what they were looking around and saw that the world was advancing, we are not” (TT27, Interview, September 5, 2012).

International Dynamics: Discussion. The evidence suggests external factors, particularly international trade driven by neoliberal globalization, have played a great part in intensifying Caribbean regional integration from Trinidad's perspective. Its influence was more subtle than what had occurred in Jamaica because its main markets do not align with the more traditional markets found in Jamaica; however, its move towards deepening integration is still an example of the influence of a powerful state and/or organization policy on the foreign policy of smaller dependent states with respect to its petroleum market being dependent on the US demand and world energy prices, and the NAFTA and FTAA negotiations.

Additionally, the neoliberal policy endorsed by the IMF and the promotion of regionalism by Western Europe and the US propelled Trinidad's recognition of the need to strengthen regionalism and adopt new institutions as a means of competing and conforming to new economic policy regimes and survival within and beyond the regional level. Trinidad's Prime Minister ANR Robinson in recognizing Trinidad as the bloc's largest exporter and as a prominent importer understood the relevance of open regionalism, which pushed him to promote it as a means for economic development within each CARICOM state that is created within a stable environment and conforms to the greater paradigm shift in the world economy.

The reason behind this transformation is mixed, displaying features of both the bargaining and dependency models.⁸⁹ Trinidad's regional policy shows some reliance on EU economic assistance and US support and influence on specific issues, namely its petrol industry, and adherence to WTO rules. In these instances, long-term dependency

⁸⁹ See the theoretical section of Chapter 4 for a synopsis of the bargaining and dependency models.

has inevitably determined policies that reflect the perceptions and interests developed by the dependent relationship. For instance, EU economic influence and support have shaped and/or directed the structure of CARICOM regional organizations as the EU is the largest donor and supporter of these organizations (Carrington cited in CARICOM Secretariat Press Release, August 21, 2007). The 1996 Green Paper and the move to end the Lomé Convention changed the structure of EU funding to Trinidad and the rest of CARICOM. Trinidad, like the rest of CARICOM, in seeking to maintain their longstanding structural relationship and continued funding thought it necessary to conform to this new vision. While considered wealthy, Trinidad is still a capital importing state that is dependent on external funding and trade, which makes it compliant in the asymmetrical relationship between it and a larger state/organization. Trinidad, it has been argued, only signed the CARIFORUM-EU Economic Partnership Agreement because the European Commission threatened it with a higher tariff of its manufactured goods in the EU market (Caribbean Net News, April 16, 2010). In addition, Trinidad has adopted and internalized the values of the more powerful state/organization. The adoption of neoliberalism through the SAPS and the reliance on US FDI for the local energy industry resulted in the shared thinking between the developed and developing states.

Nonetheless, Trinidad can still bargain on certain issues. It has sought to act strategically so as to maximize its national benefits, namely to ensure economic growth, increase efficiency, and to signal to third parties that the country was a sound investment option. In other words, policy makers from Trinidad have taken the actions and promises of large states and international organizations into consideration and then made choices that reflected their self-interests as much as possible. This was mainly evident by the

manner in which Trinidad and the rest of CARICOM handled NAFTA/FTAA and EPA negotiations. While Trinidad took a similar stance and united with Jamaica in its efforts to ensure greater parity for CARICOM states in order to join the NAFTA/FTAA, like Jamaica, it applied separately to become members of NAFTA (Journal of Commerce, April 18, 1994, p. 5A). During the EPA negotiations, Trinidad actively funneled its position through the Caribbean Regional Negotiating Machinery (CRNM), which negotiated the deal on behalf of CARICOM (Caribbean Media Corporation, September 2, 2008).

The discussion now moves to the regional level of analysis in order to determine how Trinidad's background and regional elite behavior affected its bargaining position on the creation and structure of the CCJ.

REGIONAL DYNAMICS

Country Background. Trinidad & Tobago is one of the most influential member states of CARICOM. It has been at the forefront of every attempt at closer integration within the region.⁹⁰ It has been "less concerned about loss of autonomy because it has both the financial and human resources to influence the direction of the regional integration movement quite significantly" (IDB, 2005, p. 14). Thus, its influence is based on this historical fact, its classification, and its wealth and contributions to CARICOM (Braveboy-Wagner, 2003; CARICOM Secretariat, 1973). CARICOM classifies it as a More Developed Country (MDC) based on its land size, and its economy's size and diversity (CARICOM Secretariat, 1973). Trinidad has a mixed economy with its primary industries as follows: the natural gas, petroleum and petrochemical industry amounts to

⁹⁰ See introduction to the chapter.

45% of GDP (and 80% of the country's earnings), manufacturing and agriculture 12% of GDP, and tourism 3.7% of GDP, which is in contrast with other CARICOM states that depend mainly on agriculture and services, such as tourism and offshore banking (Braveboy-Wagner, 2008; World Travel and Tourism Council, 2012). This has resulted in Trinidad being the bloc's largest exporter of intra-regional goods and services amounting to 60.2% of total export contributions in 1990, and 79.2% by 2000, as the other CARICOM states are heavily dependent on its oil products and manufactured goods, such as beverages, food products, and cement (CARICOM Secretariat, 2005, p. 4; CIA Factbook, 2011).

Petrol sales both regionally and internationally have made Trinidad wealthy. It has consistently had the highest GDP per capita and lowest debt to GDP ratio in the region. The last recorded levels of GDP per capita saw Trinidad & Tobago with GDP per capita PPP at Int\$ 19,980.765 in 2010 (IMF, 2012). Its debt to GDP ratio amounted to 36% as of 2012 (Dookeran, 2012, p. 4). Also, its wealth has allowed it to maintain a stabilization fund that buffers the country against negative economic events (Dookeran, 2012, pp. 5-6). Such wealth has also made Trinidad the unofficial lender and aid donor to other CARICOM states (IDB, 2005; Mullerleile, 1995). Upon the formation of CARICOM, the increased prices in oil during the 1973 oil shock resulted in the country being a benefactor to other CARICOM states and it "supplied more than \$400 million (or TT\$1 billion at TT2.40=US\$1.00, the rate at the time) to Caricom during the oil boom" (Braveboy-Wagner, 2008, p. 125). Since then, it contributes to the Regional Development Fund and had established the Caribbean Trade Support Program that "provides interest

free loans to Caribbean firms...for the purpose of procuring technical assistance and consultancy services for training and business development projects” (IDB, 2005, p. 12).

Since CARICOM uses these measures and population size to determine a state’s financial contribution to the bloc, Trinidad has consistently been the largest contributor to CARICOM’s regional organizations. Presently, Trinidad’s contribution to the CARICOM Secretariat stands as 25% of the total and Trinidad alone contributed US\$31.6 million of the US\$100 million designated to the trust fund used for the financing of the CCJ (IDB, 2005, p. 41).

Trinidad & Tobago’s regional influence on CCJ development. Cooperation and collaboration has not been fully realized among various elites at the regional level. There have been attempts at transnational ties but the links made were weak and their regional influence limited. The Trinidadian knowledge elite has established links through the regional university – The University of the West Indies. The political elite has collaborated through various intergovernmental meetings at the CARICOM level. However, the economic elite has not been able to maintain regional ties. This slows the economic integration process and its complementary institutionalization and governing complexity.

Of the twelve members of the Jamaican elite interviewed, six economic elite members and one political elite member recalled that economic elites tried and failed to increase regional collaboration. They noted that the Caribbean Association of Industry and Commerce (CAIC) was an attempt at creating a Pan Caribbean business lobby.⁹¹

⁹¹ Please review the Regional Dynamics section of chapter 4 for further details on the CAIC.

They lamented its failure and wished for the region's private sector to cooperate like that again. One trade specialist acknowledged,

We tried to with CAIC...but really and truly when we in the Caribbean try to participate through this process regionally...Barbados may have representation there, [and] Trinidad may have representation there...the CAIC is really now a defunct operation...So we need something to be in...if there was a collaborative effort like how heads of government officials meet every so often we would have that kind of collaboration. (TT26, Interview, September 4, 2012)

However, the Trinidadian private sector continues to attempt to build transnational ties with their CARICOM counterparts. A former head of the Trinidad and Tobago Manufacturers Association (TTMA), stated that he knew “of some manufacturers that have taken the bull by the horn and have met with other regional manufacturers and suppliers and have become a group to assist one another...They link one another with each other's products and become a stronger group. So they buy and sell with each other but this is very few” (TT25, Interview, September 3, 2012). This drive is on account of the Trinidadian private sector, unlike those in other CARICOM member states, being strong and well organized. The symbiotic relationship between the state and the private sector, Trinidad's financial resources, and the private sector's dependence on regional trade have provided them with a wealth of knowledge about trade issues that affect their businesses and better positioned them to influence the formulation of regional policy and assist their counterparts (Braveboy-Wagner, 2008; IDB, 2005; McDonald, 2005).

The Trinidadian economic elite has been able to acquire and/or start many businesses and financial institutions in other CARICOM territories, keeping a pulse on the region's demands. For instance, in 1992 Neal and Massy Ltd, the Caribbean's largest Pan Caribbean Company acquired 93% of another Pan Caribbean company, Jamaica's T.

Geddes Grant, to become “the regional transnational firm with the largest turnover” in sales and profit for that year (Mullerleile, 1995, p. 72). The Trinidad Cement Ltd (TCL) Group runs eight subsidiaries across Anguilla, Barbados, Guyana, Jamaica, and Trinidad, while Guardian Life of the Caribbean Ltd provides insurance and financial services across Barbados, the Dutch Caribbean, Jamaica, and Trinidad (Guardian Group, 2013; TCL Group, n. d.).

The success of these businesses region wide has made Trinidadian traders, service providers, and manufacturers highly motivated to influence regional economic policy. For instance, the “TTMA attends all regional meetings...because manufacturers in Trinidad & Tobago want to be informed...Most times when I am at these meetings I speak on behalf of the manufacturers in Trinidad” (TT26, Interview, September 4, 2012). Additionally, executive members and trade specialists from the Trinidad and Tobago Chamber of Industry and Commerce (TTCIC) and the Trinidad and Tobago Coalition of Services Industries (TTCSI) attend CARICOM level meetings regularly (TT29, Interview, September 17, 2012; TT31, Interview, September 21, 2012).

While the economic elite attends these regional meetings, their influence is still limited. CARICOM’s formal structure does not lend itself to elite participation outside of government officials and technocrats (IDB, 2005). A CEO of a major Pan Caribbean Corporation remarked,

the heads of governments make the decisions and we are expected to accept it as it is. We don’t even have an official seat around the table for COTED⁹². It’s just the ministers of trade and they can do what they want...It’s like parliament with no Opposition...I can only speak when I have been invited by the Trinidad and

⁹² Council for Trade and Economic Development.

Tobago government asking whether or not you'd like to make a comment and then they tell you to keep quiet (TT27, Interview, September 5, 2012).

Another economic elite member added,

Fortunately, or as some would say unfortunately, we do live in a state centric society... *We, the traders, don't shape policy, we inform policy* [emphasis added]. So, when you go to CARICOM, like at a COTED meeting, it's government officials who are there, not private sector people. *We shape the process by informing our ministers and our trade officials what we want from the process but at the end of the day its government officials making decisions for the stakeholders* [emphasis added]. (TT26, Interview, September 4, 2012)

Given the formal structure of CARICOM, Trinidadian political elites have been motivated by economic benefits and local political and social pressures as the country spearheaded negotiations with other CARICOM member states that determined the institutional design of the CCJ. Once the Trinidadian position was determined at the national level⁹³, interstate negotiation and bargaining through The Conferences of Heads of Government and PREPCOM⁹⁴ followed. Given that the heads of government are minimally influenced/informed by members of regional outer circles⁹⁵ due to constraints to transnational interaction and CARICOM's formal structure, negotiations between Trinidad and the other member states reflected the relative bargaining power of member states and their desire to overcome shared problems (See Figure 10).

⁹³ See the domestic dynamics below. In summary, the national government held public consultations with various elites. They gauged these recommendations against changes in the international environment, the potential benefits of establishing a regional enforcement mechanism, and, to minimal degree, mass perceptions.

⁹⁴ The Preparatory Committee for the Establishment of the Caribbean Court of Justice. A group of six Attorney-Generals, who outlined the structure and design of the CCJ. It consisted of Jamaica, Trinidad and Tobago, Barbados, Guyana, St Kitts and Nevis, and St Lucia and the Grenadines. The former four of these states are designated as MDCs, while the latter two are considered LDCs.

⁹⁵ The outer circles are those actors that do not have direct or immediate effect on policy, that is, economic and knowledge elites at the regional level. While this is true for Trinidad, the economic elite has a greater potential to influence the political elite at the regional level. See explanation in previous paragraphs.

For instance, in 1987, at the Eighth Conference of the Heads of Government, ANR Robinson proposed a Caribbean Court of Appeal in order to “reinforce a feeling of togetherness, sincerity and common destiny...which could serve to gradually deepen the integration process” (Robinson cited in Hall, 2003a, pp. 875-876). This proposal was endorsed by the Jamaican government. In 1989, it was his speech entitled “The West Indies Beyond 1992” at the Tenth Meeting that laid the foundation for the Grand Anse Declaration, which was responsible for setting up the WIC⁹⁶ that later supported his proposal for a Caribbean Court of Appeal vested with not only an appellate jurisdiction but also an original jurisdiction (Gilbert-Robert, 2013; Hall, 2003a, 2003b; Payne, 2008; Pollard, 2004).

Prime Minister Patrick Manning actively sought to have the seat of the CCJ in Trinidad and at the Fifteenth Meeting the “Member States of the Caribbean Community appeared to have accepted in principle that the seat of the Court would be located in Trinidad and Tobago” (Pollard, 2004, p. 201). By the 20th Meeting and the Seventh Intersessional Meeting, Prime Minister Basdeo Panday informed attendees that his government had identified the location where the CCJ would be housed (Panday cited in Hall, 2003a). Details of the substantive bargaining could not be determined; however, given the suggestion made by this MDC was unanimously voted for by the Conference,

⁹⁶ West Indian Commission.

