PORTUGUESE IMPERIAL BUILDING IN THE KOTTE KINGDOM OF SRI LANKA AS A REFLECTION OF 16TH CENTURY INTERNATIONAL LAW

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Abstract

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The colonial nature of international law has been a moot point in legal academia, which univocally suggests international law as an imperial instrument. Given these exergies, the question that this paper seeks to examine is how Portuguese encounters in the 16th century Sri Lanka reflects the seeds of international legal system dominated by European interests. The policy espoused by the Portuguese in Sri Lanka during their encounters with the Kotte kingdom raise the initial examples of unequal treaties, exclusion of sovereignty and the adoption of “puppet rulers”. This paper makes a critical inquiry in examining these elements parallel to the development of 16th century international law.

A. Introduction

For many centuries thinkers have made various efforts in understanding the power of legal thought beyond the boundaries of territories. In this endeavour one can ask whether international law is a standard system or not and the meaning emanating from “system” in the works of other political thinkers such as Leibniz, Kant could bemuse any novice for international law as they often illustrate a broader view. It was from early 17th century that the term “system” received its gradual acceptance as a phase referring to the external aspect of the government, which was conceptually conceived by Grotius as a bond between autonomous communities. (Foedus arcitissimum inter civitatas)1. Indeed, the notion of system was further developed by scholars like Hobbs, who devoted a whole chapter of his Leviathan to discuss the vastness of “system, in which he defines a system as a “any number of men joined in one interest

1 Hugo Grotius De Iure Belli ac Pacis Libri Tres (1646), trans. Francis W. Kelsey (1925), Book I, Ch. 3, Section VII, 1, 3, 7.
or one business”

Nevertheless, the narrative on international law as an organized system was a twisted one in the 16th century reflecting its infancy stage. The contribution made by Salamanca school in Spain to the early historiography of international law in the 16th century seemed to have gained its apparatus from a theological point of view based on the natural rights, where Francesco Vittoria’s famous standing legitimizing Spanish claim over Indians remains a classic example. On the Indian question, Vittoria invoked natural law even though he did not endorse it in a saintly manner and the first question Vittoria had to pose was how, if natural law provided the freedom and communal ownership, was it all possible to humans to reign over each other. In his commentaries Vittoria states

“But if it is the case that God made everything to be owned by all, and human beings are the common owners of everything by natural law, how and which facts follow the division of things is not made by the natural law. For natural law, for always the same and never varies”

Under the guise of natural law as common thread applies to all including heathens like Indians, Vittoria seeks *ius gentium* derived from Roman law to do lot of things such as dividing properties, territories to support to right to travel and trade, to occupy *terra nullius*. Yet Vittoria remains ambiguous about its legal nature.

The series of events followed by the emergence of Spanish-Portugal empires leading to establish Iberian supremacy over the globe in the early 16th century opened a new path for international law as a system to govern. The colonizing project of both Spanish and Portuguese empires appeared to be a civilizing mission depicting converting the indigenous populations to “one true religion”. Contrast to the Westphalian order that arose in the 17th century, the Treaty of Tordesillas in 1494 marked a turning point of 16th century international law as it divided the newly discovered world outside Europe between Portugal and Spanish empire. Nonetheless, both powers from Iberian Peninsula were less keen in upholding any set of system based on international legal thought in their colonial expansion. The conventions, doctrines they developed with the nations outside the European continent displayed certain ambivalence to adopting a static system. Probably the notorious time Portuguese spent in completing their spiritual and temporal conquest in Sri Lanka in the 16th century denotes the ambiguity of international legal thought system regardless of the initial projection of natural law by Salamanca school. The career of the Portuguese in Sri Lanka was unique in their historical presence in Asia as it was their only state where they indulged themselves in territorial responsibilities on a major scale and its state affairs of which they became solidly involved.

The recent scholarly literature exploring the history of international law views international law as an instrument of the empire. Also, it has been widely regarded as an intellectual achievement stemmed from Europe that was diffused to the non-Western world through force and coercion in the process of colonization. In the backdrop of this outlook,

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4 Ibid. pp. 16
5 Disney, The Portuguese in India and other Studies, 1500–1700; Subrahmanyam, The Portuguese Empire in Asia, 1500–1700: A Political and Economic History; Thomaz, De Ceuta a Timor
6 Koskenniemi, Introduction: International Law and Empire”: Aspects and Approaches
paper’s task focuses on three avenues. First, it will analyse the complex nature of Portuguese practice of interstate relations between Portugal and King of Kotte Kingdom in the 16th century as a paradox to the foundation of international law in Europe. Secondly, this paper will examine the evasive policy adopted by Portuguese in Sri Lanka to install puppet princes in their occupied territories as a method to legitimize their authority to the polity. Finally, this paper would unveil how geo-political challenges that encompassed Portuguese presence in Sri Lanka in late 16th century led to a tectonic shift from installing “puppet rulers” to consolidate and secure the island against both internal and external threats. The overarching analysis stemming from this paper will illustrate reasons for the lack of static system of international law principles during the Portuguese rule in Sri Lanka.

