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Tracing Colonial Entrenchments in the Development of the Central Bank of Sri Lanka

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Résumé de l'article

La crise économique qui a récemment dévasté le Sri Lanka a généré une grande incertitude dans l'écosystème financier mondial. La situation catastrophique du Sri Lanka, décrit comme le « canari dans la mine de charbon », a servi de mise en garde retentissante pour les organismes de réglementation du secteur financier. Les institutions financières internationales continuent à prévoir des répercussions économiques au fur et à mesure que les problèmes d'endettement mondiaux émergent à la surface. Le passé colonial et politique du Sri Lanka et les conditions géopolitiques actuelles auxquelles ce pays est soumis sont en grande partie responsables des graves problèmes financiers du pays, que n'ont fait qu'accentuer la fin d'une guerre civile brutale, la dette étrangère et les conséquences de la COVID-19. Cependant, cet article traite des fissures dans la base économique en mettant l'accent sur des événements passés qui ont façonné le cadre juridique entourant la naissance d'une institution bancaire centralisée.

Cette recherche historique retrace notamment les origines du discours sur l'inclusion financière au Sri Lanka, qui couvre des périodes tant coloniales que postcoloniales. En raison de la déroute financière du Sri Lanka, le rôle de la banque centrale du pays est surveillé de près. La crise économique a commencé en 2019; pourtant, l'inertie de l'organisme, qui n'a pris aucune mesure d'atténuation pour lutter contre la dégringolade des réserves étrangères, la hausse de la dette souveraine, la mauvaise gestion financière et l'ingérence politique, demeure encore mal comprise. Afin de permettre de mieux comprendre comment la banque centrale du Sri Lanka, la première institution financière gardienne et garante de la stabilité financière du pays, a perdu toute efficacité, l'auteure explore dans cet article les origines et l'évolution de l'organisme. Elle examine également la formation d'un système bancaire centralisé sous l'angle particulier de l'objectif d'inclusion financière, qui a favorisé la mise sur pied de la structure bancaire centralisée observée aujourd'hui au Sri Lanka. Dans ce contexte, les politiques financières conçues et élaborées par l'organisme de réglementation du secteur financier sont explorées du point de vue de l'inclusion financière

Tracing Colonial Entrenchments in the Development of the Central Bank of Sri Lanka

Shanthi E. Senthe*

Sri Lanka's recent tumultuous economic crisis has generated grave uncertainty in the global financial ecosystem. Sri Lanka's fiscal demise, described as the "canary in the coalmine", has served as a glaring cautionary tale for financial regulators. The International Financial Institutions continue to warn of subsequent economic fallouts as global debt issues simmer to the surface. Sri Lanka's economic fallout serves as a story besieged by colonial, political and current geopolitical conditions, which are further compounded by the end of the brutal civil war, foreign debt and post Covid-19 consequences. This paper, however, explores the cracks in the economic foundation using historical moments that paved the legal framework for the emergence of a centralized banking institution. This historical inquiry includes the origins of the financial inclusion discourse in Sri Lanka, which encompasses both colonial and post-colonial temporalities. As a result of Sri Lanka's fiscal collapse, the Central Bank of Sri Lanka's role has been under scrutiny. The economic crisis began in 2019, yet the financial regulator's failure to engage in mitigating tactics to combat the rapid decrease in foreign reserves, rise in sovereign debt, financial mismanagement and political interference is underexplored. In order to further understand how the CBSL, the country's first financial steward and custodian of fiscal stability, became ineffective, a closer examination of its genesis is made. This paper serves to examine the formation of centralized banking through a particular conceptual goal of 'financial inclusion', which catalyzed the establishment of the current central bank structure in Sri Lanka. As such, the financial policies designed and developed crafted by the financial regulator are explored through the lens of financial inclusion.

