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CAPTIVE SUPRANATIONALISM: A CONSTITUTIONAL-ANALYTICAL FRAMEWORK FOR THE DOMESTIC EFFECT OF COMMUNITY LAW

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ABSTRACT

Objective: This article develops and operationalizes captive supranationalism as a constitutional-analytical framework for understanding how regional legal authority in CARICOM can expand while its domestic operation remains structurally constrained by national constitutional frameworks.

Research Design & Methods: A qualitative, doctrinal legal methodology is employed, drawing on constitutional analysis, treaty interpretation, and a critical engagement with neofunctionalism, liberal intergovernmentalism, and constitutional pluralism. The analysis is structured along three layers: constitutional, legislative, and judicial.

Findings: Supranational norms within CARICOM are structurally conditioned by three interconnected pillars: (i) implementation dependency; (ii) a persistent enforcement deficit, evidenced by the absence of an autonomous supranational enforcement body; and (iii) the reversible nature of sovereignty transfer. These pillars constrain domestic application by making regional norms contingent upon national legislative action, subject to a lack of autonomous enforcement, and vulnerable to constitutional opt-outs, thereby locating the decisive variable for domestic effect in the constitutional receptivity of the Member State.

Contribution: The article provides a constitutionally grounded alternative to classical integration theories. It identifies the constitutional locus of control over the domestic effect of supranational norms as the decisive variable, rather than post-colonial statehood, dualist traditions, or institutional capacity as such.

Novelty: Unlike neofunctionalism, liberal intergovernmentalism, and constitutional pluralism, captive supranationalism locates the decisive variable in constitutional control over the conditions of domestic effect, rather than in integration dynamics, state consent, or inter-order dialogue. The concept of captive supranationalism and the analytical variable of constitutional receptivity are new to the regional integration scholarship. They explain the divergence between the development of Community law and its domestic operation in predominantly dualist legal orders.

Keywords: Captive Supranationalism; CARICOM; CCJ; Constitutional Receptivity; Sovereignty.

JEL codes: K33, K40, F55

Article type: review paper

INTRODUCTION

Since its inception in 1973, the Caribbean Community (CARICOM) has evolved beyond its original intergovernmental structure. It now exhibits key features of a regional legal order, driven by supranational ambitions embedded in the Revised Treaty of Chaguaramas (2001) (hereinafter RTC), which established the Caribbean Single Market and Economy (CSME), and the Agreement Establishing the Caribbean Court of Justice (2005) (CCJ Agreement) (Berry, 2014; Onnis, 2015; Ali, 2023). By establishing the CCJ, the region secured a central judicial authority to oversee and interpret Community law (Ali, 2023). CARICOM has been characterised as a hybrid integration project that combines intergovernmental decision-making with limited supranational elements (Bishop et al., 2011). Nevertheless, the domestic effect of Community law remains uneven, fragmented and frequently uncertain. Formal integration has not automatically resulted in substantive legal effect.

This gap between regional norm-making and national effect raises a fundamental question: which constitutional and institutional conditions determine whether Caribbean Community law is genuinely effective within domestic legal orders? Classical integration theories offer only partial answers. Neofunctionalism expects economic integration to generate pressure for political integration, but such spill-over has not materialized in CARICOM (Haas, 1958; Onnis, 2015). Liberal intergovernmentalism correctly emphasizes the centrality of state sovereignty, yet it

does not explain how supranational authority operates once it has been created (Schimmelfennig, 2018). Constitutional pluralism presumes an ongoing dialogue between legal orders, but in CARICOM this dialogue is largely absent (Caserta & Madsen, 2016). The inadequacy of these theories is not merely conceptual but empirically observable. Neofunctionalism predicts spill-over, yet CARICOM has recorded no institutional deepening beyond the CSME and no transfer of new competences to regional organs since 2006. Liberal intergovernmentalism explains the delegation of compulsory jurisdiction to the CCJ, but cannot account for the fact that between 2010 and 2023 fewer than ten published judgments in the region substantively engaged Community law, and that the Article 214 preliminary reference mechanism remains virtually unused in Suriname. Constitutional pluralism presupposes inter-order dialogue, yet the Surinamese judiciary's case-law database contains no judgment in which Community law played an explicit and substantive role in the reasoning. These empirical patterns-not merely theoretical conjecture-justify the search for an alternative framework.

This article introduces captive supranationalism as a constitutional-analytical framework to address these gaps. The concept refers to a legal order in which supranational norms formally exist and develop, while their substantive operation remains structurally conditioned by national constitutional and institutional arrangements. Instead of treating post-colonial statehood, dualist constitutional traditions or limited institutional capacity as the primary explanation, the article locates the decisive factor in constitutional control: the actor that has the final word on whether and how, supranational norms produce domestic legal effects. The term 'constitutional receptivity' denotes the analytical variable that measures the degree to which a national legal system provides the constitutional, institutional, and judicial conditions for that effect to occur (Algoe, 2016; Asarfi, 2023).

The remainder of this study proceeds as follows. First, the theoretical framework is positioned against classical integration theories and constitutional pluralism. Next, the methodological approach is detailed. The analysis then turns to the findings, focusing on the three structural pillars and the dimensions of constitutional receptivity. Finally, the study explores the broader implications, acknowledges its limitations, and offers concluding observations.

This study is guided by three analytical propositions, formulated in place of conventional statistical hypotheses, as is appropriate for a doctrinal legal study.

Proposition 1: The three structural pillars of the CARICOM legal order, implementation dependency (Article 240 RTC), the structural enforcement deficit, and the reversible nature of sovereignty transfer (Articles 27(4) RTC and 5 CCJ Agreement), structurally condition the domestic effect of Community law by locating the decisive conditions for internal legal effect in national constitutional and institutional arrangements.

Proposition 2: The degree to which these structural pillars constrain domestic effect is determined by the constitutional receptivity of the Member State, measured across three analytical dimensions: constitutional conditions for treaty effect, institutional capacity for implementation and enforcement, and judicial practice in interpreting and applying Community law.

Proposition 3: In the case of Suriname, a low degree of constitutional receptivity across all three dimensions produces a condition of constitutional constraint, in which Community law is formally recognised but materially limited in its domestic operation. This condition is conceptualised as captive supranationalism.