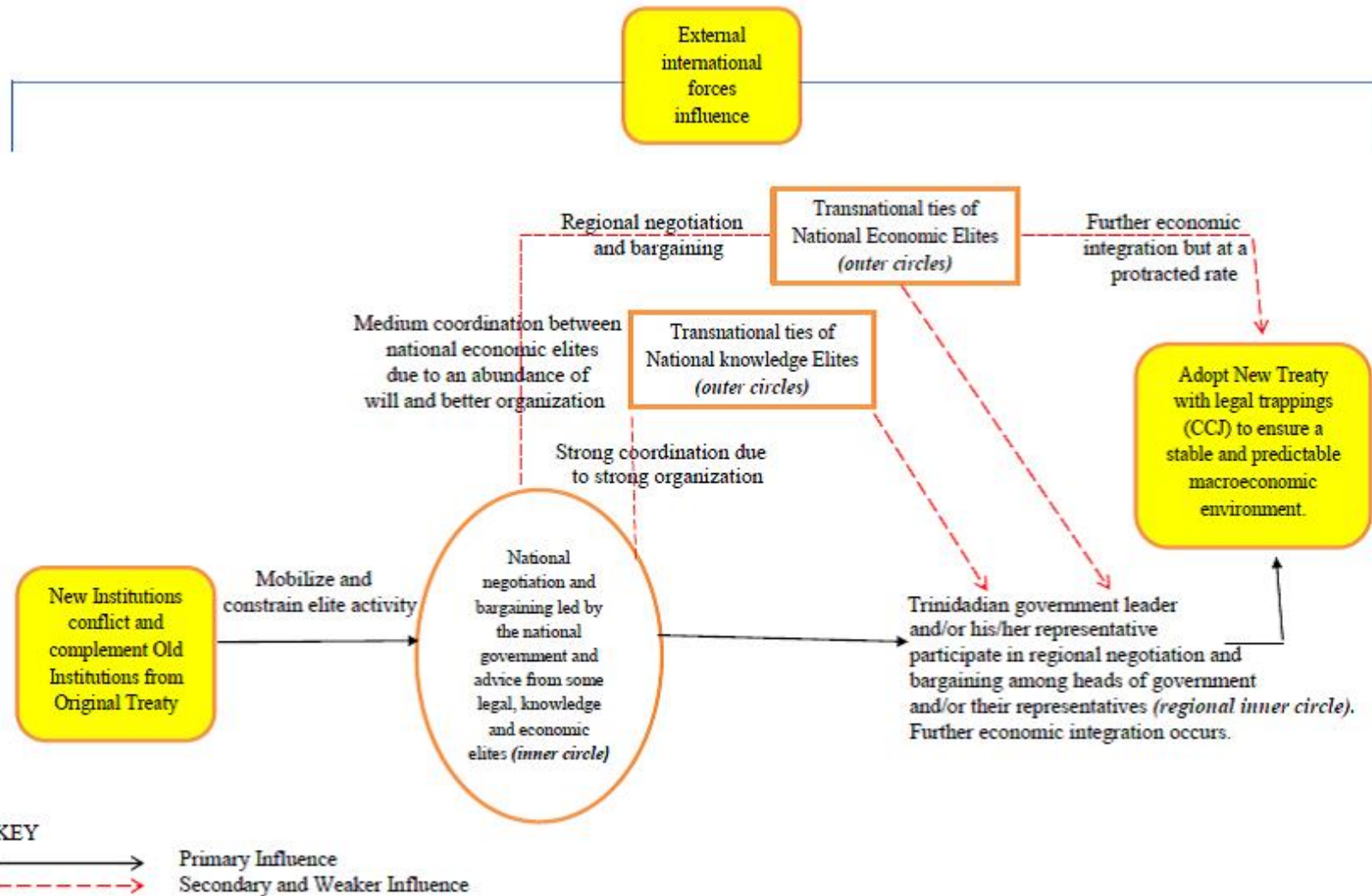


Figure 10. Trinidadian Elite Activity and Institutional Development During the Regional Integration Process.

the degree of influence from the Trinidad government cannot be denied. Bargaining led to the consideration of a regional court and Trinidad as the seat of the CCJ.

Trinidad, however, did not dominate PREPCOM negotiations. It was one of four MDCs on the committee, which gave the larger and/or wealthier states approximately sixty-seven percent influence over the CCJ structure. The degree of influence from the Trinidadian government was limited as eighty percent of the CCJ Agreement reflected the submissions provided by the Jamaican political elites (Pollard, 2004).⁹⁷ Nevertheless, Trinidadian PREPCOM member Attorney-General Ramesh Maharaj did insist the Agreement include the clause that CCJ candidates be of “high moral character, intellectual and analytical ability, sound judgment, integrity, and understanding of people and society” (Pollard, 2004, p. 33; Article 4§11). He further provided the impression there was general collaboration among the PREPCOM representatives on the final structure of the CCJ. On the independence of the judges, Maharaj remarked that “we have tried to put safeguards [in place] in order to ensure that the judges would be independent; that no politician would be able to dictate to the judges how they should decide cases [in order] to ensure that the public will have confidence in the judges” (Rawlins, 2000, p. 32). His remark seems to validate Pollard’s (2004) observation that PREPCOM took an inclusive approach to the development of the Agreement establishing the CCJ.

On the other hand, given that most of the suggestions from Jamaica ended up in the final document, the inclusive argument seems misleading. Inclusiveness should have amounted to a more balanced document that reflected a more equal representation from all the representatives. Further, the impression of inclusiveness and collaboration took a

⁹⁷ For the specific suggestions provided by the Jamaican elite refer to Table 6.

hit years later when Maharaj knocked the CCJ as a tribunal and questioned its relevance. He criticized the very judicial safeguard he once promoted as being a “watered-down version of what was originally intended and...questioned the selection of CCJ judges, [calling] on them to resign and [reiterating]...that the court could be subjected to political interference” (BBC Caribbean, April 18, 2005). This reads as Trinidad being on the losing end of the substantive bargaining or political anger at an adverse decision.

While it is difficult to ascertain the degree of influence Trinidad had over the Agreement establishing the CCJ, it would have had greater influence over *The Caribbean Court of Justice (Original Jurisdiction) Rules, 2006*, and *The Caribbean Court of Justice (Original Jurisdiction) (Amendment) Rules, 2006*, with a Trinidadian as President of the CCJ and another seated as a Justice among the group of seven Justices. The former document was drafted by legal technocrats of the Legal Affairs Committee and the CARICOM Secretariat. This document was eventually thrown out by the CCJ Justices. The final document was modified and formulated by the CCJ Justices. The amendment document was also entirely devised by the Justices (Pollard 2004; TT28, Interview, September 12, 2012; TT30, Interview, September 19, 2012; TT34, Interview, September 25, 2012).

The Justices reviewed the Privy Council Rules, the Ordering Council (for procedures for going to the Privy Council), the Rules of the Court of Appeal from Trinidad and Tobago, the WTO, the International Court of Justice and the ECJ rules for inspiration (TT28, Interview, September 12, 2012; TT30, Interview, September 19, 2012; TT34, Interview, September 25, 2012). They, however, maintained that the process was collaborative and could not remember the specific ideas put forward by individual judges.

One CCJ Justice recalls, “I don’t think I can take credit for introducing any particular rule. It was a joint effort” (TT30, Interview, September 19, 2012). Another CCJ Justice, corroborated this position. He recollects “it was very collaborative. The seven of us sat down for months, every day. We had rules of other courts that are kind of similar and we had the [Revised] Treaty and the Agreement establishing the Court and on the basis of those documents we crafted our own rules. It was very slow deliberate going” (TT34, Interview, September 25, 2012). Given these responses it is difficult to determine the substantive bargaining that would have taken place at these meetings; nevertheless, the fact the President of the CCJ was Trinidadian places Trinidad in a position to have the final word on the Rules of the Court.

Regional Dynamics: Discussion. Neo-functionalism maintains that the economic elite and interest groups should be at the center of regional integration process. However, CARICOM’s formal structure and the lack of transnational ties and cooperation among the CARICOM economic elite in pursuit of “economic reform along the line of least resistance” (Hooghe and Marks 2008, 4) so as to foster added institutionalization and governing complexity limits this argument. This makes neo-functionalism an inadequate theory to explain Caribbean integration and the CCJ development. Liberal intergovernmentalism is, therefore, preferable in explaining Trinidad’s path towards greater integration with other CARICOM member states and the establishment of the CCJ. National preference formation, interstate negotiation and bargaining, and Trinidad’s reasons for/against a move towards the transfer of sovereignty to a regional organization (the CCJ) can be traced through the available documentation.

It was expected, like in the case of Jamaica, that Trinidad with its relative wealth would have had a high degree of influence. While its heads of government actively lobbied for a regional court and for the seat of the CCJ, it seemed to take a step back in providing independent submissions for the Agreement establishing the CCJ. Braveboy-Wagner (2003) and Buddan (2001) assumed that given its wealth, the state's ability to train and secure skilled personnel would help to develop, promote, and provide alternative proposals for the development and structure of the CCJ and, thus, make the state more powerful and influential in regional negotiations and bargaining. However, Trinidad was relegated to accepting the concerns of the JBA and supporting their proposals for the Agreement.⁹⁸ Such a stance is best explained by two factors: the historical relationship among the CARICOM states and domestic politics.

There has been a sense of rivalry between MDCs and LDCs that has amounted to "jealousy and the tendency to protect national turf... [which] has slowed the movement toward greater unity" (The Globe and Mail, December 5, 1991). There have been instances where smaller states were not compliant with the desires of the larger states. Differences in development between CARICOM MDCs and LDCs in the 1960s and 1970s led to some actors within the LDCs opposing the deepening of the integration process and it also affected collaboration with similar actors in MDCs in subsequent years (Payne 1980, 46). Therefore, so as not to reignite such rivalries and invective against itself, Trinidad would have downplayed the relative power its wealth would provide in order to see the regional court it envisioned come to life.

⁹⁸ Details on a lack of independent submissions are addressed in the Domestic Dynamics section of this chapter.

With regards to domestic politics, Trinidad had a single party majority government between the years of the proposed regional court and the formation of PREPCOM. This allowed the political leadership and/or his/her agents to wield unmitigated power when representing state affairs. However, once the PREPCOM was formed, Trinidad had a coalition government, which may have diminished some of the power of the political leadership and/or his/her agent due to continuous consultations between parties in the coalition. This would have tempered the agent's response in PREPCOM. This factor is further discussed in the domestic dynamics section of this chapter.

The discussion now moves to the domestic level of analysis in order to explain how Trinidad's local elites' negotiations and bargaining defined national preference on the structure of the CCJ.

DOMESTIC DYNAMICS OF REGIONAL INTEGRATION

Background. Trinidad & Tobago was one of the later acquisitions of the British Empire. With the abolition of the slave trade and emancipation of slaves, the plantations had lost the free labor of the African slaves and as such, the plantation owners were forced to hire indentured servants from India and, to a lesser extent, China, to work the plantations. The influx of indentured servants led to the East Indians and Africans being the largest ethnic groups. The almost equal number of Africans and East Indians and the large mixed race population have made race a factor in people's perceptions and it has a great effect on politics and society. For many years, sectors within society were

dominated by race. The “Whites”⁹⁹ dominated the private sector, the “Blacks”, who were concentrated in urban area, dominated politics and the public sector, and the “Indians”, who were found mainly in the rural area, dominated agriculture (Hintzen, 2003; Ryan, 1999).

Like Jamaica, the condition of colonization saw Trinidad & Tobago adopting a form of the Westminster parliamentary system called the Whitehall model and a single-member district plurality (SMP) electoral formula. It was influenced by the legacy of a Crown Colony Government (CCG). However, these factors did not lead to a stable two party system and consistent majority governments as it did in Jamaica (Barrow-Giles & Joseph, 2006; Emmanuel, 1992). Instead these factors and Trinidad’s ethnic composition produced a rotation between coalition and majority governments and the calling of elections in rapid succession either due to members of parliament ‘crossing the floor’ or a previous deadlocked election that did not produce an outright majority. Additionally, like Jamaica, all these factors and traditions also produced limited representation with authoritarian and anti-democratic features in the form of charismatic leadership and Caribbean styled patronage politics (Buddan, 2001; Barrow-Giles, 2002; Ryan, 1999).

Civil society groups were born out of the labor unrest of the 1930s (Barrow-Giles, 2002; Buddan, 2001). This gave birth to the trade union movement that, like Jamaica, was headed by the black and “coloured” educated professionals, who demanded a share of political power (Hintzen, 2003; Ryan, 1972). The labor movement and British acceptance of its demands gave rise to the formation of political parties in the 1950s,

⁹⁹ This group included descendants of the French and Spanish planter class, who occupied Trinidad before British rule, the British, and Syrian and Lebanese immigrants.

Table 7

Electoral Outcomes in Trinidad and Tobago from 1981 – 2002

Year	Political Party	Number of Seats won in the House of Representatives (T=36 seats)	Percentage of Seats won in the House of Representatives (T=100%)
1981	PNM	26	53
	UNC/ULF	10	15
	Other Parties and Independents	2	32
1986	PNM	3	32
	NAR	33	66
1991	PNM	21	45
	NAR	2	24
	UNC/ULF	13	29
1995 ¹⁰⁰	PNM	17	47
	NAR	2	6
	UNC	17	47
2000 ¹⁰¹	PNM	16	44
	NAR	1	3
	UNC	19	53
2001 ¹⁰²	PNM	18	50
	NAR	-	-
	UNC	18	50
2002	PNM	20	56
	NAR	-	-
	UNC	16	44

Note. Adapted from *General Elections & Voting in the English-Speaking Caribbean 1992 – 2005*, (pp. 120-122), by C. Barrow-Giles and T. Joseph, 2006, Kingston, Jamaica: Ian Randle Publishers.

which were led by “a black and coloured intellectual and professional elite and... East Indian and white businessmen and professionals” (Hintzen, 2003, p. 400). In 1956, the Democratic Labour Party (DLP) was formed by Hindu Indo-Trinidadians, white

¹⁰⁰ This was a deadlocked election. The UNC formed a coalition government with the NAR.

¹⁰¹ The UNC government was dissolved within the year because of factionalism with the party and the Trinidad and Tobago President’s refusal to appoint a number of defeated UNC members as members of the Senate and/or as junior ministers (Barrow-Giles & Joseph, 2006; Ryan, 2003).

¹⁰² This was another deadlocked election. After negotiations among the PNM, the UNC, and the President of Trinidad & Tobago, the President invited the PNM to form the government. The UNC, however, was not pleased with his decision and made governability impossible, thus, forcing the PNM to call early elections (Barrow-Giles & Joseph, 2006; Ryan, 2003).

businessmen and the white planter class (Ryan, 1972). The People's National Movement (PNM) was formed and headed by the multi-racial elite, which later became predominantly Afro-Trinidadian with the promotion of creole nationalism (Ryan, 1972).

With the PNM forming the government in 1962, access to the government and bureaucracy and the distribution of resources became increasingly race-based and elite driven. Percy Hintzen (2003) remarked that while isolating the Hindu Indo-Trinidadians and some segments of working class Afro-Trinidadians,

the middle-class elite developed strong ties with the local business elite and the multiracial group of professionals, managers and skilled and technical labor. It recruited white businessmen to advisory positions in government, giving them considerable influence over economic policy. All these became linked to party's middle strata of black and coloured workers in the public sector in a new constellation of elite interests. (p. 407)

This structure eventually led to an attempted revolt from some working class Afro-Trinidadians and an alliance between working class Afro-Trinidadians and rural Hindu Indo-Trinidadians to address this disparity in groups such as the United Labour Front (ULF) (Ryan, 1999). Alliances and access to the government fluctuated as the PNM began to lose support in the late 1970s and early 1980s. With this history, the relationship between civil society, that is, the knowledge and economic elites, and the state cannot be described as swinging between eras of cooperation and conflict as in Jamaica but as one of continued conflict due to changing alliances and access to resources.

Civil society, politics and the state have changed in recent years. They have become more heterogeneous, first, with a mixed civil service, and a greater mix within parliament and the executive since the 1980s and second, with an influx of Indo-Trinidadian businessmen into manufacturing and commerce and racially based

organizations, such as trade unions and manufacturing associations, having since amalgamated (Hintzen, 2003; Meighoo, 2003; Meighoo & Jamadar, 2008; Ryan 1999, 2003). Trinidadians have worked to develop power-sharing models of governance in the public and private sectors, and civil society in order to promote better organization and greater inclusiveness, and to combine the country's limited resources (Buddan, 2001; Ryan, 1999). The country has also established joint committees with representatives from the public and private sectors and/or other civil society groups in most government ministries. They meet on a regular basis with the respective government minister advising him/her on policy decisions (WTO, n.d.).

Domestic Elite Influence.

Political Elite Influence. The parties of relevance to CCJ development and establishment, the People's National Movement (PNM),¹⁰³ the National Alliance for Reconstruction (NAR),¹⁰⁴ and the United National Congress (UNC) are all center-left political parties (Ryan, 1999). Trinidadian political parties, which are located close to the center, had moderate to strong favor for regional integration and its supporting institutions. Thus, the expected vast differences between the various types of parties and ideologies on the issue of regional integration, as seen in Europe, are negligible. Also, it should be noted that given that the UNC, with the help of the NAR, had been in power during the negotiation stages of PREPCOM (1995-2001) and the signing of the CCJ

¹⁰³ The PNM is a very unique case. It has swung between center-left and center-right since its inception in 1956. These swings are based on the party leaders' initiatives. There is presently no agreement on whether the PNM should be defined as a center-left or a center-right political party. The researcher has used her discretion based on the reading of the literature and listed the PNM as a center-left party.