La crise économique qui a récemment dévasté le Sri Lanka a généré une grande incertitude dans l'écosystème financier mondial. La situation catastrophique du Sri Lanka, décrit comme le « canari dans la mine de charbon », a servi de mise en garde retentissante pour les organismes de réglementation du secteur financier. Les institutions financières internationales continuent à prévoir des répercussions économiques au fur et à mesure que les problèmes d'endettement mondiaux émergent à la surface. Le passé colonial et politique du Sri Lanka et les conditions géopolitiques actuelles auxquelles ce pays est soumis sont en grande partie responsables des graves problèmes financiers du pays, que n'ont fait qu'accentuer la fin d'une guerre civile brutale, la dette étrangère et les conséquences de la COVID-19. Cependant, cet article traite des fissures dans la base

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économique en mettant l'accent sur des événements passés qui ont façonné le cadre juridique entourant la naissance d'une institution bancaire centralisée.

Cette recherche historique retrace notamment les origines du discours sur l'inclusion financière au Sri Lanka, qui couvre des périodes tant coloniales que postcoloniales. En raison de la déroute financière du Sri Lanka, le rôle de la banque centrale du pays est surveillé de près. La crise économique a commencé en 2019; pourtant, l'inertie de l'organisme, qui n'a pris aucune mesure d'atténuation pour lutter contre la dégringolade des réserves étrangères, la hausse de la dette souveraine, la mauvaise gestion financière et l'ingérence politique, demeure encore mal comprise. Afin de permettre de mieux comprendre comment la banque centrale du Sri Lanka, la première institution financière gardienne et garante de la stabilité financière du pays, a perdu toute efficacité, l'auteure explore dans cet article les origines et l'évolution de l'organisme. Elle examine également la formation d'un système bancaire centralisé sous l'angle particulier de l'objectif d'inclusion financière, qui a favorisé la mise sur pied de la structure bancaire centralisée observée aujourd'hui au Sri Lanka. Dans ce contexte, les politiques financières conçues et élaborées par l'organisme de réglementation du secteur financier sont explorées du point de vue de l'inclusion financière

I. INTRODUCTION

Sri Lanka's recent tumultuous economic crisis has generated a grave uncertainty in the global financial ecosystem. Sri Lanka's fiscal demise, described as the "canary in the coalmine",[1] is currently serving as a glaring cautionary tale for financial regulators. International Financial Institutions continue to warn of subsequent economic fallouts as global debt issues simmer to the surface.[2] Sri Lanka's economic fallout serves as a story besieged by colonial, political and current geopolitical conditions, which are further compounded by the end of the brutal civil war, extreme foreign debt obligations, corruption and mismanagement, as well as post Covid-19 consequences.[3] On April 12, 2022, Sri Lanka officially defaulted on its sovereign debt obligations.[4] On July 9, 2022, the global headlines and photos captured the

1 Larry Elliott, "Sri Lanka is the first domino to fall in the face of a global debt crisis" (9 May 2022), online: *The Guardian* < https://www.theguardian.com/world/2022/may/09/sri-lanka-is-the-first-domino-to-fall-in-the-face-of-a-global-debt-crisis>; Chloe Cornish & Mahendra Ratnaweera, "Sri Lanka's economic crisis humbles the house of Rajapaksa" (13 Apr 2022), online: *Financial Times* <https://www.ft.com/content/70dd2610-14f4-4144-87bb-739da2f6647a >.

2 International Monetary Fund, Press Release, 22/261, "IMF Managing Director Kristalina Georgieva Urges G20 Leadership to Address 'Exceptionally Uncertain' Global Outlook" (16 July 2022), online: International Monetary Fund <https://www.imf.org/en/News/Articles/2022/07/16/pr22261-md-g20-statement>; United Nations, "Global economy: Outlook worsens as global recession looms – IMF" (26 July 2022), online: United Nations < https://news.un.org/en/story/2022/07/1123342>.

3 This paper suggests how the historical trajectory of financial inclusion initiatives follow a similar pattern of political interference in which the institutional structure is compromised, thereby impacting the role of the Central Bank of Sri Lanka.