B. Discussion

1. Portuguese view on law

In the words of Manuel Bastian Saavendra “The idea of law that dominated Iberian worldview was nevertheless broader than an imperial image may suggest”.\(^7\) After the emergence of Portugal as a kingdom from its medieval slumber in 1189, the Portuguese attitude to law was not different from their Spanish counterparts in the Iberian Peninsula. The law was presumed to have gained its authenticity from God, it contained a *quasi* ontological quality and was understood as an ordering force that could be found both in nature and in all kinds of human institutions and practices. The legal capacity was extended to wider subjects such as animals, lands and even colours were endowed with legal meaning that generated crucially important duties to be performed by the officials. This archetypical juridical world view among the Portuguese, Spanish jurists tended to perceive law as a much-revered cultural paradigm and this “pan juridification of the world was inherently different from the central underpinning of law as it stands today. The cardinal feature of the Portuguese notion of law was rooted in its divine formation that went beyond the mundane orders such as state and politics. Under the divinely created legality, the concept of society was consisted of cooperate bodies (*corpora*) representing various professions such as cities, parishes, universities and also kingdoms with greater and different legal status. The task of transforming the divinely promulgated law into human law was vested with the political apparatus, which embodied the concept of “*iurisdictio*” as the” power to declare the law”. The theological impetus behind the power of law simply confined the limits of human law-making power to a mere process of revealing the law from its divine origin by subordinating the political authority. Savendra describes this as

“In this juridical model of government, the power to rule was inseparable from the power to judge”\(^8\)

In general the Iberian view of law was dominated by its divine creation that undermined any attempt of consolidating the legal making process by a one ruler, but it was a capacity extended to different *corpora* as all of them stood for the concept of “*iurisdictio*”.\(^9\)

\(^7\) Manuel Bastian Saavendra, Norms Beyond Empire: Law Making and Law Normativeness
\(^8\) Ibid, pp.12
utilized the same model in their global quest of imperial building. Following the Castilian principle of “Audiencias” in the late medieval period, that represented the juridical order of the kingdom, the Portuguese in their overseas occupied territories transferred the centrality of law into the hands of the officials by allowing them to declare the law that included entering into treaties and issuing the decrees. Regarding the mechanism adopted by the Portuguese in its overseas expeditions, Hespanha states

“Outside of the king’s jurisdiction, relations with foreigners and foreign rulers, with allied potentates through “Amistad” (friendship) and with enemies were also regulated by “ius gentium”, creating different sets of norms that, though beyond the power of the monarch, were not foreign to the unitary framework of the juridical order of the ancien regime.”

2. Early Portuguese encounters in Sri Lanka

The gap between Vasco de Gama’s arrival in Calicut in 1498 and the Portuguese landing in Sri Lanka under Lorenzo de Almeida in 1505 was seven years. The ostensible gap of this relatively brief period strengthened the Portuguese venture as a technologically powerful European power to confront all its adversaries in the Indian ocean. In the advent of Portuguese presence in Sri Lanka, the island’s internal political stability was at stake due to a serious of internal power struggles that encompassed the chief polity called “Kingdom of Kotte”. The eclipse of Kotte before the Portuguese arrival in Sri Lanka resulted in the emergence of rebellious regional polities in Sri Lanka such as Kandy and Jaffna, but kingdom of Kotte did not completely lose its political significance by the time Portuguese reached the Sri Lankan shore.