¹⁰⁴ The NAR lost much of its support after losing the 1991 general elections. Many former members have since either joined the PNM or the UNC, run as an independent or formed their own party (Ryan 1999).

Agreement (2001), the position of government remained consistent during that time. Any objections from the major opposition party, the PNM, did not hinder efforts to any significant degree. However, the coalition between the UNC and the NAR may have tempered the aggressiveness of the UNC political leadership who would have consult with its minor partner on matters of importance (Ryan, 2003). The differences between these two parties again is negligible given that they were both left of center parties.

Unlike Jamaica, the ideology of nationalism as opposed to the ideology of regionalism is not a good indicator for support for regional integration and the CCJ. The Trinidadian political elite support for regional integration efforts have been largely consistent. This is due to Trinidadian leaders embracing a more regional outlook (Gilbert-Roberts, 2013; Hall, 2003a; Mullerleile, 1995; Payne, 2008). More specifically, this is on account of Trinidad not having a strong Opposition for much of its post-independence history. The PNM exercised uninterrupted rule from 1956 until 1986 and Mullerleile states that this led to the government of “Trinidad and Tobago...[playing] a less nationalistic role” than in countries like Jamaica on issues relating to regional integration (1995, p. 188). Eric Williams, founder of the PNM, was one of the main Caribbean negotiators during consultations between the British Government and the new and emerging Caribbean leaders, which later produced the West Indies Federation. Even after the failure of the federation, Williams continued to support the idea of a political union among Anglo-Caribbean states until his death in 1981. He saw it as a means of developing a Caribbean identity around which the various ethnic groups in the Trinidad & Tobago could converge (Gilbert-Roberts, 2013, p. 43). His most notable proposals came in the form of a 1973 essay entitled, “A New Federation for the Commonwealth

Caribbean”, and the 1974 establishment of a Caribbean Task Force on Integration (Mullerleile, 1995; Payne, 2008). In his essay, he had proposed that there be a Federal Court, a full 20 years before the WIC’s similar recommendation. The taskforce report recommended a gradual move towards a political union among Antigua, Barbados, Dominica, Grenada, Guyana, St Kitts and Nevis-Anguilla, St Lucia, St Vincent, and Trinidad & Tobago.

His PNM successor, George Chambers, like Jamaica’s Edward Seaga, showed little interest in regional integration. This position was due not to disinterest in the movement but to two factors: the economic stagnation faced by Trinidad as a result of a fall in oil prices and demand, and the growing ‘invective’ the country faced from other CARICOM states (Braveboy-Wagner, 2008; Hall, 2003; Mullerleile, 1995). The economic downturn meant that Trinidad had to decrease donor funding to its fellow CARICOM states and undertake market reform so as to put Trinidad’s interests before CARICOM (Braveboy-Wagner, 2008; Mullerleile, 1995). The ‘invective’ resulted in Trinidadians reacting “to this vilification [by] re-assessing its costs and benefits...[and]...their willingness to make sacrifices for CARICOM [which] has often been rewarded with a studied lack of appreciation, with malice and with abuse” (Chambers cited in Hall, 2003a, p. 794). In 1985, Chambers responded by imposing import restrictions on goods from CARICOM states and declared that his administration would not adhere to the agreement made under the Nassau Understanding, a decision he reversed a year later (Financial Times, March 21, 1985, p. 6; Mullerleile, 1995, pp. 53-54).

Under the leadership of Prime Minister ANR Robinson, founder of the NAR, came renewed interest in regional integration. It was his administration that proposed a Caribbean Court of Appeal at the 1987 Heads of Government meeting, which was supported by the Jamaican government (Hall, 2003; Payne, 2008, p. 262). He is further credited for other regional initiatives such as the formation of the WIC and the Caribbean Regional Economic Conference (Hall, 2003a; Gilbert-Roberts, 2013; Mullerleile, 1995; Payne, 2008).

Patrick Manning, upon leading his PNM administration from 1991 to 1995 and from 2001 to 2010, supported the establishment of a Caribbean Court after reading the preliminary WIC Report and he suggested Port of Spain as host of the CCJ (JM24, Interview, August 16, 2012; Mullerleile, 1995; Pollard, 2003). Additionally, he proposed the Manning Initiative, which sought to establish a confederation among Barbados, Guyana, and Trinidad & Tobago (Barrow-Giles, 2002).

Finally, Basdeo Panday, founder of the UNC and Prime Minister from 1995 to 2001, showed continued support for regional integration and the CCJ. His administration endorsed both jurisdictions, identified the future residence of the CCJ, provided a PREPCOM member, and signed the final agreement establishing the CCJ (Hall, 2003a; Payne, 2008; The Jamaica Observer, January 23, 2004).

Partisanship has had less of an effect on support for regional integration overall. However, Trinidad has had its share of partisanship affecting support for the CCJ. It is not as pronounced as in Jamaica and largely affected support for the appellate jurisdiction of the Court, which is not the focus of this dissertation. The UNC government had fully endorsed both jurisdictions. At the Twelfth Intersessional Heads of Government meeting

held in February 2001, Panday unequivocally proclaimed that “Trinidad and Tobago's continuing commitment to and support for the establishment of the Caribbean Court of Justice. Indeed, the temporary Headquarters of Port-of-Spain for the Court will be ready for occupancy by the end of April 2001” (Panday cited in Hall, 2003a, p. 837). He did so under the argument of engendering constitutional reform to Trinidad (Hinds, 2005; Ryan, 2001).

Panday, during his time as prime minister, had only once backtracked on this position. This occurred when he considered rescinding the offer to have Port of Spain be the seat of the CCJ due to his government’s contemplation of only partial acceptance of the appellate jurisdiction for criminal cases. He reneged after consultations with the Opposition and the Law Association of Trinidad & Tobago (LATT) (Trinidad Express, February 22, 2001 cited in Ryan, 2001, p. 193). From this, it can be concluded that the Opposition PNM was unwavering in its support for the full implementation of the CCJ (Lilla, 2008).

Once the UNC became the Opposition in 2001, it resisted the complete ascension to both jurisdictions of the CCJ. It stated it would not supply the two-thirds majority needed to pass the CCJ bill unless there was constitutional reform in Trinidad (Hinds, 2005; The Jamaica Observer, January 23, 2004). Panday alleged that “[without] constitutional reform the court could be very dangerous [and] with a Government like the PNM in office and in power one has to be extremely careful in setting up that court” (Trinidad Express, April 14, 2004 cited in Hinds, 2005, p. 11). After calls from Prime Minister Manning to put partisan politics aside, the UNC remained unmoved, even going as far as abstaining from a parliamentary vote to enact the CCJ as the court of first resort

(Hinds, 2005, p. 11). Given the unwavering stance of the UNC, the PNM government withdrew the bill shortly thereafter. One former Attorney-General, Keith Sobion, questioned this position as “you had a government who signed an agreement and now saying that they are not going to support the legislation to implement the agreement... You cannot, for example, say that I sign an agreement to establish a Caribbean Court and because I am in opposition that the agreement is bad. Why did you sign it? If it had technical flaws why did you sign it?” (The Jamaica Observer, January 23, 2004). The UNC’s stance came as a result of the President of Trinidad, ANR Robinson, declaring the PNM victor in the 2001 deadlock election. This angered Panday and led to repeated roadblocks to governance by the UNC (Hinds, 2005; Ryan, 2003).

Economic Elite Influence. Early preferences towards CARICOM were largely economic. The local Trinidadian economic elite has always exerted much influence on national government representatives (the political elite) in support for greater regional economic integration. This is on account of the country experiencing a windfall during the oil shocks of the 1970s, which motivated private sector undertakings to expand their market to the wider CARICOM area (IDB, 2005; Mullerleile, 1995). Unlike Jamaica, these circumstances had allowed for Trinidad to be dominated by industrialists, producers, and manufacturers (IDB, 2005; Mullerleile, 1995; JM17, Interview, July 31, 2012; TT25, Interview, September 3, 2012). The private sector, in the form of small and large Pan Caribbean corporations, has been known to develop strong ties with other CARICOM states through the acquisition of local businesses and financial institutions (IDB, 2005; JM17, Interview, July 31, 2012). In addition, Trinidad’s government and private sector are heavily dependent on one another due in part to “the private sector

financing investment proposals for themselves and for the country” (Dookeran, January 31, 2012, p. 7; Braveboy-Wagner, 2008).

As key stakeholders in the process, the economic elite has affected the Caribbean integration process through its symbiotic relationship with the government. A trade specialist describes the relationship as “a nice template that we work with the government and I know it’s not the template of the Caribbean. We have that kind of relationship because we developed those kinds of frameworks, a road map. So, no matter if the personnel changes once we follow the road map all is well” (TT26, Interview, September 4, 2012). This framework comes in the form of joint committees – The Standing Advisory Committee on Trade and Related Matters and The Technical Coordinating Committee (TCC). The former is driven by the private sector and “advises the Minister of Trade and Industry on trade policy formulation” (WTO, n. d., p.17; TT25, Interview, September 3, 2012; TT26, Interview, September 4, 2012; TT31, Interview, September 21, 2012), while the latter is “headed by the Permanent Secretary of the Ministry of Trade and Industry...comprising representatives from the public and private sectors and civil society, [and] advises the Minister of Trade and Industry on trade policy issues taking the national perspective into account” (WTO, n.d., p. 17; TT26, Interview, September 4, 2012).

One trade development specialist addressed how both committees work. He states,

at the Ministry of Trade we have TCC...Once a month we try to meet to bring the stakeholders together to shape policy...Likewise the TTMA¹⁰⁵ is the chair of what we call the standing committee where the private sector and...some government

¹⁰⁵ Trinidad and Tobago Manufacturers Association

representatives...pull key stakeholders from the business community...and...come together to discuss topical issues that we want government to take care of. Not necessarily national, it could be regional as well...The minister gives us his ear. The minutes from that meeting goes directly to the minister...So, from the government perspective you have the TCC and from the Private sector you have the standing committee. So from two ends we try to tackle to problems and try to shape policy and inform policy. (TT26, Interview, September 4, 2012)

Knowledge Elite Influence. The knowledge elite, like those in Jamaica, show greater oneness of mind on the benefits of regional integration and the need to strengthen associated organizations, like the CCJ, to ensure CARICOM's success. The knowledge elite's influence is limited for some but very open for others.

As was the case in Jamaica, Trinidadian academics primarily conducted lectures, participated in interviews, and wrote papers, books, reports, and articles on the subjects of regional integration, regional and national policies, and the CCJ, for which no direct link can be made as to whether these points were received by the political elite and/or forwarded to PREPCOM. For instance, Selwyn Ryan, a senior academic at the University of the West Indies, St Augustine, used his columns in the *Trinidad Sunday Express* to discuss his views on Trinidad's role in regional integration and the CCJ. He even published a book entitled *The Judiciary and Governance in the Caribbean* that summarized the region's views of Caribbean jurisprudence and the CCJ appellate jurisdiction. Beyond that there is no record of him sitting on committees, formulating working papers for government officials, and/or representing his country at CARICOM gatherings on the subject.¹⁰⁶

¹⁰⁶ See the list of his professional activities listed on the Sir Arthur Lewis Institute of Social and Economic Studies website at <http://sta.uwi.edu/salises/RyanProfessionalActivities.asp>.

There were other senior academics, such as Trinidadian economist Lloyd Best and Jamaican born Norman Girvan, who have acted as technocrats for the Trinidadian and other Caribbean governments (Mullerleile, 1995, p. 168). Girvan, a former Secretary General of the Association of Caribbean States (ACS), has written numerous reports on Caribbean integration and the CCJ and has attended many CARICOM level meetings. His large volume of work is well read among political, economic and knowledge elites across the region and it has influenced their positions on a number of issues. Much of his work is also readily available and has informed Caribbean leaders of his views on particular Caribbean policies (Girvan, n.d.).¹⁰⁷

Influence of Mass Public Opinion. Like Jamaica, a few public education and consultation exercises on the CCJ and regional integration were conducted, however, it could not be determined whether these exercises influenced the political elite or merely served as a forum for the public to learn about the role of the Court. For example, the WIC noted in its Time for Action Report that it held four public consultations in Trinidad & Tobago – two in Port of Spain, and one in Tobago, and San Fernando, respectively. However, according to its Appendices E and F, most of the submissions to the commission from Trinidad & Tobago came from representatives of the government and opposition, UWI academia, civil society groups, and the media. Another instance of public consultation was held in 1999 and attended by the Attorney-General, high ranking members of the military, police, and the coast guard, and trade and manufacturing associations' representatives. Attorneys and future CCJ justices were also in attendance.

¹⁰⁷ Norman Girvan has designed a website, <http://www.normangirvan.info/>, with numerous articles, reports, lectures, links, and editorials on various Caribbean integration issues. It is free of charge and has resources that date back to the 1960s.

Mass public opinion in these instances was limited as most attendees were members from the middle and upper classes.

Where there were a few newspaper editorials and articles¹⁰⁸ and discussions in parliament¹⁰⁹ on the topic, the debate was still restricted to highly skilled professionals, tertiary educated individuals, journalists and the middle to upper class members of society. Again, the focus was on the appellate jurisdiction (Lilla, 2008; Ryan, 2001). Like the JBA,¹¹⁰ LATT suggested reforming the local justice system before any consideration be made in joining the appellate section of the CCJ (Pollard, 2004; Ryan, 2001). In parliament, then Prime Minister Basdeo Panday debated whether Trinidad would ascribe to the CCJ's appellate jurisdiction only in criminal matters while maintaining the Privy Council for civil cases (Trinidad Express, February 22, 2001 cited in Ryan, 2001). Panday also maintained he considered withdrawing Trinidad's offer of Port of Spain as the seat of the Court but reneged on this proposal only after consulting with the Opposition and LATT (Ryan, 2001).

Surveys performed among ordinary citizens on the topic during the period under investigation confirm that researchers and pollsters focused most of their attention and questioning on elite members of society. Similar to Jamaica, polls on the topic occurred around the time of the establishment of the CCJ and/or centered on the hotly debated and divisive aspects of the appellate jurisdiction of the Court. Some of the responses to these

¹⁰⁸ No less than fifteen written in the Trinidad Express, The Trinidad and Tobago Guardian, and the Trinidad Newsday between the years 1999 to 2005 with interviews with members of LATT, former Prime Ministers Basdeo Panday and Patrick Manning, former CCJ President Michael de La Bastide, academic Lloyd Best, and former Attorney General Ramesh Maharaj.

¹⁰⁹ See Selwyn Ryan's 2001 book, *The Judiciary and Governance in the Caribbean*.

¹¹⁰ The Jamaica Bar Association.

polls do provide insight into the public’s view of the Court and their possible involvement in the structuring of the Court. In a 2008 survey commissioned by the CCJ entitled “Promoting the Caribbean Court of Justice as the Final Court of Appeal for States of the Caribbean Community,” 500 Trinidadians from all walks of life were questioned about their knowledge of the CCJ’s original and appellate jurisdictions. Table 8 shows their specific responses about the CCJ and regional integration.