4 Muttukrishna Sarvanathan, "Anatomy of the Sovereign Insolvency of Sri Lanka" (16 January 2023), online: SSRN <https://ssrn.com/abstract=4370450>.

national protest and the uprising[5] as a result of the economic collapse.[6] The images of protesters swimming in the Sri Lankan's President's pool are etched into our collective memories.[7]

Multiple scholarly contributions have addressed the causation of this economic catastrophe in Sri Lanka from a myriad of perspectives.[8] This paper, however, explores the cracks in the economic foundation using historical moments with respect to 'institutional independence' that paved the legal framework for the emergence of a centralized banking institution. As a result of Sri Lanka's fiscal collapse, the Central Bank of Sri Lanka's [CBSL] role has been under scrutiny. The economic crisis began in 2019,[9] yet the financial regulator's failure to engage in mitigating tactics to combat the rapid decrease in foreign reserves, rise in sovereign debt, financial mismanagement and as well as political interference is underexplored. To further understand how the CBSL, the country's first financial steward and custodian of fiscal stability, became ineffective, a closer examination of its genesis is made.

This paper serves to examine the formation of centralized banking through a particular conceptual goal of 'financial inclusion', which catalyzed the establishment of the current central bank structure in Sri Lanka. In addition, the Central Bank's colonial remnants of combatting financial exclusion and a lack of independence may have allowed for the current crisis to occur. This paper provides *one particular perspective* in employing a historical lens in interlinking financial inclusion and bank independence to explain a component within the systemic failures in Sri Lanka's economic collapse.

This historical inquiry includes the origins of the financial inclusion discourse in Sri Lanka, which encompasses both colonial and post-colonial temporalities. As such, the financial policies designed, developed and crafted by the financial regulator is explored through the lens of *financial inclusion and independence*. In the last decade the conceptual framing of financial inclusion and responsible access to finance has preoccupied intersecting fields in academic literature. Contemporary financial inclusion suggests that "individuals and businesses have access to useful and affordable financial products and services that meet their needs – transactions, payments, savings, credit, and insurance – delivered in a responsible and sustainable way."[10] However, this paper offers a historical commentary on the development of financial inclusion as a tool of economic independence which promulgated indigenous commercial relationships within Sri Lanka. At the time of submission, the economic turmoil to date experienced in Sri Lanka is more attenuated than ever.

Through a historical articulation of how financial inclusion aspirations resulted in the creation of the Central Bank of Sri Lanka, this contribution seeks to provide an underexplored perspective on post-

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5 The term of the uprising is intentionally omitted from this paper, as it contributes to the exclusionary and oppressive conditions that continue in the Northern part of Sri Lanka.

6 German Lopez, "Sri Lanka's Uprising" (24 July 2022), online: *New York Times* <https://www.nytimes.com/2022/07/24/briefing/sri-lanka-crisis.html>.

7 Imtiyaz Razak, "Janatha Aragalaya: The People's Struggle in Sri Lanka" (6 April 2023), online: *Colombo Telegraph* <https://www.colombotelegraph.com/index.php/janatha-aragalaya-the-peoples-struggle-in-sri-lanka/>; *Al Jazeera*, "Photos: Inside Sri Lanka President's House Occupied by Protesters" (12 July 2022), online: <https://www.aljazeera.com/gallery/2022/7/12/photos-inside-sri-lanka-presidents-house-occupied-by-protesters>.

8 See e.g., Sarvanathan, *supra* note 5.

9 AS Hovan George, A Shaji George & T Baskar, "Sri Lanka's Economic Crisis: A Brief Overview" (2022) 1:2 PUIRJ (DOI: 10.5281/zenodo6726553).

10 *The World Bank* "Financial Inclusion" (last modified Mar 29, 2022), online: *The World Bank* <https://www.worldbank.org/en/topic/financialinclusion/overview>. [https://perma.cc/656J-K9AK].

colonial institutional building in financial regulation. The paper is structured through a chronological recount of various stages of fiscal development through a survey of pre-colonial, colonial, and post-colonial moments in the process of creating a national financial regulator. Employing historical and textual analysis, a specific narrative emerges in policy production which shaped the establishment of the current financial institutional structure in Sri Lanka.