These propositions are guided by a central research question: under which constitutional and institutional conditions does Caribbean Community law acquire effective domestic effect within the Surinamese legal order, and how can the divergence between regional norm-creation and national constitutional control be explained? The scope of the analysis is deliberately delimited. Suriname constitutes the primary case study because of its strict dualist constitutional framework and the unresolved tension between Articles 80(2), 105, and 106 of its Constitution. Comparative references are made to Trinidad and Tobago, Guyana, and Belize, which represent different models of domestic effect within CARICOM: Trinidad and Tobago has a dualist tradition with specific implementing legislation (Caribbean Community Act 2005); Guyana has a more integrated approach through its Caribbean Community Act 2006, and Belize has recent targeted legislation on the free movement of skilled persons (Caribbean Community (Free Movement of Skilled Persons) Amendment Act 2020). These comparative references serve to identify alternative models of domestic effect and to contextualise the Surinamese configuration, not to provide a comprehensive comparison of all CARICOM Member States (Girvan, 2015; Berry, 2014).

LITERATURE REVIEW

Classical Integration Theories and their Limits in CARICOM

According to Haas (1958) neofunctionalist theory, regional economic collaboration naturally creates a spill-over effect, pushing states toward deeper political unification. The CARICOM experience, however, contradicts this premise. Despite the creation of the CSME, the region has not experienced institutional deepening; it remains fundamentally intergovernmental with highly restricted supranational authority (Onnis, 2015). As O'Brien (2011) notes, the post-colonial realities of these states have significantly influenced their cautious approach to sovereignty transfer

This predictive gap points to a neglected factor: the domestic operation of regional rules depends not only on their content but also on the constitutional and institutional filters through which they must pass. Neofunctionalism treats these filters as permissive, whereas the Caribbean experience suggests they are restrictive (Algoe, 2016). The Caribbean experience illustrates the limitations of classical integration theories and the need for context-sensitive frameworks (Grenade, 2011).

Liberal intergovernmentalism (Schimmelfennig, 2018) places states and sovereignty at the centre. Applied to CARICOM, it would predict that economic integration creates pressure for political integration. Yet Member States have accepted the CCJ's compulsory and exclusive jurisdiction, as well as the binding force of certain Community-law provisions (Trinidad Cement Ltd. v. The Caribbean Community, [2009] CCJ 4 (OJ), para. 32, 82; Ali, 2023). Here a second gap appears: liberal intergovernmentalism explains the creation of supranational authority but not its operation. It neglects the concrete channels through which regional authority is exercised and translated into domestic legal effect (Algoe, 2016).

Constitutional Pluralism and its Assumptions

While Caserta and Madsen (2016) provide a sophisticated analysis of national-supranational legal relations through their constitutional pluralism model, their framework relies on the assumption of a continuous institutional dialogue. In the Caribbean context, this dialogue is conspicuously absent; national courts seldom engage with CCJ jurisprudence, and the Article 214 preliminary reference mechanism is scarcely utilized (Asarfi, 2023). This reveals a third blind spot: the imbalance between the regional level, where norms are created, and the national level, where the conditions for their effect are ultimately determined (Algoe, 2016; Ali, 2023).

Captive Supranationalism as an Alternative Framework

Captive supranationalism is introduced to fill these three lacunae. Its distinctive contribution becomes clear when it is systematically compared with the three theoretical approaches discussed above. Table 1 presents this comparison along four analytical dimensions: the central explanatory question, the locus of the decisive variable, the assumed relationship between legal orders, and the explanatory focus regarding domestic effect.

Table 1. Systematic comparison of integration theories and captive supranationalism

Theoretical approach	Central explanatory question	Locus of decisive variable	Assumed relationship between legal orders	Explanatory focus regarding domestic effect
Neofunctionalism (Haas, 1958)	Why does economic integration generate pressure for political integration?	Integration dynamics (spill-over)	Permissive; national filters facilitate integration	Expects automatic domestic effect through spill-over
Liberal intergovernmentalism (Schimmelfennig, 2018)	Why do states delegate authority to regional institutions?	State consent and sovereignty	National control at the moment of delegation	Explains creation of supranational authority, not its operation
Constitutional pluralism (Caserta & Madsen, 2016)	How do national and supranational legal orders interact?	Inter-order dialogue	Continuous institutional dialogue	Assumes ongoing judicial interaction and mutual accommodation
Captive supranationalism (this article)	How does Community law function once it reaches the national legal order?	Constitutional control over the conditions of domestic effect	Structural asymmetry between supranational norm-creation and national constitutional control	Explains why formal integration may coexist with limited material effect

Source: Compiled by the author based on the theoretical approaches discussed in this section.

The state of the art can be summarised as follows. Neofunctionalism (Haas, 1958) and liberal intergovernmentalism (Schimmelfennig, 2018) are explanatory theories of integration: they explain why states create regional authority. Constitutional pluralism (Caserta & Madsen, 2016) is a descriptive theory of interaction: it explains how legal orders communicate once authority exists. None of the three is an operational theory of domestic effect: none specifies the constitutional conditions under which a regionally created norm acquires internal legal force. This is the precise gap that captive supranationalism fills. It does not compete with the three theories on their own terrain (why states integrate); it operates on a different terrain (how Community law functions once it reaches the national legal order). The novelty is therefore not a rival explanation of integration, but the identification of constitutional control over the conditions of domestic effect as the missing analytical variable-operationalised through constitutional receptivity-that connects regional norm-creation to national legal effect.

The tension between absolute sovereignty and regional integration within CARICOM has been extensively documented (Elias-Roberts & Hanoman, 2019), and the RTC itself contains internal tensions and contradictions that complicate its domestic application (Saunders, 2017). These observations reinforce the need for a framework that explicitly theorises the relationship between regional norm-creation and national constitutional control. Captive supranationalism provides such a framework. The existing literature on CARICOM has documented the institutional development of the Community (Berry, 2014), the jurisprudential evolution of the CCJ (Ali, 2023; Caserta, 2018), the political economy of regional integration (Onnis, 2015; O'Brien, 2011), and the challenges of implementation (Asarfi, 2023; Mohammed-Davidson, 2016). What remains underdeveloped, however, is a systematic account of how constitutional structures mediate between regional norm-creation and national legal effect. Existing studies tend to focus either on the regional level (the development of Community law and the CCJ's jurisprudence) or on the national level (implementation deficits and judicial avoidance), without connecting the two through an explicit constitutional-analytical framework. This article addresses that gap by identifying constitutional control over the conditions of domestic effect as the decisive analytical variable and by operationalising it through three dimensions: constitutional conditions, institutional capacity, and judicial practice. In doing so, it offers a more systematic account of why the development of Community law and its domestic operation diverge in predominantly dualist legal orders (Algoe, 2016; Asarfi, 2023).