Table 8

Trinidadians’ Responses to Questions about the CCJ (N=500)

Question	Yes	No
Do you know about the Caribbean Court of Justice?	73.2%	26.8%
Do you know that the CCJ is two courts in one?	22%	78%
Do you know what the CSME is? ¹¹¹	10.5%	89.5%

Note. Adapted from *Promoting the Caribbean Court of Justice as the Final Court of Appeal for States of the Caribbean Community* (pp. 77-84) by M. Lilla. 2008, Trinidad: The Caribbean Court of Justice.

As it relates to the questions, most respondents could not identify the CCJ unless prompted by the interviewer (Lilla, 2008). Of those respondents, he noted that the majority associated it with being a final court of appeal (Lilla, 2008, p. 77). He found that not many respondents associated the CCJ with regional integration. According to Michael Lilla, only a few respondents “thought it was a CARICOM court as such, [with] its business to handle purely CARICOM trade and commercial matters” (Lilla, 2008, p. 77). From those respondents, most were either lawyers or businessmen with a small number of well-informed working class individuals (Lilla, 2008, p. 79). He further observed that only a handful of persons were able to recognize the CSME and associate it with the CCJ (Lilla, 2008, p. 84). Those who did had direct involvement with the CSME through their

¹¹¹ While not a direct question about the CCJ, responses to this question help to determine if the respondents knew the link between the CCJ and the CSME.

participation in the free movement of the skilled individuals.¹¹² Thus, it was not surprising the CCJ Agreement was not based on public opinion.

Aside from surveys, mass public opinion on the issue was represented by the “man-in-the-street interviews reported in the newspapers, or on television usually giving the opinions of five or six people on the instant topic,” which does not provide enough of a salient mass opinion (Lilla, 2008, p. 76). Additionally, the responses demonstrated the lack of knowledge about either jurisdiction of the CCJ. As late as 2008, *The Trinidad Guardian* asked people on the street their views about whether the CCJ was fulfilling its role. One response suggested, “No. Because they are not solving simple problems like crime, food and shelter. They can’t solve basic things” (*The Trinidad and Tobago Guardian*, April 28, 2008 cited in Lilla, 2008, p. 90). The discussions during the period, therefore, did not provide the public with a comprehensive picture of the role and benefit of the CCJ. Trinidadian academic, Lloyd Best, described the image portrayed of the CCJ as being “a mere vehicle for the death penalty or worse, a place where trade and investment disputes are settled between and among governments and corporations...there is little concern about how the Courts functioned to deliver justice in the different jurisdictions” (*The Trinidad Express*, February 25, 2001 cited in Ryan, 2001, p. 194).

These responses also show the public education programs did not work in Trinidad as the public was unable to recognize the original jurisdiction role of the Court. Accordingly, it shows there is a high probability the public did not contribute to the structure and establishment of the CCJ’s original jurisdiction. Like Jamaica, the lack of

¹¹² At present, Article 46 of the RTC allows for the free movement of labor for certain categories of workers. These include: UWI graduates; media personnel; artistes and musicians; and sports personalities.

knowledge on the original jurisdiction could be a result of the focus being on the appellate section of the Court and whether Trinidad should remain with the Privy Council. Unlike Jamaica, there was very little discussion about the CCJ outside of that among the political, knowledge, and economic elite. LATT is cited as simply stating it could not support the CCJ's appellate jurisdiction at the time and the private sector was said to raise concerns "though it is not clear what these were" (Ryan, 2001, p.192). The most vocal civil society group on the issue was not even a local one. In the local media, Amnesty International referred to the CCJ as the "hanging court," which "could impact its ability to uphold international judicial standards in contentious cases" (Trinidad Express, February 17, 2000 cited in Ryan, 2001, p. 172).

The lack of knowledge of original jurisdiction can be attributed to the subject political culture prevalent in Trinidad & Tobago. Public opinion and the public at large are directed by the elites due to the weak and passive nature of citizens towards political institutions (Almond & Verba, 1963). The ordinary Trinidadian is more concerned with his material interests, the high incidence of crime and corruption in the country, and the country's underlying ethnic and racial tensions (Lilla, 2008; Ryan, 1999, 2001). They paid little attention to the CCJ issues that were hotly debated.

Varying Degrees of Domestic Elite Influence. Political leaders (the government and the opposition) have been the most influential on the CCJ's development. The degree to which the economic elite, the knowledge elite, and the public had any influence was more difficult to ascertain. From the records and the recollections of interviewees, I found that members of the economic and knowledge elite were, more often than not, not consulted, but put their support behind it. Only one, a director of a private sector

organization, could confirm that there was limited consultation; however, he/she recalled that he/she ignored an invitation to the public consultation (TT31, Interview, September 21, 2012).

While Trinidad has a framework for continual consultations with the economic elite and other civil society groups, the government sought approval after the Agreement establishing the CCJ was finalized. A trade specialist attached to the Trinidad and Tobago Manufacturers Association (TTMA) recalls that “what was handed down to us regarding original jurisdiction, we endorsed” (TT26, Interview, September, 4, 2012). This was also true for the Trinidad and Tobago Chamber of Industry and Commerce (TTCIC), which as late as 2012 continued to submit articles to the *Trinidad Express* and the *Trinidad and Tobago Guardian* regarding its endorsement and promotion of the CCJ’s original jurisdiction.¹¹³ Therefore, I was unable to confirm in my study of the CCJ, Witter’s (2004) and the ADA’s (2006) observations about the interaction between groups or individuals and the government.

The legal fraternity, on the other hand, was approached and proved not to be as influential as its Jamaican counterpart. As noted by Pollard (2004), the JBA was the only one of these legal organizations to provide official recommendations. This was confirmed by five of the six jurists I interviewed and all six jurists applauded the Jamaican Bar’s effort and fully supported their proposals and concerns. One Trinidadian jurist recalled,

The Trinidadians were not as organized as the Jamaicans. We had consultations and people made oral statements but in Jamaica you had people like AJ Nicholson

¹¹³ See The Trinidad Express, ‘The private sector, CSME and the CCJ’s original jurisdiction’, February 16, 2012, http://www.trinidadexpress.com/business-magazine/The_private_sector_CSME_and_the_CCJ_s_original_jurisdiction-139488423.html (accessed November 1, 2013) and The Trinidad and Tobago Guardian, ‘The CCJ anchors CSME’, April 15, 2012, <http://guardian.co.tt/business-guardian/2012-04-05/ccj-anchors-csme> (accessed November 1, 2013).

who had seriously looked into the question and took the time to write criticisms. The Jamaican Bar wrote a document to which they detailed their criticisms. We in the Trinidad Bar didn't have a document but people spoke at the consultations. (TT30, Interview, September 19, 2012)

He further recalled that at the public consultations he supported two points made by the JBA – the judicial independence of the Court in the form of the Regional Legal Services Commission (RJLSC) and the fiscal independence of the Court (The Trust Fund).

Another jurist went as far as to state that, “fortunately the Jamaican Bar Association dealt with it very responsibly...Jamaica played a really profound part” (TT34, Interview, September 25, 2012).

The governing UNC proposed that the selection of judges be similar to that of the US Supreme Court, however, the proposal was rejected (Lilla, 2008) because PREPCOM desired a court that was free from political influence, which is a major concern for all the CARICOM member states (Pollard, 2004). However, both it and the Opposition PNM's proposal to have the seat of the Court in Trinidad was accepted. The outcomes from consultations in Trinidad are listed below in Table 9.

To conclude economic and socio-cultural elite influence was limited but some input made it into the next phase. The legal fraternity was only as influential as its support for the JBA's submission. It is the political elite who drove the discussions and provided proposals that were passed on to PREPCOM.

Table 9

Proposals that were Accepted and Rejected from the Trinidadian Contingent

Specific positions accepted and in the various agreements establishing the CCJ	Specific positions rejected
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<ul style="list-style-type: none"> • Article 3 and The Agreement Establishing the Seat of The Caribbean Court of Justice – The Seat of the CCJ should be in Port of Spain, Trinidad (<i>PNM and UNC</i>) • Article 4, Section 11 – criteria for the judges: “high moral character, intellectual and analytical ability, sound judgment, integrity, and understanding of people and society”(Attorney-General) 	<ul style="list-style-type: none"> • Judge selection should be similar to that of the US Supreme Court (<i>UNC</i>)
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Domestic Dynamics: Discussion. Given the overview of the degree of influence from these groups and individuals, my initial anticipated forecasts about the influence of the inner and outer circles were correct. The inner circle¹¹⁴ consists of political leaders in government and jurists who were not included in the initial assumption. The outer circles, in order of influence, consisted of opposition members of parliament, the private sector and non-governmental organizations, the knowledge elite, the media and the general public. It was found that the discussions provided by members of the outer circles had limited impact on inner circle decisions regarding the CCJ at the regional and national levels. The political elite did depend more on the opinions of other political elites outside of government, that is, the opposition and jurists, than the opinions of the economic elite, knowledge elite or the public. All avenues ended with the national executive members (the Head of Government and the Attorney General) having a direct influence on the development of the CCJ. It was the government and/or its representative who defined its interests based on current circumstances, the national leader’s ideology and personal preferences, and previous decisions and institutions. The government would later negotiate and bargain the state’s position at the regional level on the structure of the new

¹¹⁴ The inner circle consist of those actors that have direct or immediate effect on policy.

institutional framework, the CCJ that would ensure the predictable environment necessary for economic development (See Figure 11).

CONCLUSION: LESSONS LEARNED

My study of the development of the CCJ has examined three levels of influence. At the international level, the data confirmed both hypotheses, that is, H1a: Increased global trade intensifies regional economic integration, which results in the demand for the judicial governance of the latter activity; and H1b: Increased regionalization in the Americas and Europe will renew GCSS' interest in regional trade and supporting regional institutions. In the first instance, Trinidad, with a more open economy, had for many years experienced increased trade in goods both extra-regionally and intra-regionally. Trinidad's wealth shaped and prepared both the government and the private sector in such a manner that placed the local economy in a good position before the economic downturn in the 1980s. The government's investment in its human and financial resources in the 1970s provided for an enabling environment where the private sector developed its knowledge of trade issues and its implications. So, when the country experienced a downturn in the 1980s, it was open to neoliberal reform and the further removal of barriers to interregional trade that quickly brought it out of its slump and provided the basis for its support for institutions that would encourage economic

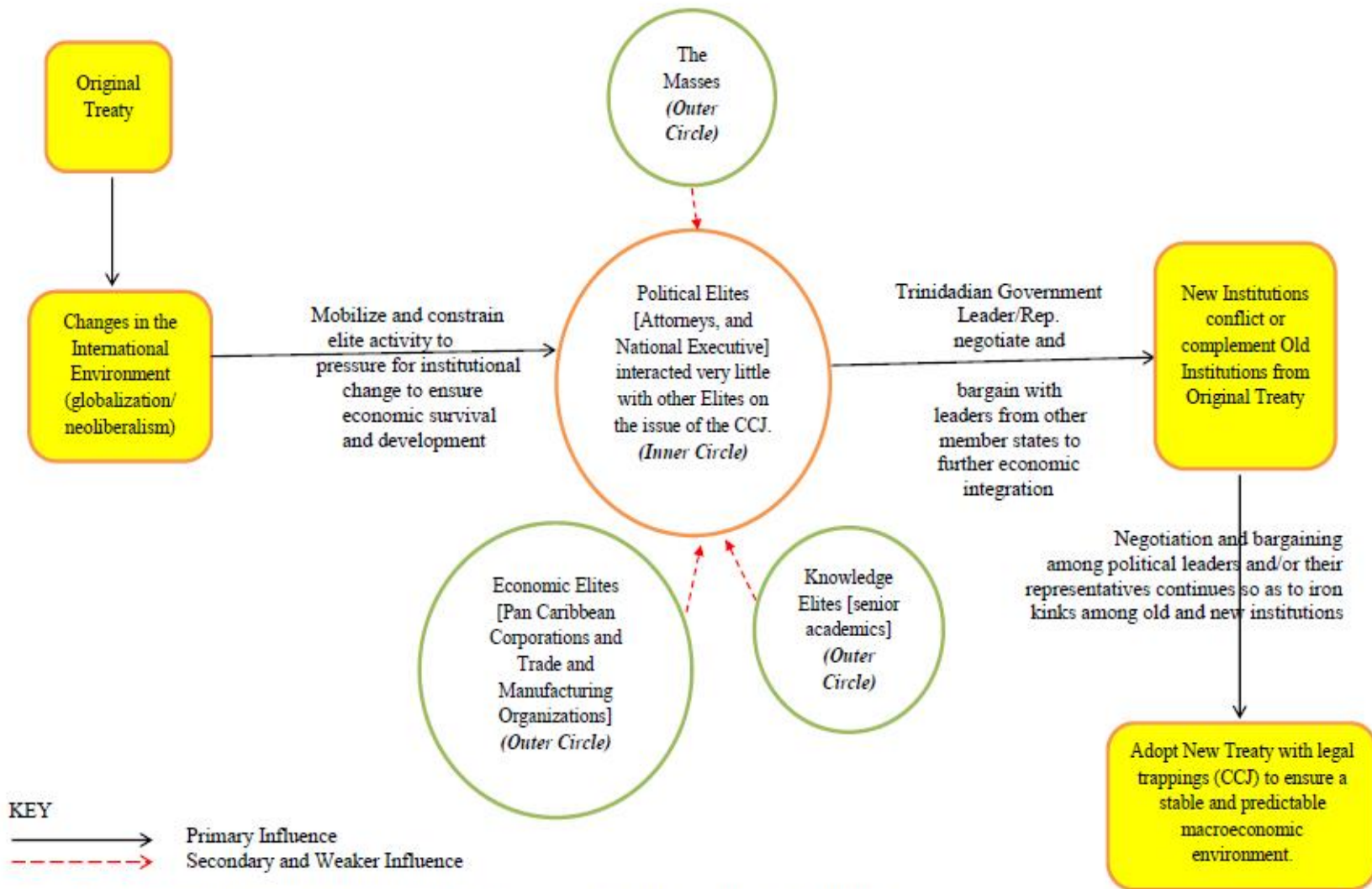


Figure 11. Domestic Elite Activity and Institutional Development in Trinidad during the Regional Integration Process.

integration. In the second instance, Trinidad's experience with the NAFTA/FTAA negotiations and its observation of the evolving EEC made the Trinidadian political elite take the creation of the CSME and the CCJ more seriously as means of providing a stable environment for trade and preparing CARICOM states for trade liberalization on a larger scale.

At the regional level, my findings did not entirely confirm the hypothesis that the largest and/or wealthiest within the bloc will have the greatest influence in the promotion of/negotiation for regional integration and its institutions. Trinidad used its influence to be appointed host for the CCJ, but downplayed the impact its wealth could have had in the bargaining process in the PREPCOM meetings. It relegated itself to an almost observer status. This outcome is due to domestic politics. Trinidad's coalition government and its desire to create an environment that would not repeat historical rivalries and jealousies meant that it did not draw on the skill and expertise that should have made the Trinidadian Attorney-General more forceful and influential.

At the domestic level, my findings confirm the hypothesis that states that "the decision to promote/negotiate for new regional institutions rests almost entirely on the political elite." The literature and CARICOM institutional design establishes the political elite as the initiators and interlocutors of national and regional policy. The political system and culture dominant in the Caribbean breed authoritarian personalities who dictate the ideology and make political decisions without the input of the public. While this is true, I expected economic and knowledge elites and the public would have been more involved in the formulation of the CCJ. Economic elite organizations were not consulted and public sessions were mainly attended by the legal fraternity, who merely

endorsed the JBA's submissions. As a country with nationals who are viewed as regionally minded the tempered approach to an institution that would oversee and ensure the proper function of the Revised Treaty of Chaguaramas and the CSME seemed out of the ordinary.