II. BACKGROUND

The purpose of this article is to focus on the contextual circumstances in tracing financial inclusion developments in colonial Sri Lanka, formerly known as Ceylon, and the establishment of the Central Bank of Sri Lanka. By identifying the aspirational goal of financial inclusion that paved the legal framework for the emergence of centralized banking, the historical mapping explored in this paper starts by describing the colonial and post-colonial landscape, which gave rise to the development of the current banking system. To date, the origins of the financial inclusion discourse in Sri Lanka appears to be academically uncontested. The prevailing view is that a form of financial inclusion emerged in Sri Lanka as a result of the thrift and cooperative movement in 1911.[11] Academic literature further suggests that this particular movement served as an impetus to first utilize organized economic groups to alleviate poverty in rural Sri Lanka.[12] Rural banking formations and state bank partnerships are believed to be precursors to the current financial inclusion paradigm in Sri Lanka.[13]

However, Sri Lanka's colonial history as described in this article suggests otherwise. Legislative history demonstrates that financing for the rural sector significantly influenced the normative financial inclusion agenda. Organizations, such as *Sarvodaya Economic Enterprise Development Services* [SEEDS] and *Janashakthi* historically emerged from cooperative style models, which continue to inform microfinance institutions that are part of the larger financial inclusion landscape in Sri Lanka.[14] By reviewing past influences and conditions, legislative and institutional history provide a contextual cue for the exploration of the financial eco-system. The observations and historical research below provide a sketch of post-colonial financial inclusion axioms during the development of the banking system in pre-colonial Sri Lanka.

III. PRE-COLONIAL CONDITIONS

Historically, the Island's geographic location and financial interests have been an object of desire for foreign traders, and ultimately motivated Indian and European colonizers to conquer and occupy the country. The pearl shaped island was bestowed with several names throughout history, such as Serendip, Taprobane, and Ceylon by its invaders.[15]

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11 Stephanie Charitonenko & Dulan de Silva, *Commercialization of Microfinance in Sri Lanka*, (Manila: Asian Development Bank, 2002) at 9.

12 Deborah Winslow, "Co-opting Cooperation in Sri Lanka" (2002) 61:1 Human Organization 9; Robby Tulus, "Chapter 26 The SANASA movement – Sri Lanka: The pursuit of social order through cooperative leadership, vision and innovation" in Anthony Jensen et al, eds, *Waking the Asian Pacific Co-operative Potential* (Cambridge, MA; Academic Press, 2020).

13 Charitonenko & De Silva, *supra* note 11 at 9.

14 *Ibid*.

15 Abhayraj Naik, "Sarendib's Sorrow: Sri Lanka's Continuing Conflict" (2008) 4 Socio-Legal Rev 66.

Colonization began by Indo-Aryans in the fifth century, led by King Vijaya.[16] This period is often documented by historians of religion, and is commonly linked to the emergence of Buddhism in Ceylon.[17] This time-period not only has been described as a pivotal and divisive moment for Sri Lanka, but it also involved the bloodshed over the most precious asset at that time: the struggle over occupation of land.[18] To date, this struggle continues with state oppression and violence.[19] A survey of historical texts and literature of Sri Lanka's economic history, especially as it relates to its financial regulatory framework and policies, suggests that the contemporary phenomenon of financial inclusion considerations is the product of historical legacies of financial development in pre-and post-independence Sri Lanka. Scholarly articles identify pre-colonial fiscal management within a feudal regime and the creation of a distinct elaborate irrigation system regarding land ownership created the prototype for the Island's economic policies.[20] This type of 'landesque capital' formation further established the structure of the underlying economic relationships.[21] For instance, land ownership and labor were intertwined; land occupation and ownership were dependent on "an obligation to service as condition to holding land"[22] The service condition is akin to working on the land or developing a feudal farming production system. Ancient Ceylon (Sri Lanka) was described as an "agrarian economy."[23] The typology of the economy informed the types of commercial transactions and how these exchanges developed within community schemes.