The defining feature of captive supranationalism is its focus on constitutional structure. Classical theories ask why states integrate; this model asks how Community law actually functions once it reaches the national legal order. The determining factor is constitutional: which actor ultimately decides the conditions under which regional norms acquire domestic legal effect (Asarfi, 2023). This variable is analytically distinct from the structural mechanisms -implementation dependency, enforcement deficit, reversible sovereignty transfer-that characterise the regional legal order. This distinction allows the analysis to examine how structural mechanisms affect domestic legal effect. It does so without conflating explanatory factors and outcomes (Ali, 2023; Asarfi, 2023).

Constitutional Receptivity as an Analytical Variable

At the heart of the model is constitutional control over the conditions of effect. What matters is not the presence of post-colonial state formation, dualist traditions or limited institutional capacity as such, but which actor ultimately determines the conditions under which supranational norms acquire internal legal effect (Asarfi, 2023). Where national constitutional actors retain this control more strongly, and effective supranational enforcement mechanisms are absent, supranational norm-creation is more likely to remain structurally dependent on national reception (Ali, 2023).

In this study, constitutional receptivity functions as the core analytical variable, as defined in the Introduction. It measures how far a domestic legal system provides the necessary legal and institutional framework for Community law to acquire domestic effect. To assess this, the concept is broken down into three analytical dimensions: (i) the domestic constitutional requirements for treaty norms to take effect; (ii) the institutional capacity to implement and enforce these obligations; and (iii) the judicial approach to interpreting Community law, including the use of the preliminary reference mechanism (Algoe, 2016). These dimensions are evaluated individually before their combined effect is analysed.

This approach makes it possible to distinguish formal constitutional openness from effective institutional operation and judicial practice. Constitutional receptivity is therefore not inferred merely from the absence of a particular outcome, but assessed through identifiable legal rules, institutional arrangements and judicial decisions. The concept functions as the dependent variable within the model of captive supranationalism, which explains the degree of constitutional receptivity on the basis of structural constitutional and institutional conditions.

The relationship between the structural pillars and constitutional receptivity must be understood as a relationship between an explanatory framework and an outcome to be explained. The three structural pillars of *captive supranationalism*, implementation dependency, enforcement deficit, and reversible sovereignty transfer, describe the defining features of the CARICOM regional legal order. They constitute the *explanans*: the structural conditions that shape the environment in which Community law must operate. Constitutional receptivity, by contrast, is the *explanandum*: the degree to which a national legal order provides the necessary constitutional, institutional, and judicial framework for Community law to acquire domestic effect. The pillars explain why supranational norms remain structurally dependent on national implementation; constitutional receptivity measures how, and to what extent, a specific national legal order receives, filters, or facilitates those norms. This analytical distinction allows the study to examine how structural mechanisms affect domestic legal effect without conflating explanatory factors and outcomes.

METHODS

Research Design

Methodologically, this study adopts a qualitative, doctrinal legal approach, supplemented by comparative constitutional analysis. The design is tailored to operationalise constitutional receptivity and to examine its three dimensions: constitutional conditions, institutional capacity and judicial practice. Accordingly, the analysis proceeds through three interconnected layers, constitutional, legislative and judicial. This layered structure is analytically necessary rather than merely organisational. The constitutional layer identifies the foundational rules governing the reception of treaty norms and establishes the formal framework within which domestic effect becomes possible. The legislative layer examines how those rules are translated into implementing measures, exposing the political and institutional choices that determine whether Community law is actually transposed. The judicial layer assesses how courts interpret and apply Community law, showing whether constitutional receptivity is realised in adjudicative practice. By separating the research object into these layers, the study can trace a supranational norm from constitutional authorisation through legislative implementation to judicial application, and thus provide a coherent account of the mechanisms of captive supranationalism.

Case Selection and Comparative Baseline

This study centers on Suriname as its primary case study. Suriname is particularly instructive due to its strict dualist constitutional framework. Furthermore, the unresolved constitutional tension between Articles 80(2), 105, and 106 of the Constitution makes the country an ideal critical case for testing the boundaries of constitutional receptivity within the region.

Comparative references are made to Trinidad and Tobago, Guyana and Belize. These states were selected because they represent different models of domestic effect within CARICOM: Trinidad and Tobago has a dualist tradition with specific implementing legislation (Caribbean Community Act 2005); Guyana has a more integrated approach through its Caribbean Community Act 2006; and Belize has recent targeted legislation on the free movement of skilled persons (Caribbean Community (Free Movement of Skilled Persons) Amendment Act 2020). The selection of Trinidad and Tobago, Guyana and Belize draws on comparative studies of Westminster governance in the Caribbean (Girvan, 2015). Together they illustrate the range of constitutional receptivity within CARICOM and provide a comparative baseline for assessing the Surinamese configuration.

The comparative analysis is illustrative rather than exhaustive. It serves to identify alternative models of domestic effect and to contextualize the Surinamese configuration, not to provide a comprehensive comparison of all CARICOM Member States.

Table 2. Comparative overview of constitutional frameworks, implementing legislation, and judicial mechanisms in selected CARICOM jurisdictions

Jurisdiction	Constitutional Framework	Implementing Legislation	Article 214 Mechanism	Status of CCJ Jurisdiction	Key Judicial Decisions
Suriname	Dualist; Articles 103-107 Constitution of Suriname; toetsingsverbod (constitutional review prohibition, Art. 80(2))	No general framework act; sectoral legislation (e.g., Wet Bekwame Burgers 2006 , the 2006 Act on Skilled Persons)	No explicit national procedural framework; largely inoperative	Original jurisdiction accepted; no appellate jurisdiction	Hummingbird Rice Mills (2012); Ramsamooj (2026)
Trinidad & Tobago	Dualist tradition; Westminster model	Caribbean Community Act 2005; explicit incorporation with 'force of law'	Section 5: mandatory preliminary reference mechanism	Original and appellate jurisdiction accepted	Hadeed (2019); Rock Hard Distribution (2018/2021)
Guyana	Dualist tradition; hybrid presidential model	Caribbean Community Act 2006; coherent legislative incorporation	Preliminary reference mechanism established	Original and appellate jurisdiction accepted	Trinidad Cement Ltd. v. Guyana (2009); Rudisa Beverages (2014); SM Jaleel (2017)
Belize	Dualist tradition; Westminster model	Sector-specific legislation (e.g., Free Movement of Skilled Persons Act 2020)	Preliminary reference mechanism established	Original and appellate jurisdiction accepted	Maurice Tomlinson v. Belize (2016); BCB Holdings (2013)

Source: Compiled by the author based on national legislation and treaty instruments (Caribbean Community Act 2005 (Trin. & Tob.); Caribbean Community Act 2006 (Guy.); Caribbean Community (Free Movement of Skilled

Persons) Amendment Act 2020 (Belize); Constitution of the Republic of Suriname, S.B. 1987, No. 116). This table illustrates the range of constitutional receptivity within CARICOM and provides a comparative baseline for assessing the Surinamese configuration (Berry, 2014; Girvan, 2015).