The monopoly of cinnamon trade was under the Muslim merchants in the West coast of Sri Lanka as their commercial interests were harboured by Kotte rulers for a longer period of time. Also, it should be noted that the despite the serendipitous nature of Almeida’s arrival in Sri Lanka, Portuguese were not unaware of the strategic significance of the country and probably well briefed on it from the sources available in Calicut and Cochin which were centers of Muslim trade with it. However, the initial objectives of the Portuguese ventures in Sri Lanka contained no explicit ambition of a territorial acquisition and their visit to the island was not differ from other merchants from Middle East and China except the fact that Portuguese were bearing fire arms. The status of Kotte as a powerful polity was ebbing under a weak leadership of its old king Dharma Parakramabahu who showed an amicable sign to receive Portuguese. Fernao Cotrim happened to be the first envoy sent by the Portuguese to discuss with the king of Kotte, where Cotrim clearly explained the attitude taken up by the Portuguese towards the potentates whose territories they visited: their only desire, he asserted, peaceful trade, but they declared war on all who did not accept their peace. This phenomenon should be ascertained from two different stand points parallel to the common Iberian attitude toward any international legal consensus in the 16th century. First, the treaty of the Tordesillas, which divided the newly discovered world between Portugal and Spain in 1494 granted a univocal right for the Portuguese in the Indian ocean to procced their navigation uninterruptedly. During the time

10 Antonio Hespanha, Early Modern Law and the Anthropological Imagination of Old European Culture”
11 C.R de Silva, Portuguese
12 Sir Paul E Pieris, Ceylon the Portuguese Era, Cave: Colombo, 1913, p.56.
when Portuguese embarked on their voyages in the Indian Ocean, there was no sign of a counter claim akin to Grotius’s “Mare Liberum” from Europe, which paved the way for Portuguese dominance in their endeavours. It can be assumed that Cortim was well aware of the essence of Tordesillas as a Portuguese delegate, but his initial approach to the Kotte ruler tended to be a friendly initiative. In fact, the legitimacy of the Tordesillas as a document made not practical effect on the early expansion of Portuguese in Sri Lanka, but the attitude of the Portuguese towards the king of Kotte, which contained a threatening tone as Fenao insisted that Kotte ruler must accept the peaceful trade of the Portuguese seemed to have gain its rigour from the blueprint of Tordesillas. Also, this phase “We declared war on all who did not accept our peace”\(^\text{13}\) denotes the very beginning of the unequal treaties of the Western powers in Sri Lanka.

Second, the Cotrim’s position before the King of Kotte is a reminder of the complex legal apparatus of the Iberian world, which was antithetical to a monopoly of law under a single ruler. Contrary to the status of a centralized law making position, the ability to uphold relations with foreigners outside Portugal was extended to the officials. Thus, the early efforts of Portuguese encounter with the Kotte ruler in Sri Lanka should be ascertained as a venture embodying the decentralized legal stances of the Iberian world.

The early negotiation between the Portuguese and King of Kotte was a mere reestablishment of a precedent by the Portuguese in the East. Their custom was to enter into a treaty with the Indian princes by which they acquired a monopoly of the trade in the articles which they required, the princes agreed not to deal with the nations which were hostile to the Portuguese. The later promised to purchase all the articles covered by their monopoly at prices which were agreed on, to bring into the country the European goods which were required, to guard the coasts from all attacks by sea, and to defend the King from all the enemies. Under the guise of these terms Portuguese were generally allowed to form their own fortress, within which they exercised practically sovereign rights. Nonetheless, even after acquiring Kotte ruler’s permission to form their own commercial establishment in Colombo, Portuguese involvement in the island nation’s internal politics remained peripheral till the appointment of Lopo Soarez de Albergaria as Portuguese governor general in Goa in 1515. Albergaria was determined to erect a fort in Colombo and accomplished his task by 1518. The development that occurred in the Iberian Peninsula should be taken into consider in terms of analysing Portuguese strategic move from their nonentity to an influential one.

In theorizing the early frontiers of international law, one needs to view it as a discourse blended with the quest for geopolitical power. The juxtaposition of the rapid military development under Albergaria in Colombo along with the Portuguese plea from the king of Kotte was a subtle reaction that arose from Portuguese encounters with the Moors in the Indian Ocean. Since the establishment of Estrado da India, under Albuquerque, the Portuguese intensified their interest in the island of Sri Lanka due to its strategic position between Western India and the Indies, also this interest was further bolstered after the capture of Malacca.

Albergaria successfully manage to tame the resistance that sprang from the Moors in Colombo for the formation of a Portuguese bastion and invited the Kotte ruler King Dharma Parakramabahu to conform to his earlier treaty with the Portuguese. The treaty signed between

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\(^{13}\) Sir Paul E Pieris, Ceylon the Portuguese Era, Cave: Colombo, 1913, p.44.
the Portuguese and the Kotte king in 1518 raises several questions on its binding nature as it portrays the king of Kotte as a vessel to the kingdom of Portugal. Portuguese historians such as De Queyroz have named this treaty as an act of vassalage in which the king had referred to him in these terms. The articulation of the treaty goes in a manner which creates a sense of subordination of the Kotte ruler to the Kingdom of Portugal. It states

“I, the Emperor Parakramabahu, in the capital of my empire, this the fortieth year name Segar, am content and am well pleased to give to the Kings of Portugal each year a tribute 400 bares of Cinnamon, and 20 rings set with the rubies which are found in the island of Ceilao, and ten elephants with tusks, on the sole condition that the present governor and the viceroys and governors who succeed Lopo Soarez de Albergaria in the state of India shall be bound to help and assist me against my enemies, as I am a vassal of the crown of Portugal”.