The ancient economic framework was intrinsically linked to the land-tenure-regime during that time period, which is described as a "multi-centered system" with complex ownership structures.[24] Land tax was a revenue generating mechanism for the Polonnaruwa Kingdom, which was the "second Kingdom in Sri Lanka".[25] The 'tax' levied was paid into the royal coffers as grains and crops were harvested by

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16 Indunil Janaka Kodithuwakku, "Encountering Different Cultures: Concords and Frictions in Pre-colonial and Post-colonial Sri Lanka" (2020) 21 Annali di studi religiosi 220.

17 *Ibid*; Gananath Obeysekara, "Buddhism, Nationhood, and Cultural Identity: A Question of Fundamentals" in Martin E Marty & R Scott Appleby, *Fundamentalisms Comprehended*, 5 (Chicago: University of Chicago Press, 1995).

18 Kodithuwakku, *supra* note 16 at 221.

19 *Al Jazeera*, "Photos: War Ravaged Sri Lankan Tamils Suffer amid economic crisis" (19 September 2002), online: <https://www.aljazeera.com/gallery/2022/9/19/photos-war-ravaged-sri-lankan-tamils-suffer-amid-economic-crisis; Oakland Institute, "Sri Lanka - The Long March for Justice" (15 February 2023), online: <https://www.oaklandinstitute.org/sri-lanka-long-march-justice>.

20 K M De Silva, "*A History of Sri Lanka* (Berkeley: University of California Press, 1981); Manik Jayasundera, "Ancient Sri Lankan Economic Systems" (2017) 1:4 Financial Markets, Institutions & Risks 24.

21 Mats Widgren, "Precolonial Landesque Capital: A Global Perspective" in Alf Hornborg et al, *Rethinking Environmental History* (Walnut Creek: AltaMira Press, 2007) 61, citing Harold Brookfield, "Intensification Revisited" (1984) 25:15 Pacific Viewpoint 15.

22 De Silva, *supra* note 20 at 36, 40; The King, unlike the European feudal system, did not own the land – exclusive property interests were later developed when private property rights emerged. It is interesting to note that a "form of monastic landlordism evolved" – granting land through service and donation and empowering monasteries.

23 *Ibid* at 42 and 24; See also Wathuge Indrakirti Siriweera, "Economic Conditions of Ceylon (c.1070 AD to 1344)" (PhD Thesis, University of London, 1970) [ProQuest No 10731366].

24 De Silva, *supra* note 20 at 70.; Jayasundera, *supra* note 20.

25 De Silva, *supra* note 20 at 70,25; The Polonnaruva region was also a key trade and cultural region for Southeast Asia during this period. See Gamini Ranasinghe, "Cultural interaction between Sri Lankan and Southeast Asia: revealed from Sinhala style Pagodas" (2013, online: Rajarata University of Sri Lanka <https://essuir.sumdu.edu.ua/bitstream-download/123456789/66293/1/Ancient_%20Jayasundera.pdf;jsessionid=7AC23F2FA43DAA0C86E29F3816DE774C>

communities and landholders.[26] It is significant to note the agrarian reforms in the 9th Century Sri Lanka expanded to a trade economy, which included the mining of gems. The 'right' to mine gems were held by a "royal monopoly."[27] This transactional vehicle can be likened to a modern day commercial license, where the user of the licensing of rights or the licensor has to pay a fee to the holder of the rights.[28] The trade routes, which were simply derivatives for an agrarian economy, established during that time period also created the Island's current exports and attractions, namely gems and cinnamon.[29] Consequently, "the emergence of merchant 'corporations', the growth of market towns linked by well-known trade routes, and the development of a local economy, that is to say, (created a) regional coinage."[30]

The historical evolution of the banking regime can be traced from ancient texts and religious inscriptions, which describe the vibrant trade and sea routes that were established in ancient Ceylon.[31] These trade routes prompted the creation of village guilds, which acted as depository structures that housed grain in the form of capital "on which interest was charged".[32] Merchants "received grain to be deposited as capital (*gahe*) to be lent -not sold- to cultivators, who had to return the capital with interest (*vedha*) added."[33] Further, "merchants, who stored and lent grain – were bankers of a sort."[34] Here, the historical transition from merchant to banker is cemented within these types of commercial relationships, which anchored the early banking framework, possibly as a precursor to the Sri Lankan banking system.