Data Sources

The analysis draws on the following sources:

a. **Constitutional documents:** the Surinamese Constitution (*Grondwet van de Republiek Suriname*, in particular Articles 80(2), 103–107, 133 and 144.

b. **Treaty provisions:** the RTC, in particular Articles 9, 27(4), 45, 46, 80, 211, 214, 222 and 240; and the CCJ Agreement, in particular Article 5. Article 222 is analysed as the provision governing the locus standi of private entities before the CCJ, while Article 5 of the CCJ Agreement is analysed as the constitutional-consistency safeguard.

c. **Case law:** published judgments of the Caribbean Court of Justice and of national courts in Suriname, Trinidad and Tobago, Guyana and Belize, including Trinidad Cement, Hummingbird Rice Mills, Shanique Myrie, Tomlinson and Ramsamooj.

d. **Case law selection and coding**

- The case-law analysis is based on a systematic search of the CCJ website (ccj.org), WorldLII/CommonLII, the Surinamese judiciary's case-law database and, where available, regional legal databases. The search terms included 'preliminary reference', 'Article 214', 'Community law', 'free movement', 'Common External Tariff', 'constitutional supremacy' and 'direct effect'.
- The temporal scope is 2010-2023. This period was selected because the CCJ became operational in 2005 and preliminary references under Article 214 could reasonably be expected to emerge thereafter; 2023 is the last full year before completion of the research. Two limited exceptions apply. First, pre-2010 CCJ judgments, including the Trinidad Cement line of cases, are included where they establish foundational principles on the enforcement and domestic operation of Community law. Second, Ramsamooj v. Suriname (2026) is referred to only as a recent illustrative development and is not treated as part of the systematic case-law corpus.
- The inclusion criteria were: published judgments in which Community law is explicitly or substantively addressed; judgments of the CCJ; and judgments of national courts in Suriname, Trinidad and Tobago, Guyana and Belize. The exclusion criteria were: unpublished judgments; and judgments dealing exclusively with national constitutional issues without a CARICOM-law dimension. The systematic search was conducted between 1 September 2023 and 15 December 2023, with a verification update on 15 March 2024. The search identified nine published judgments meeting the inclusion criteria: five CCJ judgments (Trinidad Cement, 2009; Hummingbird Rice Mills, 2012; Shanique Myrie, 2013; Tomlinson, 2016; Rock Hard 2018/2021) and four national judgments (Lennox Linton, 2009; Hadeed, 2019; Rock Hard Distribution, 2018/2021; and one further national judgment not substantively engaging Community law). Of these, seven were retained for substantive coding; two were excluded because Community law played only a marginal role. In the Surinamese national database, no judgments were identified in which Community law played an explicit and substantive role in the reasoning; outside the digital database, two judgments were identified in which a marginal reference to CCJ jurisprudence appeared. This limited number is itself a significant empirical finding, indicative of the low density of Community-law litigation in the Surinamese courts and the structural underutilisation of the preliminary reference mechanism (Asarfi, 2023; Ali, 2023).
- Each selected judgment was coded for (i) explicit reference to a Treaty provision; (ii) substantive use of Community law in the reasoning; and (iii) the presence of one of the four strategies of judicial avoidance identified in the qualitative analysis (procedural evasion, constitutional supremacy, constitutional embrace and institutional marginalization). The coding of referral practices was informed by Anderson (2022) conceptual framework for understanding the function of preliminary references within CARICOM.

e. **Comparative legislation:** the Caribbean Community Act 2005 (Trinidad and Tobago), the Caribbean Community Act 2006 (Guyana) and the Caribbean Community (Free Movement of Skilled Persons) Amendment Act 2020 (Belize).

Analytical Strategy

The analysis proceeds in three stages. First, the constitutional layer is examined through a doctrinal analysis of the Surinamese Constitution and relevant treaty provisions. Particular attention is paid to Articles 105 and 106 and their relationship with Article 80(2). Second, the legislative layer is assessed by comparing national implementing measures with the obligations arising under the RTC, focusing on the free movement of persons and the Common External Tariff (CET). Third, the judicial layer is analyzed through an examination of published case

law from 2010 to 2023, supplemented by a qualitative analysis of regional CCJ jurisprudence. The comparative analysis of Trinidad and Tobago, Guyana and Belize serves to identify alternative models of domestic effect and to contextualize the Surinamese configuration.

The three dimensions of constitutional receptivity are operationalized as set out in Table 1. Each dimension is assessed separately before their interaction is considered. The interaction between the dimensions is analyzed qualitatively, not statistically: the analysis identifies patterns of reinforcement and constraint across the constitutional, legislative and judicial layers rather than measuring causal effects.

Table 3. Operationalization of the three dimensions of constitutional receptivity

Dimension	Indicators	Sources
Constitutional conditions	Existence of a dualist gatekeeping model; constitutional provisions on the direct effect of treaties; judicial review arrangements	Surinamese Constitution (Articles 80(2), 103-106); RTC Articles 240 and 27(4); Article 5 CCJ Agreement; RTC Article 222 (locus standi of private entities)
Institutional capacity	Temporal gaps in implementation; selective transposition; enforcement mechanisms; institutional resources	National implementing legislation; CCJ judgments (Hummingbird Rice Mills; Trinidad Cement); CARICOM Secretariat reports
Judicial practice	Number of preliminary references (Article 214); role of Community law in national judicial reasoning; strategies of judicial avoidance	Published national case law 2010–2023; CCJ case law; qualitative analysis of the four avoidance strategies

Source: Compiled by the author, 2026

Methodological Caveats

Three methodological limitations should be recognized. First, the analysis depends on the completeness and accessibility of published sources. Second, the assessment of legal relevance involves an interpretive element. Third, the empirical analysis is indicative rather than exhaustive. It identifies structural patterns but cannot establish the subjective reasons for those patterns. Definitive confirmation would require qualitative research, such as semi-structured interviews with Surinamese judges and lawyers, a method that falls outside the scope of this article.

Ethical Considerations

The research relies solely on documentary sources that are publicly accessible, such as constitutional texts, statutes, treaties and published court decisions. No human participants were involved, and no ethical approval was required.

RESULT

The Three Structural Pillars of Captive Supranationalism

First Pillar: implementation dependency

The first structural pillar is implementation dependency. Although regional institutions create formally binding norms, their domestic effect relies on national implementing action, as codified in Article 240(1) RTC. That provision stipulates that decisions of CARICOM organs create rights and obligations directly for citizens and undertakings only after they have passed through the constitutional procedures of the Member State.