Ostensibly this is a treaty that signifies the sudden change of Portuguese policy in Sri Lanka from a meek position to an influential juncture which brought them to the pedestal of power in Sri Lanka under the internal political turmoil that engulfed the Kotte kingdom. In understating the nature of the treaty as the first instance of Portuguese legal claim in Sri Lanka with all its concomitant factors, one should certainly look for the Iberian position of territorial rights designed by Spanish jurist Lopez de Palacios Rubios in 1513 as “Requerimiento”. In Requerimiento, it mentioned that Pope could dissolve the jurisdictions of the heathens and pagans and confer them on Christian monarchs. The document that consisted of the legal validity of Spanish territorial expansion in the New World became a beacon for both Spanish and Portuguese in their colonial ventures. In Sri Lanka, the circumstances that befell the King of Kotte were different after the acceptance of the Portuguese treaty in 1518 followed by a strong military formation, which compromised the king in the eyes of his own people. It was literally the first step towards the dependence of the Kotte Kingdom on the Portuguese which would end with its total submission to later and the progressive alienation of its ruler from the people. In ascertaining the Portuguese proclivity for consolidating their presence in Colombo through treaty making with the Kotte ruler should be evaluated parallel to the development of international law in Europe, which univocally succoured the territorial expansion of the Iberian powers in the Non-Christian lands. By 1520, a decade after they arrived in Sri Lanka, the Portuguese secured their position as treaty makers with the King of Kotte, which later was hapless under unequal terms.

3. Kotte Kingdom under Portuguese influence

The early attempt made by the Portuguese to form a settlement in Sri Lanka was short-lived as the Portuguese fort was demolished in 1524. Three years prior to this event taking place, the political apparatus of the Kotte kingdom was shaken by the assassination of Kotte king Vijayabahu VIII by his three sons Prince Buwanekabahu, Mayadunne and Pararajasinghe. In Sri Lankan history, this incident is known as “Vijayaba Kollaya”, an event that completely

14 George Winius, The Foundation of the Portuguese Empire, 1415-1580, University of Minnesota Press.
15 Fernao de Queiros, The Temporal and Spiritual Conquest of Ceylon.
16 J.Pinto, Historia Oriental de las Peregrinaciones de fernan Mendes Pinto, Valentia, 1645.
debilitated the political unification of the county, which paved the path for the Portuguese for widening their power expansion. The subsequent events that took place in Sri Lanka in the aftermath of the so-called “Vijayaba Kollaya” were crucial in analysing the gradual transformation of Portuguese ambition from commerce to a territorial acquisition as later was a direct offshoot of the internal chaotic conditions of the Kotte kingdom.

The rise of Mayadunne as a rival to his brother Bhuwaneka Bahu, the ruler of Kotte after “Vijayaba Kollaya” remains the paramount factor which intensified Portuguese attention back to the island after their disheartened withdrawal from Colombo in 1524.\textsuperscript{19} The audacity shown by Mayadunne in terms of expanding his territorial claim as a perceptible threat to Kotte frightened Bhuwaneka Bahu to look for alternatives in terms of protection and the large Portuguese presence in Cochin in India appeared to be the obvious choice. Bhuwaneka Bahu’s decision to appeal protection from the Portuguese was a detrimental mistake made by the Kotte ruler, which brought his nemesis as the Portuguese sought the opportunity of increasing their influence. The alliance built up by Mayadunne with the Samorin of India caused trepidation to king Bhuwaneka Bahu as he felt his kingdom was at stake by such an alliance, under these circumstances he sent a letter begging the Portuguese captain in Goa to visit Sri Lanka as his very presence would be sufficient protection from his enemies.\textsuperscript{20} The return of the Portuguese in a triumphant manner as protectors to Sri Lanka was an incident parallel to the robust growth of Western attitudes toward the imperial protection based on the ideas of Vittoria and Vattel. However, following their counterparts Spaniards, the Portuguese adhered to the same policy of providing their imperial protection to the king of Kotte, which took a different bent from the doctrine of protection based on Vittoria’s natural law doctrine.\textsuperscript{21} Sir Paul E Pieris provides a vivid account of the hapless conditions faced by Bhuwaneka Bahu in a perilous situation. Pieris states:

“The Portuguese on their arrival proceeded to Kotte, where they were regally entertained by the king at a banquet, being waited on by women, and the Captains were all presented with valuable gifts. In his gratification at the interest which de Sousa had taken in his affairs, Bhuwaneka Bahu further advanced him a sum of 45,000 cruzados towards the expenses of the fleet, through this loan and several other which subsequently made were never repaid”.\textsuperscript{22}

The growing internal political conflicts within the kingdom made Kotte susceptible to the influx of Portuguese influence and it naturally empowered the Portuguese officials in Estrada da India to extend their treaty making authority with Bhuwaneka Bahu. The Portuguese authority in continuing their legal order with a sovereign state was a fragmented one freed from the imperial order in Lisbon. Given its complex nature, it was impossible to conceive a centralized political power and it was based on iurisdiction, which excluded a unitary political structure. Hence, the law-making was not solely vested with the Portuguese king but was a capacity broadly distributed among the officials in the empire. For instance,

\textsuperscript{22} Sir Paul E Pieris, Ceylon the Portuguese Era, Cave: Colombo, 1913, p.77.
Portuguese officials had no unitary consensus regarding the relationship with the ruler of Kotte and some old-school Portuguese military officers such as Manuel Ferreira, and Pero Vaz Travassos showed a superior attitude towards Sri Lanka by claiming that it should be occupied under Portuguese crown. Meanwhile, the advance of age and the persistent hostility of his brother compelled Bhuwaneka Bahu anxiously to consider the question of a successor to the throne. After a long consultation with his ministers Kotte ruler decided that his grandson prince Dharma Pala should be placed under the protection of King Dom Joao III of Portugal. In 1541 the Sri Lankan delegation accompanied by the Portuguese arrived in Lisbon. The negotiation culminated by the Sri Lanka delegation and Portuguese King in 1541 altered the less significant position held by the Portuguese in Sri Lanka with its edifying nature that uplifted the status of the Portuguese King to the protector of an heir to the Sri Lankan throne, in return Kotte king Bhuwaneka Bahu pledged himself to continue the payment of the tribute as before, and to allow the Portuguese King to retain the places which had assigned to him, on condition of his undertaking their defence. The proclamation signed by the two parties reached the following consensus of the King of Portugal

“And as it is my earnest desire in all these matter to please the aforesaid King of Ceyllam as well for the great goodwill I bear towards him as for the high kindness which he has always willingly displayed in all matters relating to my interests which have arisen, and is my hope that the aforesaid his grandson will likewise for all time cherish, maintain and preserve this our friendship and will be grateful to me and will all this great kindness at my hands”

The sudden changes in Portuguese position on the island from mere armed merchants to policy makers were rooted in the disruption of the Kotte kingdom and the uncertainty that dwindled in the king’s mind. The decadent status of the Kotte ruler Bhuwaneka Bahu before the Portuguese embodies how the emergence of the 16th-century international legal order excluded the notion of sovereign equality. Vittoria’s idealistic position based on natural law, which painted international law as an equal tool for all the states was not a ground reality in Iberian encounters in building their overseas empire, also Vittoria’s overwhelming remarks suggested how Indian resistance to the Spanish would amount to an act of aggression that justifies the Spanish for self-defense was well applied by the Portuguese in Sri Lanka. In the aftermath of the infant prince Dharmapala’s baptism in Lisbon, the Portuguese went on to increase their political grip over Sri Lanka, which included the rigorous process of converting natives to Christianity led by Franciscan- Jesuit missionaries and every attempt made by locals to retaliate was brutally oppressed by the Portuguese albeit they had no legitimate authority in the maritime provinces of Sri Lanka. The apogee of Portuguese power was yet to arrive and their position was further bolstered in a situation where the King of Kotte himself pleaded for military assistance from Goa for his political survival against Mayadunne. In using their superior position, the Portuguese

often engaged in religious persecution which included plundering of Buddhist, and Hindu shrines and this process was legitimized by Portuguese King Jao III’s letter to Goa in 1546.

He continued “We charge you to discover all the idols by means of diligent ministers, to reduce them to fragments and utterly to consume them, in whatsoever place they may be found, proclaiming rigorous penalties against such persons as should dare to engrave, cast, sculpture, outline, paint or bring to light any figure in metal bronze are pestilential enemies of the Christ”

The above-mentioned words written by the Portuguese monarch denote the Catholic influences that pervaded the larger discourse of Iberian quest for its global empire as its genesis traces to Papal bull granted to the King of Portugal in 1455 to vanquish, subdue all pagans and all other enemies of the Christ.