IV. COLONIAL ENCOUNTERS & COMMERCIAL CONQUESTS

Sri Lanka's fragmented colonial history spans over 200 years and includes waves of European colonialist encounters.[35] As local Kingdoms were weakened by Portuguese (1505-1658), Dutch (1658-1796) and British (1796-1948) colonial occupation between the 15th-19th Century, commercial transactions and trade became more multilateral and complex.[36] Nira Wickramsinghe describes this development as "commercial capitalism" through colonial conquests.[37] These financial relationships required a banking structure, which operated as a conduit between states and communities, and supported specific industries. To name a few, the cinnamon trade, coconut trade and coffee and tea plantations mapped out Ceylon's economic landscape, thereby affecting sovereignty issues with respect to local control and ownership, land rights, taxes, and ethnic relationships and commercial customs. The colonial pursuit of economic and regional dominance in Sri Lanka was furthered through the Dutch East India

26 De Silva, *supra* note 20 at 70.
27 *Ibid* at 71.
28 *Ibid.*
29 Nira Wickramasinhe, *Sri Lanka in the Modern Age*: *A History* (Oxford: Oxford University Press, 2014) at 14. [Wickramasinhe, *Sri Lanka*]
30 De Silva, *supra* note 20 at 71.
31 The Constitution of Sri Lanka, 1972; Gerald Hubert Peiris, "Sri Lanka" (13 November 2022), online: *Britannica* < https://www.britannica.com/place/Sri-Lanka>.
32 De Silva, *supra* note 20 at 44.
33 *Ibid.*
34 *Ibid*.
35 Peiris, *supra* note 31.
36 The phases of colonialism were as follows: "Portuguese rule (1505-1658), Dutch rule (1658-1796), and British rule (1796-1948)"; see Wickramasinhe, *Sri Lanka, supra* note 29 at 9; Kodithuwakku, *supra* note 16 at 221.
37 Wickramasinhe, *Sri Lanka, supra* note 29 at 8.

Company and the British East India Company respectively.[38] These commercial enterprises, along with the thriving plantation economy, were designed to create capital investments in its colonial economy and required a sophisticated method of banking.[39]

The Dutch East India Company and British East India Company[40] constructed commercial rules that would solely benefit their interests. Their jurisdictional reach through colonial modalities authorized oversight over financial and commercial matters in Sri Lanka.[41] In determining the significance of capital investment, a comparison is drawn between local traders around Sri Lanka's coastline and settler businessmen from India and other colonies. The local businesses clearly "lacked capital and organizational resources" to properly compete with their European counterparts.[42] The absence of fiscal investment prevented local merchants and traders to develop indigenous commercial enterprises that would benefit local economic growth, culture and political economy. Instead, business ventures during the colonial occupation were clearly designed to benefit the European settlers and their home country, thereby creating an economy which catered to colonial interests.[43]

The shift from local to global commerce was not an uncommon policy paradigm during the colonial period. In fact, these policies established the lifeline for colonialist expansion. The industry manipulation also elicited different polices with respect to raising and accumulating capital. To aid that policy, the British governance mechanism abolished the payment of taxes in services or products, instead, cash was the only way taxes could be paid.[44] Banking facilities in Ceylon only emerged after a lengthy period; for instance, British missionaries had to create a remittance system through their own organizations.[45]
Banking was characterized as an Imperial enterprise[46]; "an enterprise of banking, finance, and empire whose ambitions and expansions were braided through colonial and neocolonial projects of the early twentieth century"[47]. Historically, these institutions were used as repositories for currency to further colonial taking, buying and selling human beings (slave trade), fund wars, create dependency policies and over-indebtedness.[48]

38 De Silva, *supra* note 20 at 240; See also Nimal Ranjith Dewasiri, *The Adaptable Peasant: Agrarian Society in Western Sri Lanka under Dutch Rule, 1740-1800* (Brill, 2007).