The case of Hummingbird Rice Mills Ltd. v. Suriname and The Caribbean Community, [2012] CCJ 1 (OJ), underscores the active duties of Member States. The CCJ ruled that formal treaty ratification is insufficient; states must actively implement these obligations. Specifically, the Court held that Article 9 RTC mandates Suriname to adopt 'all appropriate measures' to guarantee treaty compliance (Hummingbird Rice Mills, 2012, CCJ 1 (OJ)). This makes clear that implementation dependency is not a matter of political discretion but a structural feature of the Caribbean legal order.

Second Pillar: structural enforcement deficit

The second pillar concerns the structural enforcement deficit. Unlike the European Union, where the European Commission acts as guardian of the Treaties and can initiate infringement proceedings under Article 258 TFEU (Treaty on the Functioning of the European Union), CARICOM lacks such an autonomous enforcement body. The CCJ can interpret authoritatively but cannot enforce. In Trinidad Cement Ltd v The Caribbean Community, [2009] CCJ 4 (OJ), the Court acknowledged that it possesses no autonomous means of coercion and that enforcement ultimately depends on the national legal orders of the Member States.

Mohammed-Davidson (2016) demonstrates that this deficit is not incidental but constitutive of the integration model. It reflects the Member States' deliberate choice to retain control over implementation and enforcement (Mohammed-Davidson, 2016). As a result, compliance with Community-law obligations remains dependent on national political and institutional willingness.

Third Pillar: reversible sovereignty transfer

The third pillar is the reversible nature of sovereignty transfer. The transfer of powers to CARICOM is not irreversible. Member States retain both legally and politically the possibility of limiting or reversing the scope of the supranational obligations. Article 27(4) RTC permits Member States to obtain opt-outs under specified conditions. In addition, Article 5 CCJ Agreement stipulates that the original jurisdiction provisions cannot 'be construed to require a Contracting Party to enact legislation that is inconsistent with its constitutional structure or the nature of its legal system'. Article 222 RTC is relevant in a different respect: it governs the locus standi of private entities before the CCJ and therefore provides a limited procedural avenue through which private actors may invoke Community law. These provisions together illustrate that the transfer of authority to the regional level remains conditioned by national constitutional autonomy and by restricted forms of private access to the CCJ (Articles 27(4) RTC and 222 RTC; Article 5 CCJ Agreement).

This principle was confirmed in Advisory Opinion No. AOOJ2019/001 (2020). In that opinion, the CCJ analyzed the legal nature of opt-outs and held that they are lawful only if five conditions are met: (i) a Member State submits a request; (ii) the decision is taken by a competent Community organ (the Conference of Heads of Government, CHG); (iii) the CHG approves the request; (iv) the opt-out relates exclusively to obligations arising from a decision; and (v) the fundamental objectives of the Community are not undermined (Advisory Opinion No. AOOJ2019/001, 2020, CCJ). The Court further emphasized that opt-outs must be interpreted within the specific context of 'the unique and new legal order' created by the RTC (Advisory Opinion No. AOOJ2019/001, 2020, CCJ).

Constitutional Receptivity and its Dimensions

Constitutional Conditions for Domestic Effect

The initial dimension of constitutional receptivity relates to the domestic legal conditions required for treaty norms to take effect. Suriname's Constitution mandates a rigid dualist gatekeeping mechanism. Pursuant to Articles 103 and 104, international treaties only attain binding force following parliamentary approval, and further domestic legislation is mandated if the treaty's nature necessitates it (Nelson, 2011). Articles 105 and 106 provide a potential opening for directly binding treaty provisions, but the relationship between Article 106 and Article 80(2) remains doctrinally unsettled (Algoe, 2016; Grondwet van de Republiek Suriname, Articles 105-106).

Institutional Capacity to Implement and Enforce

The second dimension concerns institutional capacity to implement and enforce the resulting obligations. The analysis of the free movement of persons and the CET regimes reveals temporal gaps, selective implementation and an unchanged restrictive philosophy in national legislation (Algoe, 2016). The Hummingbird Rice Mills litigation illustrates that even formally implemented obligations may be departed from unilaterally, requiring ad hoc intervention at the regional level (Hummingbird Rice Mills Ltd. v. Suriname and The Caribbean Community, [2012] CCJ 1 (OJ), para. 23). The implementation of free movement rights in CARICOM has been analysed by Haynes (2016), who highlights the gap between formal commitments and practical enforcement.

Judicial Practice in Interpreting and Applying Community Law

The third dimension concerns judicial practice in interpreting and applying Community law. The empirical analysis of published case law from 2010 to 2023 reveals an absence of preliminary references under Article 214 and a marginal role for Community law in national judicial reasoning (Asarfi, 2023). The qualitative analysis of regional case law identifies four strategies of judicial avoidance, procedural evasion, constitutional supremacy, constitutional embrace and institutional marginalization (Asarfi, 2023). This finding aligns with Anderson (2022) observation that referral practices within CARICOM remain underdeveloped. Furthermore, the CCJ's rights-based jurisprudence has been analysed in detail by Caserta (2018), who highlights the Court's contribution to the development of fundamental rights within CARICOM. For a detailed analysis of the CCJ's contribution to the jurisprudence on freedom of movement, see Augustin-Joseph (2025).

Convergence: constitutional control as the fundamental variable

The three pillars produce a convergent pattern. Implementation dependency limits the automatic domestic operation of Community decisions; the enforcement deficit leaves compliance dependent on national institutions; and the constitutional safeguards surrounding opt-outs and CCJ jurisdiction preserve national control over the conditions of reception. Read together, these findings indicate that the domestic effect of Caribbean Community

law in Suriname is not determined by a single constitutional rule, but by the interaction of constitutional gatekeeping, incomplete implementation and limited judicial engagement.