The Portuguese tutelage of Dharamapala was followed by extending their patronage to several other native royal princesses in Sri Lanka. Indeed, the role played by the Portuguese missionaries was responsible for shaping Portuguese attitude towards the Kotte kingdom as Portuguese Jesuit missionary Francis Xavier himself wrote to Portugal suggesting that the King of Ceylon was a bitter enemy of Christianity and did not deserve the protection of Portuguese. After the demise of King Bhuwaneka Bau, the protégé of the Portuguese prince Dharmapala ascended to the throne.25

4. Dharmapala gifts his kingdom to Portuguese

In the opening years of the last decade of the 16th century, the Portuguese had become the dominant power in Sri Lanka. They had been in de facto control of Kotte since 1551 and in 1593 they annexed Sitawaka. In 1591, they enthroned Don Philip in the Udarata region of Sri Lanka but as a vassal of the King of Portugal on condition that he would bequeath it to the later if he had no issue. These gains were fruits of fortune which had literally fallen on their laps without conscious efforts. Their future seemed assured as all roads appeared to lead in the direction of their becoming the sovereign ruler over the land.

The diplomacy of manipulation was accomplished due to the sheer sense of artfulness displayed by the Franciscan friars, who were responsible for the moral upbringings of the Prince Dharmapala and his sentiments were nourished in favour of accepting Portuguese tutelage. When Colombo was at the bay under constant attacks from Rajasinghe I of Sitawaka, Dharmapala was advised by the friars to donate his kingdom of Kotte by a deed of gift mortis causa to the Portuguese, which resulted in the permanent extinction of Kotte’s integrity as a subdued colony of the King of Portugal Dom Henrique. The Lisbon edition of the deed was attested by Antonio Ribeiro in Portuguese and was sealed by the King on the 12th of August 1580. This act secured the legal grounding of the Portuguese from mere armed merchants to the representatives of the Crown of Portugal and all steps followed by them in the aftermath of this incident until Portuguese were completely crushed from the maritime provinces in Sri Lanka by the Dutch in 1658. Subsequent political events in Portugal such as the formation of

25 Paul E. Pieris, Ceylon the Portuguese Era, Colombo, 1913, pp.181.
Hapsburg power in the Portuguese Crown by the ascendance of Philip II of Spain, which epitomized the formidable Hapsburg yoke crucially impacted on Sri Lanka.26

Hapsburg’s dominance in Portugal changed its attitude toward external relations was a stern one and it focused on upholding Portuguese power over the oasis colonies in India. During this period the Portuguese strategy of installing puppet rulers in the state polity of Sri Lanka continued to be an evident factor in legitimizing the claim for the soil and this notorious policy initiated by the Portuguese was the maiden attempt made by European powers in South Asia which conceived the very idea of the “Doctrine of Lapse” for the British imperial legal policy in India.27 Followed by the example of installing Dharmapala as a puppet ruler in Kotte kingdom, Portuguese went on to form weak rulers in the kingdom of Jaffna and Kandy in Sri Lanka, where Portuguese interests were preserved.

It was notable that the dubious manner of emerging the colonial roots of setting up international law as an imperial instrument in Europe gained its initial grace under the Portuguese enterprises in the East. The legality of the donation of the kingdom of Kotte by Dharmapala was further bolstered on the anatomy of the deed, which contained a clause disinheriting all the Kinsmen of Dharmapala from claiming to the crown after his death.

As an agreement prepared in the infancy stage of the development of international law as a coherent system, the donation of Dharmapala to the King of Portugal raises certain questions. First, there was no direct intervention from the King of Portugal to the setting the map of transition of the Kingdom of Kotte, in which the position of the Portuguese officialdom carried a hefty task of planting the Portuguese authority on a foreign soil through their laborious efforts. In his classic account on the complex nature of the imperial law under Portuguese, Hespanha states

“Empire’s law was a chaotic compound of legal regimes, combining the diversity of the very Metropolitan law with a wide array of particular legal orders, local usages and judicial styles. [...] Rather than representing a hierarchical legal order dominated by a common set of imperial prescriptions, imperial law was a lacing machinery knotting legal threads of different colors and resistance, assisted by a disperse and incoherent body of officers, applied with the most diverse intensity to diversely dependent subjects”.28