39 De Silva, *supra* note 20 at 240.

40 Both these commercial entities, the Dutch East India Company (Verenigde Oostindische Compagnie) and the British East India Company were colonial instruments that affected the trade and commercial climate in Sri Lanka during their operations.

41 Wickramasinhe, *Sri Lanka, supra* note 29 at 29.

42 De Silva, *supra* note 20 at 240; It is important to note that this historical observation is akin to the challenges experienced by vulnerable communities in the inaccessibility to credit.

43 Alicia Schrikker, *Dutch & British Colonial Intervention in Sri Lanka, 1780-1815: Expansion and Reform* (Brill, 2007).

44 De Silva, *supra* note 20 at 246; H A de S Gunasekara, *From Dependent Currency to Central Banking in Ceylon: An Analysis of Monetary Experience 1825-1957*, 1st ed (London, UK: Bells & Sons, 1962) at 51.

45 *Ibid* at 22.

46 Peter James, *Bankers and Empire: How Wall Street Colonized the Caribbean* (Chicago: University of Chicago Press, 2017) at 4.

47 *Ibid.*

48 Nira Wickramasinghe, *Slave in Palanquin* (New York: Columbia University Press, 2020). [Wickramasinghe, *Palanquin*]

V. BARRIERS TO ACCESS TO CAPITAL

A. Currency Creation and Inequity

Ceylon's currency development was intrinsically linked to its colonial and political history.[49] The intersections of imperial policies with colonial currency systems resulted in an unequal valuation modality that informed the exchange rates and monetary policies employed in colonial expansion techniques. Britain employed the gold standard as the currency metric; however, "colonial requests for gold standards similar to Britain's own were rejected by imperial authorities and where they already existed, were eliminated."[50] Imperial policymaking included an intentional bimetallism approach, which imposed a silver standard on the colonies.[51] The early banking system in Ceylon (through a Currency Board System) was established pursuant to the *Paper Currency Ordinance* No. 32 of 1884.[52] The consequences of this special policy mandate further impacted foreign currency exchange rates and commercial relationships, thereby creating favorable conditions for British interests at the expense of its colonies. The "imperial colonial currency policy"[53] adopted in Ceylon led to a growing climate of discontent amongst local lawmakers, which possibly influenced the onset of discussions in creating a central bank in Ceylon akin to a federal model employed in the United States of America.[54] As imperial policies impacted non-British currency systems and debt conditions, the cost of borrowing continued to be heightened and untenable for local businesses. Ceylon, as a crown colony, was run by "London-appointed" crown agents that administered loans and, in some cases, vetoed loans for local businesses, and obstructed credit facilities.[55] Consequently, the continued constraint of capital infusions to enhance Ceylon's local economic growth amplified the call for a Ceylonese independent financial regulatory institution.

B. Colonial Enterprises & The Rise of the Plantation Economy

The paucity of historical data and early literature with respect to access to capital in colonial Ceylon posed significant challenges in understanding the internal challenges faced by locally owned economic structures. During this period, colonial banks operated as a conduit for capital under a set of regulations promulgated by Britain.[56] In other words, the colonial banks received instructions from its Imperial government as a result these institutions were bolstered with a "source of strength and stability".[57] The economic system in Ceylon was further closely seen as a crucial component for Britain's expansive rule in South Asia, which was predicated on dependency on colonial financial and administrative rule.

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49 Wadan Narsey, *British Imperialism and the Making of Colonial Currency System*, 1st ed (Palgrave Macmillan London, 2016) at 3.

50 *Ibid*.

51 *Ibid*.

52 "The Bank's History: The Bank's Beginning", online: *Central Bank of Sri Lank* <https://www.cbsl.gov.lk/en/about/about-the bank/bankhistory#:~:text=The%20Central%20Bank%20of%20Ceylon%20was%20established%20by%20the%20Monetary,credit%20system%20of%20the%20country>.