Table 4. Summary of key CCJ cases and their relevance to the structural pillars and judicial avoidance

Case	Core Legal Issue	Relevance To Structural Pillars	Relevance To Judicial Avoidance
Trinidad Cement Ltd. V. The Caribbean Community [2009] Ccj 4 (Oj)	Enforcement Of Cet; Justiciability Of Caricom Organ Decisions	Illustrates Enforcement Deficit (Pillar 2); Confirms Binding Nature Of Community Law	N/A (Ccj Case)
Hummingbird Rice Mills Ltd. V. Suriname [2012] Ccj 1 (Oj)	Suriname's Unilateral Deviation From Cet; State Liability	Illustrates Implementation Dependency (Pillar 1) And Enforcement Deficit (Pillar 2)	N/A (Ccj Case)
Shanique Myrie V. Barbados [2013] Ccj 3 (Oj)	Right Of Free Movement; Direct Effect Of Conference Decision	Illustrates Tension Between Pillars 1 And 3; Confirms Autonomous Effect Of Community Law	N/A (Ccj Case)
Maurice Tomlinson V. Belize And Trinidad And Tobago [2016] Ccj 1 (Oj)	Non-Discrimination; State Practice As Benchmark	Illustrates Limits Of All Three Pillars; Judicial Deference To State Practice	N/A (Ccj Case)
Ramsamooj V. Suriname [2026] Ccj 2 (Oj)	Access To Counsel; Compatibility Of National Criminal Procedure With Community Law	Illustrates All Three Pillars; Enforcement Deficit And Implementation Dependency	Illustrates Necessity Of Alternative Pathway (Article 222)
Lennox Linton V. Attorney General Of Antigua And Barbuda (2009)	Free Movement; Absence Of Implementing Legislation	Illustrates Implementation Dependency (Pillar 1)	Strategy 1: Procedural Evasion; Strategy 2: Constitutional Supremacy
Hadeed V. Attorney General Of Trinidad And Tobago (2019)	Free Movement; Constitutional Claim	Illustrates Constitutional Control (Pillar 3)	Strategy 3: Constitutional Embrace
Rock Hard Distribution Ltd. V. Trinidad And Tobago (2018/2021)	Cet; Classification Of Cement	Illustrates Enforcement Deficit (Pillar 2)	Strategy 4: Institutional Marginalisation

Source: Compiled by the author.

Coding note: Each judgment was coded for (i) explicit reference to a Treaty provision; (ii) substantive use of Community law in the reasoning; and (iii) presence of one of four judicial-avoidance strategies (procedural evasion, constitutional supremacy, constitutional embrace, institutional marginalisation). "N/A (CCJ case)" indicates that the judgment was delivered by the CCJ in original jurisdiction and therefore does not engage the national judicial-avoidance strategies, which are coded only for national judgments. The column "Relevance to Structural Pillars" records which of the three pillars the judgment illustrates, based on the reasoning of the court, not on the outcome alone.

DISCUSSION

Theoretical Implications: captive supranationalism and the limits of classical integration theory

The empirical observations presented in the Findings section are here interpreted through the theoretical lens of captive supranationalism. The following analysis distinguishes between two levels. The first is the documentary evidence derived from the constitutional, legislative and judicial layers. The second is the theoretical inferences drawn from that evidence. The findings establish patterns; the discussion explains their significance and connects them to the broader theoretical framework.

Within the classical European integration model, the constitutional foundation of supranational effect remains ultimately anchored in the national legal order. Although Union law claims primacy and uniform application, the constitutional legitimacy of that effect rests on national constitutional choices. In the Caribbean context, and in particular within the Surinamese legal order, a different configuration manifests itself. The CCJ develops Community-law norms and recognizes subjective rights for individuals, while the actual effectuation of these norms remains dependent on national constitutional structures. The national legal order thus retains a decisive position with respect to the internal operation of Community law, without possessing full institutional mechanisms to safeguard its integration (Algoe, 2016; Asarfi, 2023).

As the Findings demonstrated, the weak domestic effect of Community law in Suriname results from the dynamic interplay between constitutional rules, implementation failures, and judicial reticence (Algoe, 2016; Asarfi, 2023). It is this interaction that the article conceptualises as captive supranationalism. The theoretical significance of this concept lies in its explanatory focus: it shifts attention from the question of why states integrate to the

question of how Community law actually functions once it reaches the national legal order. The decisive variable is constitutional control over the conditions of effect, not post-colonial statehood, dualist traditions or institutional capacity as such (Asarfi, 2023; Ali, 2023).

This reframing has three implications for integration theory. First, neofunctionalism's prediction that economic integration would generate pressure for political integration has not materialized in CARICOM. The CSME has not produced momentum for institutional deepening, and CARICOM remains largely intergovernmental with limited supranational powers (Onnis, 2015). Captive supranationalism explains this not as a failure of spill-over, but as a consequence of constitutional filters that treat regional norms as dependent on national reception. Second, liberal intergovernmentalism correctly identifies the centrality of state sovereignty but does not explain how supranational authority operates once it has been created (Schimmelfennig, 2018). Captive supranationalism addresses this gap by focusing on the constitutional and institutional conditions that mediate between regional norm-creation and national implementation. Third, constitutional pluralism presupposes an ongoing institutional dialogue between legal orders (Caserta & Madsen, 2016). In the Caribbean context, that dialogue is largely absent. Captive supranationalism therefore differs from constitutional pluralism in that it does not assume a continuous institutional conversation, but identifies a structural asymmetry between supranational norm-creation and national constitutional control (Asarfi, 2023).

Alternative Explanations and the Limits of Constitutional Control

While this article locates the decisive variable in constitutional control over the domestic effect of Community law, it is essential to acknowledge alternative or complementary explanations for the limited domestic implementation and judicial engagement observed in Suriname. The analysis does not claim that constitutional structure is the sole determinant of legal effect. Rather, it argues that constitutional control is the analytically decisive variable that mediates the impact of other factors.

First, limited institutional and administrative capacity within small CARICOM states can lead to delayed or incomplete transposition of regional obligations, independent of constitutional design. The phenomenon of 'implementation fatigue' is a recognised challenge in the region. Second, political will and the prioritisation of regional integration vary across governments and can significantly affect legislative output. Third, the absence of an external geopolitical imperative for integration, comparable to the post-war pressures that drove European integration, may reduce the urgency of deep sovereignty transfer.

These factors are not ignored in the present framework; rather, they are understood as operating within the constitutional environment that captive supranationalism describes. A state with high institutional capacity but low constitutional receptivity will still face structural barriers to domestic effect. Conversely, a state with limited capacity but high constitutional receptivity may achieve more consistent implementation through targeted legislation and judicial dialogue. The comparative analysis of Trinidad and Tobago, Guyana, and Belize illustrates this point (Berry, 2014; Elias-Roberts & Hanoman, 2019). These states share similar capacity constraints and post-colonial sovereignty sensitivities with Suriname. Nevertheless, they have achieved more effective domestic effect through deliberate constitutional and legislative choices (Girvan, 2015; Asarfi, 2023). Constitutional control, therefore, is not the only factor, but it is the variable that explains why similar structural conditions produce divergent outcomes.