Also, my hypothesis that the left of center political parties would support regional integration and its institutions more than right of center parties could not be confirmed because all the parties were left of center and supported regional integration to a similar degree. Where there was contention in the form of partisanship, it was restricted to the differing views over the appellate jurisdiction of the Court.

The hypothesis that elite public opinion rather than mass public opinion influenced the political elite's decision to promote/negotiate for regional integration and its institutions was partially confirmed. The Trinidadian government has developed a framework, unique to the region, of regular meetings with the private sector and civil society on issues of national and regional importance. This is most pronounced at the Ministry of Trade and Industry where the private sector freely informs the minister and shapes the state's economic policy at the national, regional, and international levels. However, this was not true for the institution of interest, the CCJ, where the economic and knowledge elites were largely ignored.

Finally, my findings also confirm that better organized economic and knowledge elites have a greater influence on the political decision makers. This is because of Trinidad's unique governance framework. Those groups that were included were highly organized with a constitution, held elections, did frequent reporting, had specialized

subgroupings, were well-financed and headed by middle to upper class members of society, namely the TTMA, TTCIC, and the TTCSI.

With the hypotheses tested, analyzed, and discussed for both Jamaica and Trinidad & Tobago, the next chapter closes with a summary of what was learned and outlines the possibilities for future research on this subject.

CHAPTER 6:

CONCLUSION

OVERVIEW

Through this research, I sought to investigate the impact of elites on the development and structure of the CCJ's original jurisdiction. In order to do this, I took a three pronged approach to the study. First, I addressed the international dynamics that may have influenced the local Jamaican and Trinidadian economic, political, and socio cultural elites in their support for or opposition to the deepening of the Caribbean integration project. Second, I considered the regional dynamics of the process, that is, the possible development of transnational ties among the various elites and the impact of a country's features on the regional negotiations leading to the final original jurisdiction. Third, I focused on the domestic dynamics so as to determine the influence of societal and state elites on the local process of negotiation and bargaining for a new regional institutional framework.

The conclusion takes the following structure: It

1. Reminds the reader of the hypotheses and discusses how each was confirmed or informed through a comparison of the empirical findings from Jamaica and Trinidad & Tobago;
2. Discusses what the findings mean for the theories that generated these hypotheses; and
3. Provides avenues for future research.

EMPIRICAL FINDINGS

At the international level of analysis, the hypotheses suggested that international trends may have led to CARICOM member states deepening regional integration and the establishment of regional judicial institutions. H1a focused on the effect of neoliberal globalization and proposed that “increased global trade intensifies regional economic integration which results in the demand for the judicial governance of the latter activity.” H1b sought to address the impact of developed states and international organizations on this process; it posits that “increased regionalization in the Americas and Europe will renew GCSS’¹¹⁵ interest in regional trade and supporting regional [legal] institutions.”

I discovered H1a was broadly confirmed for both Jamaica and Trinidad & Tobago. The evidence, however, showed that the impact of neoliberal globalization was somewhat different in each country. Increased global trade greatly affected Jamaica in a negative way as it increased debt as global prices for traditional goods fell and free trade became the order of the day. More specifically, Jamaica lost preferential access for its traditional goods to the US and European markets and thus needed to reorganize its economy. As a result, it adopted IMF SAPs that hurt rather than helped the economy due to regressive economic initiatives taken by the government and the country’s economic structure, which was focused on traditional industries. It, therefore, sought to export its goods to other markets including to the CARICOM region. Yet, increased exports to CARICOM did not occur for two reasons: first, because similar Trinidadian goods had already saturated the region and second, local conditions such as high energy expenses negated this growth. However, as Jamaica became the region’s number one importer,

¹¹⁵ GCSS are an acronym for geographically close small states.

some local producers and importers still viewed it as a viable market and demanded that the government address these issues so that Jamaica could better benefit from the regional market. Thus, while it was Trinidad & Tobago that proposed a regional court, Jamaica was the first to second this initiative and later sat as a member on PREPCOM that formulated the rules governing the regional court.

On the other hand, increased global trade did not negatively affect Trinidad & Tobago as it did Jamaica. It was already very open and competitive at the regional and international level due to the structure of its economy, which focused more on energy and the manufacturing industry, and the reformist economic initiatives taken by the government and private sector. The downturn due to losses in the petrol market in the early to mid-1980s led Trinidad to adopt neoliberal policies that further opened the market and reinvigorated regional trade for the country. With the changing environment, that is the loss of preferential access and the promotion of free trade, Trinidad continued to grow its regional trade and called on other CARICOM states to follow suit in order to become more competitive at the international level. This resulted in the Trinidadian Prime Minister, ANR Robinson, calling for a regional court to ensure unity and economic stability within the bloc. Trinidad & Tobago later sat as a member on PREPCOM.

Thus, while the impact of neoliberal globalization was different in each country, it resulted in the same outcome. My research not only confirmed the hypothesis, but identified the possible causal paths.

Regarding H1b, the hypothesis was confirmed in both countries. Jamaica experienced losses in traditional and apparel exports upon the formation of NAFTA, which renewed calls to revisit regional trade within CARICOM. NAFTA/FTAA

negotiations further led to the Jamaican Prime Minister, Michael Manley, and his Venezuelan counterpart setting the course to the formation of Association of Caribbean States (ACS) so as to help the region negotiate with the US and even the EU on trade issues. The prime minister also recognized that the changes in the EU called for a reorganization of CARICOM to weather these changes, which he viewed as a positive thing (The Financial Times, August 1, 1989; The Financial Post, August 2, 1989; The Guardian, June 17, 1989). He supported the formation of the West Indian Commission (WIC), which recommended creating a single market and economy and a regional court with original jurisdiction to oversee it. These recommendations were accepted by all member states and resulted in the Revised Treaty of Chaguaramas (RTC), the CARICOM Single Market and Economy (CSME), and PREPCOM.

The NAFTA/FTAA negotiations convinced Trinidad & Tobago that it would lose approximately 80% of its market share in North and Latin America. This led to its support for the deepening and widening of economic integration in the form of the CSME and ACS. The country has recognized the SEA, European Commission support, and the 1996 EU Green Paper as reasons for deepening CARICOM economic integration. In 1989, the changes in the EEC and the Americas prompted the prime minister to make the ‘The West Indies Beyond 1992’ speech, which has been credited for the establishment of the WIC that later recommended creating a single market and economy and a regional court with original jurisdiction. Thus, H1b was not only confirmed, but suggests that the regionalization of the Americas as the primary reason for Jamaica and Trinidad to demand change. The loss of market share in the region renewed their interest in regional trade and supporting regional institutions. The regionalization in Europe played a

secondary role. Changes in the EEC did not generate the same fear that changes in the Americas did. Instead they served as a blueprint that CARICOM states could follow to better adapt to the changing international economic environment and improve its regional endeavors.

At the regional level, I also sought to explain the process of regional negotiations and the impact of state features on this process. H2 declares that “the largest and/or wealthiest GCSS will have the greatest influence in the promotion of/negotiation for regional integration and its institutions.” The hypothesis was confirmed for Jamaica but only partially confirmed for Trinidad & Tobago. As CARICOM’s largest state in size and population,¹¹⁶ Jamaica is CARICOM’s second largest contributor, its largest market, and its number one importer of CARICOM goods. Given its status, Jamaica has been predictably forceful and active during the Conferences of the Heads of Government. Most of its proposals relating to a regional court, such as the renaming of the court, were unanimously supported by other CARICOM member states. This forcefulness and activity carried over into PREPCOM. Jamaica was extremely influential as 80% of the suggestions made by the Jamaican contingent made its way into the CCJ Agreement.

Trinidad’s wealth, based on GDP per capita, has made the country CARICOM’s largest contributor and its number one regional exporter. Like Jamaica, it was forceful and active during the Conferences of the Heads of Government. Its proposals for deeper integration and a regional court, such as its substance and location, were also unanimously supported by other CARICOM member states. However, during the

¹¹⁶ Jamaica is considered the largest state in CARICOM because Haiti, even with its larger population, does not participate in the CSME, and Guyana, though larger in square footage, has a smaller population than Jamaica and Trinidad.

PREPCOM negotiations the country was much less influential and merely supported proposals provided by the Jamaican contingent.

This leaves me to conclude that population and size are more important than wealth. Jamaica, with the larger labor force, contributed to the country's ability to train and secure skilled personnel who helped to develop, promote, and provide alternative proposals for the development and structure of the CCJ. Conclusively, the greater expertise and experience of the Jamaican personnel made it more powerful and influential than other member states during regional negotiations and bargaining. Trinidad & Tobago, a country approximately one-fourth of the size of Jamaica but twice as wealthy, acted as one would expect a member state with significant bargaining power during the Heads of Government meetings; however, it behaved as a less influential member state during PREPCOM negotiations. Even with its wealth, Trinidad, a smaller country, has a much smaller set of domestic institutions and interest groups, and a more centralized government than Jamaica. Consequently, it was apparently less likely to offer the services, if not the resources, that provided the experience and expertise needed for the CCJ's institutional design. Given that experience and expertise were limited to a few persons within the central government, Trinidad was more dependent on another regional actor, in this case Jamaica, "to supplement...and compensate for their relative incapacity" (Buddan, 2001, p. 15).

Additionally, another causal factor for wealth not being as important as size during the PREPCOM negotiations was Trinidad's image. The country faced years of invectives and jealousies from other member states over its wealth and status. Thus, it is apparent Trinidad decided to downplay its power in order to be supportive of other

PREPCOM representatives' positions so as to see the Court it initially promoted come to fruition.

At the domestic level of analysis, the hypotheses considered the degree of influence of various types of elites on the deepening of regional economic integration and the establishment of a regional judicial organization. H3a maintains that "the decision to promote/negotiate for new regional institutions rests almost entirely on the political elite." H3a(i) argued that "left of center political parties will support regional integration and its institutions more than right of center parties." H3b addressed whether the public had an impact on the process. It asserts that "elite public opinion rather than mass public opinion will influence the political elite's decision to promote/negotiate for regional integration and its institutions." Finally, H3b(i) sought to determine whether "better organized economic and knowledge elite have greater influence on the political decision makers."

H3a has been confirmed for both countries. In Jamaica, the political leaders' prerogatives took center stage. There were ad hoc meetings and communications with other types of elites, which made the Jamaican political elite the initiators and interlocutors of regional policy. There were consultations with the socio-cultural and economic elites, and other political elites on the CCJ. The political elite organized a local PREPCOM committee headed by political, legal and economic representatives, but the final decision of what was submitted to PREPCOM rested with the Jamaican Attorney-General. In Trinidad, I found that the political leadership still made the final decisions, but the country had a unique framework that regularly included other types of elite members in policymaking. However, this framework was not used when determining the

direction of the CCJ. The economic elite and some members of the knowledge elite maintained they were not consulted or provided proposals regarding the rules that would govern the CCJ. Consultations were restricted largely to the political elite and the legal elite, which overlaps with the political elite, thus, making the Trinidadian political elite the initiators and interlocutors of regional policy. This is true for all CARICOM policy.¹¹⁷

H3a(i) could only be partially confirmed for Jamaica and not confirmed for Trinidad & Tobago. While on the surface, the right of center JLP and the left of center PNP confirm theoretical expectations,¹¹⁸ Jamaica does not have the extreme parties as seen in the EU to effectively gauge the differences. The differences between the parties are not based on party ideology but more appropriately on historical circumstances and the party leader's vision that sometimes give the impression that one party is more regionally minded and the other more nationally minded. It is the country's partisan politics that causes one party to oppose an initiative for no other reason than to be in opposition to the other political party. For Trinidad & Tobago, all of the political parties of interest were left of center parties; they all supported deepening economic integration, with some leaders proposing political integration with a few CARICOM states. Where there were differences among Trinidadian political parties on regional institutions, they had more to do with disagreement on specific aspects of a proposal or partisan politics

¹¹⁷ Given that CARICOM operates on the principle of intergovernmentalism, all CARICOM organizations and agreements are initiated by the political elite. Consultations with other elites within member states vary depending on the type of organization or agreement formulated. However, it is the political elite uses its right whether or not to do so. At the regional level, this remains the same other types of elites may be invited, but they are restricted to make a comment asked and then to remain silent for the rest of the proceedings.

¹¹⁸ The right of center JLP has moderately supported economic integration and does not support political integration, and the left of center PNP has shown greater support for economic and political integration.

rather than ideology. This was most evident with the Opposition UNC later rejecting ascension to both jurisdictions of the CCJ in 2004. It was not because the party did not believe the Court to be a relevant institution,¹¹⁹ but rather because it demanded that the local judicial system be reformed before full ascension. In addition, the party leader, in this instance, played partisan politics as a result of the President of Trinidad declaring the PNM victor in the 2001 deadlock election. This angered UNC leader Basdeo Panday and led to the UNC's repeated roadblocks to governance.

H3b is confirmed for both Jamaica and Trinidad & Tobago. In Jamaica, public consultation was minimal, and mass public opinion had little impact. When surveyed, the public did not know about the CCJ's original jurisdiction, but they were well versed on the discussion about the appellate jurisdiction. Public consultations were held but submissions for the CCJ were provided by elites. The legal fraternity's opinion was the most influential, followed by the Opposition's, then the opinions of the socio-cultural/knowledge and economic elites. All provided proposals; however, the economic elite could not recall their specific contributions. Efforts to retrieve these proposals were unsuccessful. Nevertheless, the economic elite did note they accepted the original jurisdiction aspect of the final CCJ agreement. The degree to which the knowledge elite was consulted could not be determined. In Trinidad, where the CCJ is hosted, mass public opinion on the topic was also limited. When surveyed, the public did not know much about the CCJ's two jurisdictions, and even though the debate in the country focused on the appellate jurisdiction, the public was largely left out of the discussion.

¹¹⁹ A UNC representative sat on PREPCOM and worked with other commissioners in drafting the final CCJ Agreement.

Public consultations were elite events. The political elite depended mainly on the opinions of the legal fraternity who did little more than support their Jamaican counterpart's position. The economic elite noted they were consulted only after the final CCJ Agreement was drafted. They admitted they supported the original jurisdiction aspect. The degree to which Trinidad's knowledge elite was consulted could not be determined, but it almost certainly played little or no role.

Hypothesis H3b(i) was confirmed for both countries. The influence of an elite member or group, as noted earlier, was determined by the elite group's organization and values, and the structure, form, and mode of the relationship between the state and the group. The Jamaican government held ad hoc consultations with the economic and socio cultural/knowledge elites, which came in the form of irregular submission of reports and informal discussions that supplied technical information. Even with Jamaica's ad hoc consultations between the political elite and the economic and socio cultural/knowledge elites, those groups that received more face time with the political elite and possibly informed policy were highly organized with a constitution, held elections, offered frequent reporting and specialized subgroupings, and were well-financed and headed by middle to upper class members of society.

The same is true for Trinidad, which uses its unique societal and state collaboration. With regular structured meetings between the government and economic and socio cultural/knowledge elites, the latter were more able to influence policy than their Jamaican counterparts. Like Jamaica, those groups that had face time with the political elites have constitutions, run elections, established specialized subgroupings, and are well-financed and headed by middle to upper class members of society. Hence, my

research not only confirmed the H3b(i), but also identified the different causal paths of influence.