The abysses of mechanisms in installing puppet regents in various subkingdoms in Sri Lanka gave tremendous success to the Portuguese in occupying the country and legitimizing their presence. After Dharmapala, their next target was installing Don Philip in Udarata and after defeating the rebellious Raja in the Kingdom of Jaffna in the Northern part of the island, the Nallur Convention, the suzerainty of the King of Portugal was proclaimed over the kingdom.29 This policy of installing puppet rulers constituted all the pretexts for securing the

28 Antonio Hespanha, Early Modern Law and the Anthropological Imagination of Old European Culture”
Portuguese interests. Secondly, the central feature that pervaded the whole system of installing the puppet rulers was akin to the triumph of Christianity above the natives by the direct participation of Franciscan missionaries, who were responsible for the conversion of the native rulers. The conversion of the native rulers to Christianity provided a sense of authenticity to the treaties. All in all, the establishment of the system of “puppet rulers” by the Portuguese denotes how international law could subvert consensus among the people for the advancement of the imperial agenda in the 16th-century European encounters with the natives in South Asia, also this very astute strategy of the Portuguese happened to be the initial stage that paved the path for the colonial establishment of the mandate system in the 20th-century international law under the guise of “sacred trust of the humanity”, which has been often regarded as a technique for justifying the continuation of European rule over other people.

5. Towards an imperial path

The sudden reversal of fortunes and a detrimental factor caused dramatic changes in the attitude held by the Portuguese policy over the governance of Sri Lanka from a pacific nature of installing puppet rulers to monopolizing their imperial rule. This change was symbolized in the appointment of De Azavedo as a Captain-General, he was certainly conquistador of the stamp of Cortes and Pissaro in the combination of military genius, cruelty and single-minded dedication to their objectives.

Contrary to the previous Portuguese Captain Generals, Azvedo built a casa or residence in a suburb called “Malwana” for a strategic purpose. After the death of the Kotte ruler Dharmapala in 1597, Azvedo went on to call a meeting of all the native noblemen and Portuguese officers in Malwana followed by a death proclamation of Dharmapala, who left a will declaring the King of Portugal his heir and de Azavedo took prompt action to enter into possession on behalf of his Royal master. The multiple accounts of the legality behind the Malwana Convention have become a moot point for historians as many of them tend to challenge the accuracy of such a convention between the natives and Azavado based on certain anomalies.

Notwithstanding the complexity that prevailed among local historians, the offshoot of the Malwana Convention made a new paradigm shift in the Portuguese presence in Sri Lanka, which transferred from a decentralized position to a mission of consolidating power. A public meeting invoked by Azavedo in Malwana in 1597 demanded the overall obedience of all the public officials to the crown of Portugal and in return, he promised an uninterrupted continuity of the Sinhalese customs and laws in the occupied territories. The appointment of De Azavedo signified a frank acceptance by Portugal of these sovereign responsibilities and a desire to consolidate and secure the island against external threats.

The peculiarity of Malwana was not essentially confined to its acceptance, but also it generated a challengeable outlook on the nature of Portuguese presence on the island as the

convention uplifted the rank of Azavedo to a king before the eyes of the natives. Even after accepting the authority of Portugal King Philp as the “King and Lord of the island”, Azavedo went on to create a quasi-kingship to the role of Captain General. In his seminal work titled “Kingship and Conversion in Sixteenth-Century Sri Lanka” Alan Strathern points out the whims and fancies of Azavedo in creating a regal grandeur in the Court of Malwana, where he was obsessed with the compelling native officers to address him as king.\textsuperscript{35}

The adoption of Malwana Convention in 1597 suggests that the Portuguese empire was not monolithically in control of how laws need to be executed in the conquered territories, instated, it created a set of norms beyond the empire that highlighted the deep-seated convictions and cultural paradigm that shaped the way people governed. On the other hand, it created a larger picture to the natives on the regality of the Portuguese rule by aggrandizing its splendor, which was the inevitable way of binding Orientals to the subjugation as practiced by the Sinhalese kings. Sri Lankan historian Sir Paul.E. Peris states

“In the midst of the most fertile and agreeable regions of this Disawani stood Malwana where Azavedo constructed the Casa from which Generals were known locally as Kings of Malwana. Here de Azavedo resided for none years, and it was from here that Pereyra directed the military operations during his administration”.\textsuperscript{36}