The framework developed in this article is not intended as a universal theory of regional integration. Its empirical basis is confined to the CARICOM legal order, and its analytical focus is on the constitutional conditions under which supranational norms acquire domestic effect in predominantly dualist legal orders. Nevertheless, the underlying variable-constitutional control over the conditions of domestic effect-is analytically transferable. It can be examined in other CARICOM Member States, where similar tensions between regional norm-creation and national constitutional autonomy may arise, and potentially in other regional integration contexts where supranational norms coexist with strong national constitutional autonomy. The framework's applicability beyond Suriname depends, however, on the specific constitutional configuration of each legal order. In legal orders with a more integrated approach to treaty incorporation (such as Guyana or Trinidad and Tobago), the intensity of the constitutional constraint may be lower, but the underlying dynamic-constitutional control over the conditions of domestic effect-remains analytically relevant (Berry, 2014; Elias-Roberts & Hanoman, 2019). Future comparative research could examine the conditions under which constitutional receptivity can be strengthened through institutional reform, and how the framework of captive supranationalism can be adapted to other regional integration contexts (Grenade, 2011; O'Brien, 2011).

Pillar-by-pillar Interaction with Constitutional Receptivity

The three pillars do not constrain domestic effect in the same way; each interacts with a different dimension of constitutional receptivity.

Implementation dependency (Pillar 1) interacts primarily with the legislative dimension. In Suriname, the absence of a general framework act means that the legislative dimension of constitutional receptivity is low: sectoral legislation (e.g., the Wet Bekwame Burgers 2006, the 2006 Act on Skilled Persons) transposes fragments of

Community obligations but does not establish a general reception mechanism. The interaction is therefore additive: the structural pillar creates the dependency, and the low legislative receptivity determines the extent of the resulting gap.

The enforcement deficit (Pillar 2) interacts primarily with the institutional dimension. In Suriname, the institutional dimension is weak not only in resources but in review competences. The toetsingsverbod (constitutional review prohibition) of Article 80(2) of the Constitution prevents ordinary courts from reviewing the constitutionality of implementing legislation. Moreover, the division of review competences between the ordinary judge and the Constitutional Court remains unsettled. The interaction is therefore multiplicative: the absence of regional enforcement amplifies the effect of national institutional constraints.

Reversible sovereignty transfer (Pillar 3) interacts primarily with the constitutional dimension. Article 27(4) RTC and Article 5 CCJ Agreement preserve national constitutional autonomy. In Suriname, the unresolved tension between Articles 80(2), 105 and 106 means that the constitutional conditions for treaty effect are themselves contested. The interaction is therefore conditional: the pillar does not itself block domestic effect, but it preserves the constitutional space within which national actors may do so.

Read together, the three interactions explain why the Surinamese configuration produces captive supranationalism: each pillar operates on a different dimension of constitutional receptivity, and the three dimensions reinforce one another. This is what distinguishes the framework from neofunctionalism (which treats all three dimensions as permissive), liberal intergovernmentalism (which focuses only on the constitutional dimension at the moment of delegation), and constitutional pluralism (which assumes that all three dimensions are activated through dialogue).

Engagement with Existing Literature

The findings extend the existing literature in three specific respects. First, whereas Onnis (2015) explains CARICOM's divergence from the European spill-over trajectory primarily in terms of political economy, this article locates the explanation in constitutional structure (Algoe, 2016; Asarfi, 2023). Second, while Schimmelfennig (2018) emphasises state sovereignty at the moment of delegation, the analysis shows that sovereignty remains operative through constitutional control over the conditions of domestic effect (Ali, 2023). Third, in contrast to Caserta and Madsen (2016) constitutional pluralism, which presupposes an ongoing institutional dialogue, the article demonstrates that the absence of such dialogue in CARICOM is not a temporary or contingent feature, but a structural characteristic of the Caribbean legal order (Caserta & Madsen, 2016; Asarfi, 2023).

The analysis also builds on Ali (2023) and Asarfi (2023), who have documented the CCJ's jurisprudential development and the limited engagement of national courts with Community law. The CCJ's jurisprudence on freedom of movement has been extensively documented (Augustin-Joseph, 2025). The present study contributes a constitutional-analytical framework that connects these empirical observations to the structural pillars of implementation dependency, enforcement deficit and reversible sovereignty transfer. In doing so, it offers a more systematic account of why the development of Community law and its domestic operation diverge in predominantly dualist legal orders.

The Added Value of Captive Supranationalism

The added value of captive supranationalism lies in connecting these three observations to a single constitutional-analytical explanation. Whereas neofunctionalism focuses on integration dynamics, liberal intergovernmentalism on state consent, and constitutional pluralism on inter-order dialogue, captive supranationalism explains why a regionally developed legal order may remain practically dependent on national reception. It therefore offers a framework for analysing not whether states integrate, but under which constitutional and institutional conditions regional norms acquire domestic legal effect.

The analytical variable of constitutional receptivity is central to this contribution. It allows the analysis to distinguish formal constitutional openness from effective institutional operation and judicial practice (Nelson, 2011; Asarfi, 2023). Constitutional receptivity is therefore not inferred merely from the absence of a particular outcome, but assessed through identifiable legal rules, institutional arrangements and judicial decisions (Algoe, 2016). As a dependent variable, it is explained by the three structural pillars; as an analytical lens, it reveals how constitutional control operates across the constitutional, legislative, and judicial layers (Ali, 2023; Asarfi, 2023).

Practical Implications for Suriname and CARICOM

The findings have practical implications for Suriname and other CARICOM Member States. First, the Surinamese case demonstrates that dualism does not necessarily preclude domestic effect, but that the conditions under which effect occurs are constitutionally contingent. The comparative analysis of Trinidad and Tobago, Guyana and Belize shows that effective regional integration is possible within largely dualist constitutional orders, provided that targeted legislation and institutional safeguards are in place (Asarfi, 2023; Berry, 2014). This suggests that legislative reticence, rather than dualism as such, is the more immediate obstacle to domestic effect. Recent proposals for constitutional reform in Suriname (Jamadar, 2026) emphasise the need for a coherent framework to

embed regional obligations in the national legal order. Furthermore, as Ononaiwu (2024) argues, mainstreaming Community law within the legal fraternity is essential for enhancing the effectiveness of Community law in national legal practice.

Second, Article 222 RTC provides a limited route for private entities to obtain special leave to participate in proceedings before the CCJ concerning the interpretation and application of the Treaty. This route may strengthen individual access to regional legal protection, but it does not itself secure the direct domestic effect or systematic enforcement of Community law. Its practical value depends on two conditions. The first is the willingness and capacity of national authorities to give effect to CCJ judgments. The second is the availability of national implementing measures. Article 222 therefore mitigates, but does not resolve, the structural constraints identified in the Results (Ali, 2025; Mohammed-Davidson, 2016; Algoe, 2016). Recent initiatives, such as the 2026 conference on the modernisation of the judiciary in Paramaribo (Anderson, Jamadar, & Figaro-Jones, 2026), underline the need for a more structured judicial dialogue between national courts and the CCJ.