THEORETICAL IMPLICATIONS

H1a and H1b are informed by neoliberalism, the domino theory of regionalism, small state foreign policy approach, and the bargaining and dependency models. In the case of Jamaica, the findings did not conform to James Rosenau's (1966) or Jacqueline Braveboy-Wagner's (2003) small state foreign policy approaches. Rosenau maintained that the international system will be the most important factor to influence a small/developing state's foreign policy; however, he determined there were four other factors of analysis. In order of relevance these are the relationships among government actors, the role of the bureaucracy, society (culture and public opinion), and the individual. Braveboy-Wagner, on the other hand, argued that in the case of Anglo Caribbean states, the leader/government (the political elite and the leader's personal preferences) followed by the international system and finally, society and the bureaucracy influences policy. In Jamaica's case, regional policy leading to the deepening of CARICOM and the establishment of the CCJ was based on international factors followed by the leader/individual and government (the leadership elite and personal preferences), the bureaucracy, and finally, the society. My findings diverge from Rosenau and better reflect Braveboy-Wagner's conclusions. The latter categorizes the individual and government as one factor because in the Anglo Caribbean context the political leader in the parliamentary system is exceedingly powerful. This is due to two factors: 1) the Anglo Caribbean state's small size and limited capacity and 2) the culture and tradition it inherited from its former colonizers (Braveboy-Wagner, 2003).

As noted in Chapters 3, 4 and 5, Jamaica and Trinidad & Tobago adopted a form of the Westminster parliamentary system called the Whitehall model¹²⁰ that perpetuated the legacy of a Crown Colony Government (CCG).¹²¹ This Whitehall model uses a single-member district plurality (SMP) electoral formula that results in the “candidate who receives the most votes, whether a majority or plurality, [being] elected” (Lijphart, 1999, p. 146). This tends to lead to two party systems that further produces single party majority governments (Lijphart, 1999). This is truer for Jamaica than Trinidad & Tobago.

During the period of investigation, governments in Jamaica tended to be majorities from one political party or the other. Thus, the leader had a lot of power when he/she had a majority and is also powerful when he/she was secure in his leadership position within his party. Trinidad, on the other hand, had experienced coalition governments and a series of elections in rapid succession either due to members of parliament ‘crossing the floor’ or a previous deadlocked election that did not produce an outright majority. This affected, though not completely diminished, the power of the leader.¹²² So, while both countries have the same institutional rules, they developed

¹²⁰ It contained all of the features of the British parliamentary system but also included a written constitution, an official Leader of the Opposition, the nomination of Senators to the Senate and a Bill of Rights that constrains parliament (Mills, 1997; Ryan, 1999).

¹²¹ The CCG only had contact with and served the white population and the imperial interests of Britain. It exhibited institutionalized racism. There was little communication between the government and the governed and by extension most decisions were made by Britain leaving local government inferior to the metropole. When power was transferred to the local political elite the legacy produced limited representation with authoritarian and anti-democratic features in the form of charismatic leadership and Caribbean styled patronage politics (Buddan, 2001; Barrow-Giles, 2002; Ryan, 1999).

¹²² Where loyalty was not offered to political leaders in Trinidad, party members could expect to be marginalized in the party, forced to resign from ministry positions, and/or be left with no other option than to cross party lines, form their own party or run as an independent (Ryan, 1999; 2003). The possibility of these occurrences happening deterred some members from overtly expressing their displeasure with the leader. Party leaders, thus, could still maintain an iron fist over some of their members. Also, where there is the possibility of losing the majority gained through plurality or coalition, the political leader has always

somewhat different party systems, which produced different results. This may explain why political leadership in Trinidad seems weaker than in Jamaica when it came to the PREPCOM consultations.

During and after the initial proposition for a regional court (1987-1994), both countries aggressively promoted and endorsed it. Domestically, both states had single party majority governments resulting in powerful political leaders who were secure with his/her majority in parliament and his/her leadership in the political party (see Tables 4 and 7). However, during the PREPCOM years (1995-2001), Jamaica maintained the single party majority government under the PNP, which Trinidad had formed a coalition between the UNC and the NAR (See Tables 4 and 7). Therefore, in order to maintain balance between the interests of the UNC and NAR, the political leadership of the UNC (who won 17 seats) needed to maintain continual consultation with the NAR (who won 2 seats) on “key and potentially far reaching decisions” (Ryan, 2003, p. 23), which tempered the government’s response during the PREPCOM years.

Nevertheless, leaders in both countries were aggressive and expected to lead and the public to follow. The leader was deemed “messianic” and maintained the traits of being a “people person,” paternalistic and charismatic, and from these traits he/she gained his/her legitimacy. He/she also dictated the ideology of his party and demanded unfettered loyalty from his party members in order for the party to act as a cohesive unit in parliament (Munroe, 1993).¹²³ When the leader formed his/her government there is the

opted to call a snap election in order to campaign and possibly win an outright majority in the upcoming election (Ryan, 1999; 2003).

¹²³ Where loyalty was not offered to political leaders in Trinidad, party members could expect to be marginalized in the party, forced to resign from ministry positions, and/or be left with no other option than

centralization of legislative power in his/her cabinet due to the inherited executive dominance from the British parliamentary system. Circumstances where the prime minister does not consult his/her peers, it creates a “presidential government” that goes unchecked by an independent legislature (Barrow-Giles, 2002; Mills, 1997; Munroe, 1993; Ryan, 1999). Hence, the separation between the individual and government cannot exist in this context.

In Jamaica, international factors played the dominant role in foreign policy formulation because it exhibited characteristics of an indebted small developing state, that is, it had poor export performance, inefficiency, dependence, and underemployment. Neoliberal globalization was expected to aid in overcoming these shortcomings. The indebtedness resulted in the country adopting the IMF SAPs that further exasperated the problems previously listed. To combat these problems Prime Minister Seaga promoted the CBI and subsequent prime ministers supported the CSME and the CCJ’s original jurisdiction. Thus, Jamaica’s government was reactive, not proactive, to changes in the international environment when making the decision to strengthen regional integration. Political leaders had to take into consideration the dictates of international organizations and developed states given their country’s indebtedness. This is not to say that political leadership and other elites were not influential, but rather that they took into consideration the small state’s viability and vulnerability to external factors first, then infused it with the personal preferences of the political elite followed by the preferences

to cross party lines, form their own party or run as an independent (Ryan 1999; 2003). The possibility of these occurrences happening deterred some members from overtly expressing their displeasure with the leader. Party leaders, thus, could still maintain an iron fist over their members. Also, where there is the possibility of losing the majority gained through plurality or coalition, the political leader has always opted to call a snap election in order to campaign and possibly win an outright majority in the upcoming election (Ryan 1999; 2003).

of the economic and socio cultural elites with minimal input from the public.

Consequently, Jamaica can be added to the list of countries that confirm the effect neoliberal globalization has on indebted small states.

As a secondary, but complementary note, the evidence for Jamaica demonstrated both the dependency and the bargaining models in its relationship with powerful/developed states and international organizations. This provides an opportunity for scholars to develop a theory that identifies the varying indicators and creates a scale with the bargaining model on one end and the dependency model on the other. If viewed as being on a spectrum between these two models, Jamaica would lean more towards the dependency model with elements of the bargaining model. This dependency again is based on the degree of its indebtedness; however, Jamaica, even with this high degree of dependence on a developed state and an international organization was still, on occasion, able to negotiate and bargain despite the fact that more often than not the outcome still reflected the preferences of the larger more powerful state/international organization.

For Trinidad & Tobago, the findings did not conform to Rosenau's small state foreign policy approach; however, they did confirm Braveboy-Wagner's (2003) small state foreign policy approach. The leader/government did play the dominant role because Trinidad exhibited characteristics similar to those of a Newly Industrialized Country (NIC), namely, the promotion of a cost effective business environment, a strong export performance, encouraged competition, and enhanced efficiency. Its ability to adapt to greater competition allowed the government to steer policy more in line with the political and economic elites' preferences, which in the case of Trinidad has always been to support deepening regional integration from which it experienced extensive economic

benefits. International conditions play a secondary role because both the political elite and the economic elite understand that the country's small size still makes it vulnerable to external factors. Thus, the elites also had considerable interest in the regional and international trade and effectively contributed to the country's national and regional trade positions based first on their preferences and then on the international environment.

Like Jamaica, it is difficult to classify Trinidad & Tobago as representative of either the dependency or bargaining model. If viewed as being on a spectrum between these two models, the country would more likely exhibit equal elements of both models. It is dependent much for the same reasons as Jamaica, but would be better able to negotiate and bargain with a more powerful state/organization given its higher economic status.

Both states conform to Richard Baldwin's (1997, 2004) "Domino Theory of Regionalism," which maintains that the formation of a free trade area (FTA) will induce non-members to join because of the potential loss of trade and investment. He further argues that if these non-members are excluded from this bloc, it will induce them to form their own FTA to redress this discrimination, which will create another round of trade and investment diversions and exclusions of non-members, which should in turn lead to even more FTAs. For the Americas, NAFTA induced Jamaica and Trinidad's desire to join the bloc because non-membership would lead to the diversion of trade and investment for them. With the formation of NAFTA, Jamaica lost much of its access to the US market, particularly for its apparel industry, as most companies moved their businesses to NAFTA member Mexico. Trinidad, on the other hand, was not a major loser with the formation of NAFTA, but it saw the potential for future losses in profits

and market share. As a result, both Jamaica and Trinidad, as individual countries and as part of CARICOM, formally asked to be listed as eligible for membership of NAFTA (Journal of Commerce, April 18, 1994, p. 5A). However, as later NAFTA/FTAA¹²⁴ negotiations began to break down, Jamaica led the charge to form a new free trade area as a means of rectifying its apparent exclusion from NAFTA/FTAA. This came in the form of the ACS and the call to establish the CSME and the CCJ.

The ACS improved and broadened CARICOM-Latin American relations as it increased CARICOM's market to include twenty-five countries in Latin America and the Caribbean and 200 million people. The CSME, at the time of the NAFTA's formation, was suggested as means of strengthening trade within the CARICOM bloc and the CCJ was to oversee said trade. This is demonstrative of Baldwin's notion that if states are barred from joining a bloc, all excluded countries will then form their own regional economic bloc (ACS) or strengthen one that was already established (CSME). These changes created a domino effect as many economic blocs were created or strengthened within the region. These would include the Mercado Común del Sur (MERCOSUR) that was formed in 1995, and the Andean Community (CAN) that was formed in 1969, but extended a FTA among Bolivia, Colombia, Ecuador, and Venezuela in 1993, and later launched negotiations in 2000 with MERCOSUR to establish a FTA called the South American Free Trade Area (SAFTA).

The theory, on the other hand, was not applicable for the regionalization of Europe. This is due to the fact that neither state desired to join that economic bloc

¹²⁴ The FTAA was the proposed FTA area that would have encompassed NAFTA and countries in Latin America and the Caribbean.

because it was an impossible/improbable option. Jamaica and Trinidad & Tobago instead perceived the changes in the EU as a blueprint for the establishment of the CSME and the CCJ. They also recognized that the gradual out phasing of preferential access to the EU due to pressure from the WTO provided additional reason for the establishment of these organizations (Journal of Commerce, August 17, 1995, p. 3A).

H2 is informed by neo-functionalism and liberal intergovernmentalism. I found that given the formal structure of CARICOM, interaction at the regional level was best explained by liberal intergovernmentalism. For one, the economic elite and interest groups have not developed longstanding transnational ties to drive the integration process. Additionally, when the economic elite attended regional meetings it was only at the invitation of the political elite.

Liberal intergovernmentalism offers an all-inclusive view of Caribbean integration. It focuses on the big state-driven decisions made regarding integration by addressing the issue in three phases. First, national preference formation concentrates on the source of a state's preferences and is based on the outcome of negotiations and bargaining between societal (economic and knowledge elites and to a lesser extent the public) and state (government, opposition, bureaucracy, and the legal fraternity) actors. All of these interactions were discussed in the Domestic Dynamics sections of Chapters 4 and 5. The second phase focuses on the efficiency and distributional benefits a state gains after bargaining based on its preferences, which results in either supranational enterprising or asymmetrical interdependence. Jamaica's size and Trinidad & Tobago's wealth have placed them in a position to receive disproportionate gains in the regional negotiations and bargaining that created the CCJ, a supranational organization. The third

phase centers on the reasons for/against a move towards the transfer of sovereignty to a regional organization. Jamaica and Trinidad & Tobago led other CARICOM members to take the position to entrust the CCJ with the power to interpret the RTC, enforce judgments and orders as it relates to the RTC, and support the CSME.

H3a, H3a(i), H3b, and H3b(i) are informed by liberal intergovernmentalism, theories of party politics and small state foreign policy approach. Neither Jamaica nor Trinidad & Tobago conformed to the theory of party positions. However, the findings for Trinidad confirms Braveboy-Wagner’s small state foreign policy approach. Jamaica does not confirm either Rosenau or Braveboy-Wagner’s theories, which illustrated the degree to which domestic factors interplayed with international factors in the formulation of regional judicial policy. All of these interactions were discussed in the International Dynamics and Domestic Dynamics sections of Chapters 4 and 5.

In addition, liberal intergovernmentalism, particularly its first phase (national preference formation), addresses how different local actors negotiated and bargained with the political elite. The national preference is thus dependent on how accessible the political elite is to the rest of society and how organized local interests are in informing the state’s position on a particular regional policy.

Table 10

Overview of the Hypotheses and Theoretical Implications

Levels of Analysis	Hypothesis	Trinidad & Tobago	Jamaica
<i>INTERNATIONAL</i>	<i>H1a: Increased global trade intensifies regional economic integration which</i>	Hypothesis Confirmed	Hypothesis Confirmed
		Theoretical implication – exhibits the effects of neoliberal globalization on a NIC. There is a better mix	Theoretical implication – exhibits the effects of neoliberal globalization on an indebted small

	<i>results in the demand for the judicial governance of the latter activity.</i>	of the dependency and bargaining models with neither model taking prominence. Confirms Braveboy-Wagner's small state foreign policy approach.	developing state. Jamaica is more indicative of dependency model with elements of bargaining model. Confirms neither Rosenau's nor Braveboy-Wagner's small state foreign policy approach.
	<i>H1b: Increased regionalization in the Americas and Europe will renew GCSS' interest in regional trade and supporting [legal] regional institutions.</i>	Hypothesis Confirmed	Hypothesis Confirmed
		Theoretical implication – It confirms the domino effect of regionalism in the Americas but not in Europe.	Theoretical implication – It confirms the domino effect of regionalism in the Americas but not in Europe.
<i>REGIONAL</i>	<i>H2: The largest and/or wealthiest GCSS will have the greatest influence in the promotion of/negotiation for regional integration and its institutions.</i>	Hypothesis Partially Confirmed – Wealth does matter in part. T&T was forceful and active during the Conferences of the Heads of Government. However, during the PREPCOM negotiations T&T was less influential.	Hypothesis Confirmed – Size matters more. Jamaica has been forceful and active during the Conferences of the Heads of Government. This forcefulness carried over into PREPCOM. Jamaica was extremely influential.
		Theoretical implication – Confirms liberal intergovernmentalism as opposed to neo-functionalism.	Theoretical implication – Confirms liberal intergovernmentalism as opposed to neo-functionalism.
<i>DOMESTIC</i>	<i>H3a: The decision to promote/negotiate for new regional institutions rests almost entirely on the political elite.</i>	Hypothesis Confirmed	Hypothesis Confirmed
		Theoretical implication - Confirms Braveboy-Wagner's perspective on small state foreign policy and liberal intergovernmentalism.	Theoretical implication – Does not confirm Rosenau's or Braveboy-Wagner's small state foreign policy approach. It confirms liberal intergovernmentalism.
	<i>H3a(i): Left of center political parties will support regional integration and its institutions more than right of center parties.</i>	Hypothesis could not be confirmed	Hypothesis could not be entirely confirmed
		Theoretical implication – Does not add to the theory of partisan positions.	Theoretical implication – Does not add to the theory of partisan positions.
	<i>H3b: Elite Public Opinion rather than mass public opinion will influence the political elite's decision to</i>	Hypothesis Confirmed	Hypothesis Confirmed
		Theoretical implication - Confirms Braveboy-Wagner's small state foreign policy approach and liberal intergovernmentalism.	Theoretical implication - Does not confirm Rosenau's or Braveboy-Wagner's small state foreign policy approach. It confirms liberal

	<i>promote/negotiate for regional integration and its institutions.</i>		intergovernmentalism.
	<i>H3b(i): Better organized economic and knowledge elite have greater influence on the political decision makers.</i>	Hypothesis Confirmed	Hypothesis Confirmed
		Theoretical implication - Confirms Braveboy-Wagner's perspective on small state foreign policy and liberal intergovernmentalism.	Theoretical implication - Does not confirm Rosenau's or Braveboy-Wagner's small state foreign policy approach. It confirms liberal intergovernmentalism.