The rise of the Portuguese centrality of power parallel to the despondency of the Kotte led its way to another set of unequal relationship between the natives and the Portuguese. In particular, the only remaining native sovereign territory of Sri Lanka, the Kingdom of Kandy was not recognized by the Portuguese as an independent polity based on their deed donated by Dharmapala. Especially, Portuguese made a fervent claim for Kandyan kingdom as they looked for installing another puppet ruler, a Sinhalese princess named “Dona Catherina” as a way of legitimizing their whole authority. Like previous occasion with Dharmapala, the authority of Christianity intended to be the most pivotal tool with all the due process used by the Portuguese to baptize the Sinhalese princess Dona Catherina. Nonetheless, the expedition launched by the Portuguese to install “Dona Catherina” on the throne of Kandy in 1594 became an unmitigated disaster due to the solid military resistance of the natives in the Kingdom of Kandy and Kandyan ruler Vimaladharmasuriya I forcefully married Dona Catherina to legitimize his rule.\textsuperscript{37}

Portuguese reluctance of admitting the independent existence of the Kingdom of Kandy was attributed to their ardent yearn of occupying the whole country in order to avoid any potential challenge for their presence. Also, their understanding of sovereignty and treaty making were based on the common Iberian perception that derived from the writings of Vittoria and Surarez of the Salamanca School, whose ideas portrayed the Christian hegemony over the pagans

\textsuperscript{36} Paul E. Pieris, Ceylon the Portuguese Era, Colombo, 1913, pp.191.
regarding treaty making and waging war.\textsuperscript{38} For instance, regardless of Vittoria’s empathy in natural reason, he was adamant in his conviction to state that Indians cannot wage war against Christian Spanish even though Spaniards could always freely travel and trade. Vittoria’s doctrinal position reflected in the attitude shown by the Portuguese towards the Kandyan kingdom filled with territorial superiority. The increasing fear that persuaded Portuguese towards the consolidation of power in the island had ample justification from the contemporary geo-political events which were not in favor of the Portuguese. The latter period of Azavedo as the Captain General seemed to be much pacific as Acavdeo opted for the policy of maintaining peace with the Kingdom of Kandy under much unequal terms, which were tantamount to the acceptance of the suzerainty of Portugal.

C. Conclusion

The mechanism espoused by the Portuguese in their entire presence in Sri Lanka from an international law perspective proves the hypothesis built up by modern international law scholars such as Koskenniemi, Anghie and R.P Anand. The contention of viewing international law as a project devoted to the legitimization of the European colonial powers seems to be a popular option in the legal academia and the number of scholars engaging in the topic denotes the marketability of this idea.\textsuperscript{39} Yet it is important to reiterate that any possible inquiry into the colonial roots of international law should always be evaluated parallel to the global history of the Iberian empires of the 16th century as the imperial quest led by the Portuguese and Spanish beget the initial footprints on the international legal system.\textsuperscript{40} The situation of the Portuguese in Sri Lanka was a bizarre one with its complex relations with the native state polity. While describing his stance on international law, Koskenniemi argues that international law contains dual corners called “doctrine of sovereignty and doctrine of sources” and in the scenario relating to Sri Lanka under Portuguese both these elements became problematic.\textsuperscript{41} In their engagement with the Kotte Kingdom, the Portuguese did not admit the sovereignty of the Kotte king as a part and parcel reality with their emphasis on securing commercial interests by any means. The gradual decline of the Kotte hampered by the internal political turmoil and the eagerness of Kotte ruler Bhuwanekabahu in seeking protection from the Portuguese for his grandson Dharmapala made the internal state polity more susceptible. It was the awaited opportunity seized by the Portuguese to penetrate the state polity of Kotte, which eventually elevated them to the status of rulers. The salient feature that one needs to understand regarding the approach espoused by the Portuguese to make agreements with the Kotte ruler is the enormous liberty held by the Portuguese officials in the administration. The fragmentation of imperial rule among the officialdom intensified the expansion of Portuguese power and when looking at these involvements of the officials in law-making, one should bear in mind that the legality of those Portuguese officials with the Kotte ruler was in a constant state of flux. In particular, this article has traced the subtle changes made by the Portuguese from the strategy of installing puppet rulers to the centralization of authority, which was evident during the administration of Azavedo.

The inquiry this article attempted to seek unfolds how Portuguese policy in Sri Lanka in the 16th century reflects the early development of European international law as the certain

\textsuperscript{39} Irene Watson, Aboriginal Peoples, Colonialism and International Law, London: Routledge, 2015.
\textsuperscript{40} Marti Koskenniemi, Empire and International Law: The Real Spanish Contribution, University of Toronto Law Journal, Vol.61, No.1, pp.1-36.
strategies used by the Portuguese underpinned the more advanced methods for their other European counterparts. For instance, the doctrine for lapse, a policy espoused by British East India Company in its’s dubious expansion in India and most of the other unequal treaties used by Dutch-British colonial powers in South Asia had their possible roots from the Portuguese.
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