Third, the findings point to the importance of strengthening judicial dialogue. The absence of preliminary references under Article 214 and the marginal role of Community law in national judicial reasoning suggest that constitutional reform alone will not suffice. Targeted measures, such as clarifying the division of review competences between the ordinary judge and the Constitutional Court, and building judicial capacity in Community law, are necessary to ensure that regional norms can operate more consistently and predictably in the Surinamese legal order.

Limitations

This study has several limitations. First, the empirical analysis depends on the completeness and accessibility of published sources, including the digital case-law database of the Surinamese judiciary; older judgments may not have been digitised, and the absence of identified judgments therefore does not prove that such reasoning is entirely absent. Second, the assessment of legal relevance contains an interpretive element, mitigated by a broad and inclusive search strategy. Third, the empirical analysis is indicative rather than exhaustive: it identifies structural patterns but cannot establish the subjective reasons for those patterns, and definitive confirmation would require qualitative research such as semi-structured interviews with Surinamese judges and lawyers. Fourth, the analysis of the Ramsamooj judgment (2026) falls outside the temporal boundaries of the empirical analysis (2010–2023) and is presented as a normative law-developing illustration (lex ferenda) rather than as empirical evidence. Fifth, the comparative analysis is confined to three CARICOM Member States -Trinidad and Tobago, Guyana and Belize-and does not exhaust the range of constitutional arrangements within CARICOM. Sixth, the article concentrates primarily on the constitutional and institutional prerequisites for the domestic effect of Community law and does not provide a comprehensive analysis of the political economy of regional integration or the role of non-legal factors.

CONCLUSION

This article has developed captive supranationalism as a constitutional-analytical framework for understanding the structural constraints on the domestic effect of Caribbean Community law (Algoe, 2016; Ali, 2023; Asarfi, 2023). The analysis has shown that the limited domestic effect of Community law in Suriname cannot be attributed to constitutional rules, implementation gaps, or judicial practice in isolation. Rather, these three layers interact and together produce a structurally conditioned legal effect.

Theoretical Implications

The theoretical contribution of this article is threefold. First, it introduces captive supranationalism as a constitutional-analytical framework. Second, it identifies constitutional control over the conditions of domestic effect as the decisive analytical variable, as demonstrated in the Findings. Third, it operationalises this variable through three dimensions-constitutional conditions, institutional capacity, and judicial practice-that can be examined empirically in other legal orders. In doing so, the article contributes to the broader scholarly debate on supranational law, constitutional pluralism, and regional integration, and offers a constitutionally grounded complement to classical integration theories (Ali, 2023; Asarfi, 2023; Caserta & Madsen, 2016; Onnis, 2015).

The framework also has applicability beyond the Surinamese case. While the empirical analysis is centred on Suriname, the underlying variable-constitutional control over the conditions of domestic effect-can be examined in other CARICOM Member States and, potentially, in other regional integration contexts where supranational norms coexist with strong national constitutional autonomy (Grenade, 2011; O'Brien, 2011).

Practical Implications

The practical implications for Suriname and CARICOM are threefold. First, the Surinamese case demonstrates that dualism does not necessarily preclude domestic effect, but that the conditions under which effect occurs are constitutionally contingent. Legislative reticence, rather than dualism as such, is the more immediate obstacle to domestic effect (Nelson, 2011; Ali, 2023). Second, Article 222 RTC provides a limited route for private entities to obtain access to the CCJ, but this route mitigates rather than resolves the structural constraints identified

in this article (Ali, 2025; Mohammed-Davidson, 2016). Third, the findings point to the importance of strengthening judicial dialogue. The absence of preliminary references under Article 214 and the marginal role of Community law in national judicial reasoning suggest that constitutional reform alone will not suffice (Asarfi, 2023; Haynes, 2016). Targeted measures, such as clarifying the division of review competences between the ordinary judge and the Constitutional Court, and building judicial capacity in Community law, are necessary to ensure that regional norms can operate more consistently and predictably in the Surinamese legal order.

Limitations and Future Research

The analysis has several limitations. The empirical analysis is indicative rather than exhaustive, and definitive confirmation of the patterns identified would require qualitative research, such as semi-structured interviews with Surinamese judges and lawyers (Asarfi, 2023). The comparative analysis is confined to three CARICOM Member States and does not exhaust the range of constitutional arrangements within CARICOM (Girvan, 2015). Future research could extend the framework to other regional integration contexts and examine the conditions under which constitutional receptivity can be strengthened through institutional reform (Grenade, 2011; O'Brien, 2011). Future research could proceed along three lines. First, comparative constitutional research could examine the applicability of the framework to other CARICOM Member States, particularly those with different constitutional traditions (e.g., common law jurisdictions with explicit implementing legislation). Second, qualitative research-such as semi-structured interviews with judges, legislators, and legal practitioners-could provide deeper insight into the subjective reasons behind judicial reticence and legislative passivity. Third, research on institutional reform could examine the conditions under which constitutional receptivity can be strengthened, including the design of implementing legislation for Article 214, the clarification of review competences between ordinary courts and constitutional courts, and the development of judicial training programmes in Community law (Asarfi, 2023; Jamadar, 2026; Ali, 2023).

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CONFLICT OF INTEREST STATEMENT

The authors declare that they have no financial, personal, or professional conflicts of interest that could have influenced the research, authorship, or publication of this manuscript.

RESEARCH ETHICS STATEMENT

This study uses secondary data from established, publicly available databases. The research does not involve direct interaction with human participants, interviews, surveys, experiments, or collecting personally identifiable information. Therefore, the study does not involve human-subject research requiring informed consent. All data were used solely for academic and research purposes and were analysed in accordance with applicable ethical standards and the terms of access and use of the respective data sources.

AI USAGE STATEMENT

Generative artificial intelligence (AI) tools were utilized exclusively to support the language editing process, including grammatical correction, sentence refinement, and enhancement of the manuscript's clarity, coherence, and readability. AI tools were not employed to generate research data, perform statistical analyses, or independently develop the study's findings and conclusions. OpenAI ChatGPT (version 5.2) was used by the author solely as a language-editing and writing-support tool. All AI-assisted outputs were carefully reviewed, verified, and subsequently revised by the author to ensure their accuracy, appropriateness, and alignment with the research content prior to manuscript submission.

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