AVENUES FOR FUTURE RESEARCH

First, access to materials that were denied to me would yield more accurate information that could better inform my research. Conclusions drawn from the new data would become part of a book project. This material would include the minutes and notes from the Conferences of the Heads of Government, the Legal Affairs Committee, and PREPCOM, the paper archives from the Ministries of Justice, of Foreign Affairs, and of Industry and Trade in Trinidad and Jamaica, as well as the minutes from public consultations held, primarily, in Trinidad & Tobago and, to a lesser extent, Jamaica. These materials could provide greater details about each type of elite's involvement in and the political psychology behind the creation of the rules outlined in the CCJ's original jurisdiction. Additionally, it would allow me to better trace the source of each proposal for the Court's original jurisdiction to determine how it may have been altered, rejected, or accepted.

Second, I would add more case studies to this research. In the form of a journal article I would, in the first instance, include all six countries that participated in

PREPCOM.¹²⁵ By including all members of the PREPCOM negotiations, one could examine the differences and similarities between CARICOM MDCs and LDCs' participation and influence in creating the CCJ's original jurisdiction rules. This would be achieved by answering the same questions regarding each country's elite composition and participation in the process at the domestic and the regional level and the efficiency and distributional benefits these states gained during and after interstate bargaining. Also, by investigating these PREPCOM states over the same period as my current work, I would be able to gauge changes in elite and state positions over time and determine if this may have affected the final rules governing the CCJ.

Further, the same hypotheses/questions could be tested for a larger data set and a regression analysis for all CARICOM member states could be conducted. By statistically testing all of the independent variables against the dependent variable, I could use the findings to gauge changes in elite and state positions over time and determine if this may have affected the final rules governing the CCJ as well as to better predict/forecast local elite and state behavior in the formation of other CARICOM institutions. The specific variables would be the same as with this study: levels of economic development, composition of the economy, elite power and organization, adoption and adaptation to neoliberal globalization, and size. The analysis would also include the specifics of institutional design at the national level that were omitted in this dissertation. One of the unexpected findings of my research was although both Jamaica and Trinidad & Tobago have Westminster style parliamentary systems, there were different compositions of government. Therefore, I would include factors that I did not originally hypothesize about

¹²⁵ Jamaica, Trinidad & Tobago, Barbados, Guyana, St Kitts and Nevis, and St Lucia and the Grenadines.

for the domestic institutions in two ways: (1) the electoral and political party systems, and (2) the rules governing public consultations systems, and rules governing the bureaucracy. Owing to the larger data set, the focus would be on each state's impact on decisions made at the Conferences of Heads of Government regarding the CCJ and any possible CCJ submissions from member states outside of those sitting on PREPCOM.

Third, this dissertation invites similar questions to be asked for other regional judicial institutions. Factors that led to the development of regional courts with original jurisdiction such as the European Court of Justice (ECJ), the Common Market for Eastern and Southern Africa Court of Justice (COMESA Court), and the Economic Community of West African States Court of Justice (Community Court of Justice – ECOWAS) could be compared with that of the CCJ. Further investigation on the effects of levels of economic development, strength of the regional bloc, and political culture on group dynamics, institutionalism, and policymaking on the Courts' development would also be necessary.

Finally, these findings could also serve a more pragmatic, policy oriented purpose. Future work could include a report that offers recommendations of how CARICOM can improve accountability and democracy while overcoming its ineffectiveness at the regional level. The exclusion of local economic and socio-cultural elites and the public has stalled progress in the bloc. The limited support and participation from citizens has maintained the status quo – collective decision-making and delayed enforcement. Politicians, so far, have lacked the initiative to change the present condition of CARICOM, with the exception of the creation of the CCJ that provides an enforcement mechanism.

The CCJ was an exception because the political elite recognized that “[without] an efficiently functioning judicial system...the stimulation of economic growth...would not be achieved, much less sustained” (Ryan, 2001, p. 1). In order for economic integration to operate efficiently, in light of changes in the international environment, there was need for the uniform interpretation and application of ‘Caribbean Community’ Law. Investors needed to be reassured that there is a mechanism that assures a stable and predictable macroeconomic environment and provides the greatest possible returns (McDonald, 2005; Pollard, 2004; Ryan, 2001). This, they argued, could only be assured if there is legal certainty. Hence, a new judicial organization that 1) clarified the legal relationship between member states and CARICOM and the rights and obligations among CARICOM institutions; and 2) acted on complaints against CARICOM measures would go a long way in promoting investment and economic growth across the region.

CONCLUSION

In all, the findings have asserted that political elites are the drivers of the Caribbean integration process and the main architects of the CCJ’s original jurisdiction. The historical overview and the mapping of political, economic, and socio cultural elite involvement outlined the challenges and opportunities CARICOM and individual member states faced. The lengthy process towards creating the CCJ’s original jurisdiction is demonstrative of the stunted evolution of CARICOM, which is best described by Aimes Caines (The St Kitts-Nevis Observer, July 30, 2010) as prime ministerial, piecemeal, paper-based, and people-less. Thus, my research brings to the fore the need to address the inadequacies that are slowing the regional integration process, namely the lack of organizational, institutional, procedural, and cultural arrangements that encourage

participation and contributions from outside of the political directorate both nationally and regionally. As a region that seemingly needs regional integration to survive in this new international environment, it ought to develop transnational ties among economic and socio cultural elites and the general public across member states as well as increase their participation at the regional level.

As a final note, I have a normative bias for deeper integration. Insular states, as found in the Caribbean, need to form stable, effective, and tightly organized regional integration support systems in order to overcome the expected limitations that individual small states face as they relate to neoliberal globalization. Regional integration would protect CARICOM against exogenous shocks related to international competition, transnational crime, and natural disasters. With this in mind, deepened Caribbean integration can only be beneficial.

It is not enough for CARICOM prime ministers and presidents to utter magniloquence of their commitment to the project. There must to be tangible evidence of this commitment. CARICOM governments need to reduce their attachment to national sovereignty. At present, this attachment has resulted in the region not meeting most of its deadlines. For instance, Havelock Brewster (2003) has expressed that the failure to meet CSME deadlines were the result of institutional incapacity within the individual states and a contradiction between the CSME and multiple sovereignties. He asserts,

[t]he Caribbean Community is yet to make the political transition that is necessitated by the commitments undertaken to create a single market and economy...The Caribbean Community intends to create a Single Market and Economy with each Member State retaining maximum national sovereignty. It intends to do so apparently through a mode of discretionary intergovernmental cooperation. These objectives clearly are contradictory (Brewster, 2003)

The EU has been able to balance intergovernmentalism and supranationality by allowing the regional bloc to successfully strengthen and widen regional integration. The balance resulted in the EU, as a regional entity, capable of developing long term goals that are not hindered by short-term visions of member state governments. CARICOM governments need to better pool sovereignty at the regional level and create institutions that enhance the balance between intergovernmental and supranational features. Such efforts should come in the form of passing the necessary national bills, preparing and adapting the country to changes ensuing from the passage of these bills, harmonizing rules with other CARICOM governments, and, most importantly, providing more meaningful and ongoing avenues for the elites and public to weigh in on regional policy.

As it relates to economic and socio-cultural elites, Trinidad has to be applauded for developing the framework that created better private sector and government collaboration. Economic interests have informed both national and regional policy. The Ministry of Trade and Industry's Technical Coordinating Committee (TCC) that is headed by the Permanent Secretary and includes public and private sector, and civil society representatives has, at regular intervals, advised the Minister on trade policy issues from a national perspective (WTO, n.d., p. 17). This framework needs to include members of the opposition party to build on bipartisanship. This model should be copied by other ministries and other member states to effectively begin the process of making CARICOM more people friendly.

As it relates to the public, the process of arriving at regional policy decisions needs to be democratized. Ordinary CARICOM citizens need to believe they can influence regional procedures. While it is understood that CARICOM states have limited

resources, governments should use available resources to socialize their citizens into adopting a Caribbean identity in order for democratization to take hold. Hence, the political elite need to go beyond the present concept of viewing CARICOM as a “Community of Sovereign States” to one that is a “Community of People *and* States”. The experiences of the European Union (EU) could act as an inspiration for this, although it has to deal with its own so-called democratic deficit.

The EU’s success has been dependent on how well it has been able to bring many persons together and as such, it has created a Europe that is better off than it was twenty-one years ago at the start of the EU. Andrew Heywood (1999, p. 116) made this observation: “In political terms, European integration offers the advantages of cosmopolitanism, reflected...in the emergence of a supranational, European political culture which...incorporates the various national traditions.” By extension, the European bloc’s adoption of SEA enhanced the legislative role of the European Parliament (EP), a directly-elected legislature, with the intent of improving democratic accountability to EU citizens (Bomberg & Stubbs, 2004). This body has been recognized as expressing “the democratic will of the citizens and...their interests in discussions with other EU institutions” (European Commission, 2003, p. 10).

The inclusion of ordinary citizens has not been a smooth process. The EU has been criticized by some scholars and activists as having a democratic deficit (Decker, 2002; Follesdal & Hix, 2006; Neunreither, 1994). It has been plagued with complaints of a lack of avenues for greater citizen participation and has experienced occasions of fierce loyalty to national sovereignty. This is evidenced by low voter turnouts for elections across the region (McCormick 1999, p. 144; Nicoll & Salmon, 2001, p. 94) and citizen

resistance to the formulation and signing of a European Constitution Treaty on October 9, 2004, because citizens were not involved in the process (Le Blé & Colson, 2004).

Nonetheless, the EU is worlds ahead of CARICOM and is more democratic as it includes public and elite participation through institutions such as the European Parliament (EP), the Committee of Regions (CoR), the European Economic and Social Committee (EESC), and the European Union Ombudsman.

CARICOM citizens already have some form of regional identity. According to the *May/June 2003 Draft Report on Jamaican Perceptions of Regional Integration*, Jamaican citizens desire the strengthening of the regional integration process (See Table 11). A political union of CARICOM member states, the strongest form of regional integration, is the preferred form among Jamaicans. Currently, CARICOM operates as a common market, which is two integration steps short of a political union. This is significant because it is contrary to the position held by several Jamaican political and economic elites who do not support a stronger CARICOM. Therefore, improving CARICOM's institutional design and the process of regional political socialization would provide a blueprint for a more successful regional bloc.

Table 11

Support for Jamaica's Participation in Regional Political Integration

Form of Participation (N=1581)	Response Rate (%)	Strongly Agree Or agree (%)	Strongly disagree Or disagree (%)	Total (%)
A political union of CARICOM Member States	98.7	61.9	21.0	82.9
A single CARICOM state	98.7	42.4	33.8	76.2
A Federation	98.7	36.7	33.6	70.3

A Confederation	98.5	23.3	44.1	67.4
A Political Union of CARICOM states without Jamaica	98.8	11.5	71.1	82.6
A Political union between Jamaica and other regional states	98.5	57.2	21.0	78.2
A political union with any other country or countries*	96.5	54.9	45.1	100.0

Note. Adapted from *Perceptions of Regional Integration (May/June 2003 Survey)* (p. 1) by the SALISES Research Team, 2003, Kingston, Jamaica: Unpublished.

Presently, the region has an Assembly of CARICOM Parliamentarians, which have only met thrice since the Assembly held its first session in 1996 (CARICOM Secretariat, 2002). Presidential and prime ministerial appointees pool sovereignty to provide the broad guidelines for all policies to be addressed, which at present is only recommendatory (Pollard, 2003, p. 228). If redesigned as a directly elected parliamentary institution, it will provide a direct avenue for citizens to ensure that their positions are heard and enforced.

A move towards democracy and accountability at the regional level will reduce the levels of insularity, distrust, and prejudice across CARICOM member states. This advancement would emphasize civic culture, civil society and social capital by encouraging citizens to take charge of their lives as they speak and organize to improve democratic life both nationally and transnationally. A system of collective decision making and the enforcement of these decisions would deepen regionalism and political adherence.

The economic elite need to maintain regular contact with government officials. Again, the Trinidadian economic elite has developed its own framework that should be copied by other economic elites across CARICOM. Alongside the TCC, the Standing Advisory Committee on Trade, an independent group driven by the private sector, which

includes a few government representatives and key business stakeholders, meets and discusses national and regional trade issues and submits regular reports directly to the Minister of Trade and Industry.

Additionally, the economic elite need to recognize the benefits of regional integration and motivate themselves to participate in regional economic trade. At present, many members of this group across multiple CARICOM member states support “defensive national interests” (Institute of International Relations (IIR), 2011, p. 32); however, if they take into consideration “offensive regional and international interests” (IIR, 2011, p. 32), the economic elite would expand their businesses beyond their own national borders and establish subsidiaries or branches across CARICOM member states. This should increase competitiveness and develop the transnational ties necessary for the economic elite to take the helm of economic integration.

The knowledge elite, while it has established transnational ties, need to be more proactive in providing technical advice on the benefits of deeper regional integration to the political and economic elites and the public at the national level. This would neutralize any negative perceptions these groups may have about the process. Academia cannot wait for these groups to approach them, but rather should develop organizations similar to Trinidad’s Standing Advisory Committee in order to be in a better position to inform regional policy.

To this, my work ends with encouragement from the former Prime Minister of Barbados, Owen Arthur (1998), who states,

[We] are one Caribbean people, one Caribbean family moulded by the experience...of a distinctive Caribbean way of life...This is still the most

powerful basis for Caribbean integration at all levels, and the source of our inspiration...to move the causes and mechanisms of Caribbean integration. (p. 29)

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APPENDIX A

Elite Participant # _____

DEMOGRAPHY

1. What is your occupation?
____ Economic Elite¹²⁶ ____ Political Elite¹²⁷ ____ Socio-Cultural Elite¹²⁸

CARIBBEAN IDENTITY

2. Is there the existence of a Caribbean Identity?
3. What are the main characteristics of Caribbean Identity?
- Common culture
 - Common history
 - Geographic location
 - External perception
 - Common social, economic and political features
4. Do you prefer to purchase _____? Why?
- Locally made goods
 - Regionally made goods
 - Internationally made goods
5. What is your level of attachment to foreign countries?
6. What type of regional unity do you prefer? (Economic, Political, Cultural, or A combination of the above). What level of regional integration is best suited for the Caribbean? What is your attitude towards political integration?

ELITE INVOLVEMENT – ECONOMIC

General background on the main incentive for Caribbean integration – Economic Development

7. What is the link between regional integration and global integration (fragmentation or convergence; protection against the effects of neoliberal globalization or adoption of neoliberalism) in the context of CARICOM?
8. In your opinion, what were/are the drivers that have shaped/shapes the integration process in the Caribbean?

¹²⁶ Jump to question 8 after Caribbean Identity questions

¹²⁷ Jump to question 34 after Caribbean Identity questions

¹²⁸ Jump to question 61 after Caribbean Identity questions

9. To what extent is regional integration trade diverting or enhancing?
10. How has regional integration promoted the domestic market?
11. Did regional integration accelerate economic convergence and what were the factors and obstacles involved?
12. Has the 'freedom of movement' a component of Caribbean regional integration? If so why if not why not?
13. What were the strategies employed by partners in the development of sound regional economic policies?

Actor and Institution Questions

Since the formation of CARICOM...

14. Please identify the institution/department/person (by job title) in your country that has had overall responsibility for:
 - i) National economic policy and
 - ii) Caribbean regional economic policy
15. What were/are the existing linkages between your national and Caribbean regional levels in regional policy-making?
16. Who have been the key stakeholders involved in the regional policy process? What are the formal and informal mechanisms through which they participated in regional policymaking? What are the constraints affecting this participation? Are they largely due to CARICOM rules, national rules, or elite organization and will?
17. How involved have you been in Caribbean economic integration? If involved, had this led to you forming alliances and/or creating competition with national elites from other member states? Were there negotiations and bargaining within this group of elites to gain better benefits from regional integration? If so, how did this affect CARICOM and national economic policies?
18. Have this collaboration gone beyond just economic policy to include other interested parties (political, socio-cultural, etc.)? If so, do you agree that CARICOM has evolved beyond a mere economic arrangement to one that is also political, legal and cultural in nature?
19. As changes were made to CARICOM and national rules due to your participation in regional integration in the 1980s and/or 1990s, did the new changes conflict and/or complement each other? Were outdated rules removed or did they conflict/complement with the new rules? How did these factors continue to constrain or motivate you in participating in the regional integration process?

20. Was there greater supranational complexity or greater access to supranational organizations as a result of the changes in the rules? What regional organizations/branches arose or became more accessible?
21. List the various local and regional channels that have been used to disseminate information to regional policy decision-makers. Identify the constraints (institutional and elite) involved in reaching the various decision-makers. What measures were planned to overcome these constraints?
22. Identify and describe the information and communication approaches (including networking) and strategies that have been used to:
 - a. build awareness about regional economic policies
 - b. involve different stakeholders in the regional policy-making processes
 - c. manage changes emanating from regional processes and the wider environment
 - d. manage different and conflicting views and interests
23. There was and is frustration and disenchantment in various circles with the regional integration process. This is grounded in the considerable gap between expectations and achievements. What factors would you highlight to explain this distance in the 1970s and 1980s? Are they largely due to CARICOM rules, national rules, or elite involvement? Are these views shared by broad sectors of government or are they merely concerns of very small elites that take an interest in this area? How did these influence the call for a change in CARICOM in the late 1980s and the early 1990s?
24. Given named factors, what was the discussion like as to types of regional institutional arrangements that would have proven to best support the integration between economic, political, and social policy in the Caribbean? What suggestions did you and your colleagues make?
25. The changes that came resulted in the Revised Treaty of Chaguaramas establishing the CARICOM Single Market and Economy (the economic union which includes the affirmation of the original jurisdiction of the Caribbean Court of Justice (CCJ)) and the Agreement for establishing the Caribbean Court of Justice. Tell me what you know about the Revised Treaty (CSME) and the CCJ? What are their roles in CARICOM?
26. Did you contribute to the idea that CARICOM should evolve into an economic union that was supported by regional court with original jurisdiction that would enforce regional law and address any question regarding the interpretation of the region's treaties? Is so, what was your suggestion? If not, what was your counter-proposal?
27. You mentioned earlier the constraints to making CARICOM work well in the 1970s, 1980s, and/or 1990s. Two of the biggest problems seem to be the lack of the enforcement of policy and a weak arbitration process between states. Could you tell me more about that in your experience? What were the costs and benefits of

- arbitration within the context of regional integration back then? What were the costs of a lack of policy enforcement within the context of regional integration back then? How had the law, whether national or regional, been applied in the context of regional integration prior to the CCJ?
28. Did you have any involvement in making the CCJ what it is today? Were you consulted? Did you submit a proposal for a legal arrangement to correct the laws of arbitration and enforcement, and protect the running of the CSME? If you were involved by any other means how did you ensure that your voice was heard regarding the development of a legal arrangement to protect your interests?
 29. What were your specific suggestions?
 30. What influenced the position you took in how the CCJ should have been structured?
 31. Have you seen any of your suggestions come to fruition in the rules and regulations governing to running of the CCJ regarding its maintenance of original jurisdiction?
 32. The primary reasons for the establishment of the CCJ was to correct the weaknesses found in the original arbitration process among CARICOM member states, to interpret the Revised Treaty of Chaguaramas and enforce judgments and orders in member states as it relates to the treaty to support the CSME. Do you believe it has fulfilled this role? Why?

ELITE INVOLVEMENT - POLITICAL

General Questions about Caribbean Integration

33. What is the link between regional integration and global integration (fragmentation or convergence; protection against the effects of neoliberal globalization or adoption of neoliberalism) in the context of CARICOM?
34. In your opinion, what were/are the drivers that have shaped/shapes the integration process in the Caribbean?
35. To what extent is regional integration trade diverting or enhancing?
36. How has regional integration promoted the domestic market?
37. Did regional integration accelerate economic convergence and what were the factors and obstacles involved?
38. Has the 'freedom of movement' a component of Caribbean regional integration? If so why if not why not?
39. What were the strategies employed by partners in the development of sound regional policies?

Actor and Institution Questions

Since the formation of CARICOM...

40. Please identify the institution/department/person (by job title) in your country that has overall responsibility for:
 - i) National political/economic/social policy and
 - ii) Caribbean regional political/economic/social policy
41. What are the existing linkages between your national and Caribbean regional levels in regional policy-making?
42. Who are the key stakeholders involved in the regional policy process? What are the formal and informal mechanisms through which they participate in regional policymaking? What are the constraints affecting this participation?
43. How involved have you been in Caribbean integration? Has it been directly (at the regional level) and/or indirectly (national level)? If involved, did you compete with or collaborate with national elites within your state and/or from other member states? Were there negotiations and bargaining within this group of elites to gain better benefits from regional integration? If so, how did this affect CARICOM and national economic/political/social policies and institutions?
44. If involved, what interested you to get involved in regional integration process? Was it the success/lack of success of regional economic policy, which has been the driving force of CARICOM from the very beginning? If not, were there other factors? What were they?
45. As changes were made to CARICOM and national rules due to your/elite participation in regional integration in the 1980s and/or 1990s, did the new changes conflict and/or complement each other? Were outdated rules removed or did they conflict/complement with the new rules? How did these factors continue to constrain or motivate you in participating further in the regional integration process?
46. As a political representative, has this collaboration (nationally and regionally) gone beyond just economic policy to include other interested parties? If so, do you agree that CARICOM has evolved beyond a mere economic arrangement to one that is also political, legal and cultural in nature? To what degree?
47. Was there greater supranational complexity or greater access to supranational organizations as a result of the changes in the rules? What regional organizations/branches arose or became more accessible?
48. List the various channels that have been used to disseminate information to regional policy decision-makers. Identify the constraints involved in reaching the various decision-makers. What measures are being planned to overcome these constraints?

49. Identify and describe the information and communication approaches (including networking) and strategies that have been used to:
 - a. build awareness about regional political policies
 - b. involve different stakeholders in the regional policy-making processes
 - c. manage changes emanating from regional processes and the wider environment
 - d. manage different and conflicting views and interests
50. There was and is frustration and disenchantment in various circles with the regional integration process. This is grounded in the considerable gap between expectations and achievements. What factors would you highlight to explain this distance in the 1970s and 1980s? Are they largely due to CARICOM rules, national rules, or elite involvement? Are these views shared by broad sectors of government or are they merely concerns of very small elites that take an interest in this area? How did these influence the call for a change in CARICOM in the late 1980s and the early 1990s?
51. Given named factors, what was the discussion like as to types of regional institutional arrangements that would have proven to best support the integration between economic, political, and social policy in the Caribbean? What suggestions did you and your colleagues make?
52. The changes that came resulted in the Revised Treaty of Chaguaramas establishing the CARICOM Single Market and Economy (the economic union which includes the affirmation of the original jurisdiction of the Caribbean Court of Justice (CCJ)) and the Agreement for establishing the Caribbean Court of Justice. Tell me what you know about the Revised Treaty (CSME) and the CCJ? What are their roles in CARICOM?
53. Did you contribute to the idea that CARICOM should evolve into an economic union that was supported by regional court with original jurisdiction that would enforce regional law and address any question regarding the interpretation of the region's treaties? Is so, what was your suggestion? If not, what was your counter-proposal?
54. You mentioned earlier the constraints to making CARICOM work well in the 1970s, 1980s, and/or 1990s. Two of the biggest problems seem to be the lack of the enforcement of policy and a weak arbitration process between states. Could you tell me more about that in your experience or opinion on these issues if you did not have direct experiences with them? What were the costs and benefits of arbitration within the context of regional integration back then? What were the costs of a lack of enforcement within the context of regional integration back then? How had the law, whether national or regional, been applied in the context of regional integration prior to the CCJ?
55. Did you have any involvement in making the CCJ what it is today? Were you consulted? Did you submit a proposal for a legal arrangement to correct the laws of arbitration and enforcement? If you were involved by any other means how did you

- ensure that your voice was heard regarding the development of a legal arrangement to protect your interests? *(If the political elite member is a lawyer get them to be as specific as possible)*
56. What were your specific suggestions? *(If the political elite is a lawyer get them to be as specific as possible)*
57. What influenced the position you took in how the CCJ should have been structured?
58. Have you seen any of your suggestions come to fruition in the rules and regulations governing to running of the CCJ regarding its maintenance of original jurisdiction? *(If the political elite member is a lawyer get them to be as specific as possible)*
59. The primary reasons for the establishment of the CCJ was to correct the weaknesses found in the original arbitration process among CARICOM member states, to interpret the Revised Treaty of Chaguaramas and enforce judgments and orders in member states as it relates to the treaty to support the CSME. Do you believe it has fulfilled this role? Why?

ELITE INVOLVEMENT – SOCIOCULTURAL

General Questions about Caribbean Integration geared more towards the university professors

60. What is the link between regional integration and global integration (fragmentation or convergence; protection against the effects of neoliberal globalization or adoption of neoliberalism) in the context of CARICOM?
61. In your opinion, what were/are the drivers that have shaped/shapes the integration process in the Caribbean?
62. To what extent is regional integration trade diverting or enhancing?
63. How has regional integration promoted the domestic market?
64. Did regional integration accelerate economic convergence and what were the factors and obstacles involved?
65. Has the ‘freedom of movement’ a component of Caribbean regional integration? If so why if not why not?
66. What were the strategies employed by partners in the development of sound regional policies?

Actor and Institution Questions

Since the formation of CARICOM...

67. Please identify the institution/department/person (by job title) in your country that has overall responsibility for:
 - i) National economic/political/social policy and
 - ii) Caribbean regional economic/political/social policy
68. What are the existing linkages between your national and Caribbean regional levels in regional policy-making?
69. Who are the key stakeholders involved in the regional policy process? What are the formal and informal mechanisms through which they participate in regional policymaking? What are the constraints affecting this participation?
70. How involved have you been in the Caribbean integration process? Has it been directly (at the regional level) and/or indirectly (national level)? If involved, did you collaborate with national elites within your state and/or from other member states? Were there negotiations and bargaining within this group of elites to gain better benefits from regional integration? If so, how did this affect CARICOM and national economic/political/social policies and institutions?
71. This collaboration (nationally and regionally) has gone beyond just economic policy to include other interested parties, including you? Do you agree that CARICOM has evolved beyond a mere economic arrangement to one that is also political, legal and cultural in nature? To what degree?
72. If involved, what interested you to get involved in regional integration process? Was it the success/lack of success of regional economic policy, which has been the driving force of CARICOM from the very beginning? If not, were there other factors? What were they?
73. As changes were made to CARICOM and national rules due to your/elite participation in regional integration in the 1980s and/or 1990s, did the new changes conflict and/or complement each other? Were outdated rules removed or did they conflict/complement with the new rules? How did these factors continue to constrain or motivate you in participating further in the regional integration process?
74. Was there greater supranational complexity or greater access to supranational organizations as a result of the changes in the rules? What regional organizations/branches arose or became more accessible?
75. List the various channels that have been used to disseminate information to regional policy decision-makers. Identify the constraints involved in reaching the various decision-makers. What measures are being planned to overcome these constraints?

76. Identify and describe the information and communication approaches (including networking) and strategies that have been used to:
- build awareness about regional social policies
 - involve different stakeholders in the regional policy-making processes
 - manage changes emanating from regional processes and the wider environment
 - manage different and conflicting views and interests
77. There was and is frustration and disenchantment in various circles with the regional integration process. This is grounded in the considerable gap between expectations and achievements. What factors would you highlight to explain this distance in the 1970s and 1980s? Are they largely due to CARICOM rules, national rules, or elite involvement? Are these views shared by broad sectors of government or are they merely concerns of very small elites that take an interest in this area? How did these influence the call for a change in CARICOM in the late 1980s and the early 1990s?
78. Given named factors, what was the discussion like as to types of regional institutional arrangements that would have proven to best support the integration between economic, political, and social policy in the Caribbean? What suggestions did you and your colleagues make? (*If speaking to a media representative, ask the suggestions that were reported on*)
79. The changes that came resulted in the Revised Treaty of Chaguaramas establishing the CARICOM Single Market and Economy (the economic union which includes the affirmation of the original jurisdiction of the Caribbean Court of Justice (CCJ)) and the Agreement for establishing the Caribbean Court of Justice. Tell me what you know about the Revised Treaty (CSME) and the CCJ? What are their roles in CARICOM?
80. Did you contribute to the idea that CARICOM should evolve into an economic union that was supported by regional court with original jurisdiction that would enforce regional law and address any question regarding the interpretation of the region's treaties? Is so, what was your suggestion? If not, what was your counter-proposal? (*If speaking to a media representative, ask about the proposals that were reported on*)
81. You mentioned earlier the constraints to making CARICOM work well in the 1970s, 1980s, and/or 1990s. Two of the biggest problems seem to be the lack of the enforcement of policy and a weak arbitration process between states. Could you tell me more about that in your experience or opinion on these issues if you did not have direct experiences with them? What were the costs and benefits of arbitration within the context of regional integration back then? What were the costs of a lack of enforcement within the context of regional integration back then? How had the law, whether national or regional, been applied in the context of regional integration prior to the CCJ? (*If speaking to a media representative, ask about that which was reported on*)

82. Did you have any involvement in making the CCJ what it is today? Were you consulted? Did you submit a proposal for a legal arrangement to correct the laws of arbitration and enforcement? If you were involved by any other means how did you ensure that your voice was heard regarding the development of a legal arrangement to protect your interests? *(If speaking to a media representative, ask about that which was reported on)*
83. What were your specific suggestions? *(If speaking to a media representative, ask about that which was reported on)*
84. What influenced the position you took in how the CCJ should have been structured? *(If speaking to a media representative, this follow up question should support responses which was reported on)*
85. Have you seen any of your suggestions come to fruition in the rules and regulations governing to running of the CCJ regarding its maintenance of original jurisdiction? *(If speaking to a media representative, ask about that which was reported on)*
86. The primary reasons for the establishment of the CCJ was to correct the weaknesses found in the original arbitration process among CARICOM member states, to interpret the Revised Treaty of Chaguaramas and enforce judgments and orders in member states as it relates to the treaty to support the CSME. Do you believe it has fulfilled this role? Why?

WRAP UP QUESTIONS

87. In your view, has CARICOM been successful? Why?
88. There is no doubt that integration process in the region have taught us several lessons, some positive, some negative. Which ones would you highlight as the main lessons learned in either sense?
89. Is there anything else you'd like to share with me?

THANK YOU FOR YOUR TIME AND PARTICIPATION

VITA

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