53 Narsey, *supra* note 49 at 79.

54 *Ibid* at 194.

55 *Ibid* at 248.

56 de S Gunasekara*, supra* note 44 at 20; See "Regulations for the Incorporation of Banking Companies in the Colonies" – they were governed by the Royal Charter and each colonial branch had to be preapproved.

57 *Ibid* at 51.

In the 1830s, a plantation economy emerged in Ceylon as a colonial endeavor through growing coffee as a single crop for export purposes.[58] However, the price fluctuations experienced in European markets adversely affected the coffee industry's growth.[59] Investors clamored for more financing and capital infusion to stabilize the coffee crops, and other commodities as the plantation economy emerged. This in turn created a demand for accessible credit and banking services.[60] The credit gap created an opportunity for the establishment of agency houses, such as Ackland Boyd and Co.[61] At first, these agency houses were used to create sophisticated financing schemes in order to fund agribusinesses in coffee production.

Agency houses in Ceylon were created to function as credit institutions coupled with oversight functions.[62] Serving as external financiers, these agency houses managed to determine the production of the plantations, and indirectly affected the development of employment in that sector. These types of financing arrangements flourished due to the reluctance of British commercial banks to engage in risky ventures.[63] "Because of their knowledge in every circumstance connected with the markets and the power of superintendence which they often retained, their loan to planters on the security of plantations and factories and even crops were relatively safe ventures whereas they would have been quite unsafe for a bank."[64] The secured transactions aided in the extension of capital through a common desire to create clear and precise rights with respect to ownership to develop seamless commercial transactions.[65] The agency houses simply served a need for local businesses who suffered economic stagnation and fiscal neglect due to a lack of access of credit.

Unfortunately, the uncertainty of the coffee plantation economy eroded this enterprise, as "a large amount of capital was buried in the soil with little prospect of recovery."[66] The rapid demise of the agency houses was due to coffee crop failure, the ownership of plantations was changing at a staggering pace, and debt increased[67] and a decrease in capital affected this industry. As a replacement to coffee, the next phase in the island's economic development was founded on the tea industry. As the British became increasingly dependent on tea, the country's plantation sector mirrored those needs.[68] Shifting colonial economic interests re-routed investment away from traditional industries.[69] This later provided the impetus for Ceylonese lawmakers to advocate for an autonomous financial institution.[70] The start of a new movement to create an indigenous financial apparatus was borne to combat financial exclusion and obtain an avenue for access to capital.

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58 De Silva, *supra* note 20 at 268; T J Barron (1987) "Science and the nineteenth-century Ceylon coffee planters", The Journal of Imperial and Commonwealth History, 16:1, 5-23, DOI: 10.1080/03086538708582746

59 De Silva, *supra* note 20 at 269.

60 *Ibid*.

61 *Ibid* at 269.

62 *Ibid* at 272; In turn, these agency houses can be likened to contemporary venture capitalists in that they provided access to capital for specific business ventures on the island.

63 *Ibid* at 273.

64 *Ibid*.

65 *Ibid* at 275; In 1840, the *State Lands Encroachments Ordinance 12* was passed to address these considerations with respect to land entitlements.

66 *Ibid* at 269.

67 *Ibid*.

68 *Ibid* at 290.

69 *Ibid* at 294.

70 de S Gunasekara, *supra* note 44 at 191.

The plantation economy was generated for the export market, and the colonial banks financed these commercial ventures within the trade and shipping industries. The banking system essentially developed to aid and facilitate British investment strategy in its colony. The export trade itself was controlled by a small monopoly of European brokerage firms, comprised of a close-knit community.[71] The coterie of commercial interests, which was fueled through social capital, was designed to exclude local and indigenous businesses. The same individuals were also members of the Ceylon Chamber of Commerce during this time period, without including local Ceylonese business leaders.[72] The governance structure, developed through relational and social networks, was informal in nature which permeated their business relationships through social capital and personal affiliations, and the banks followed suit. "This informality is evident in the manner in which the banks bought the shippers' bills or extended credit to them",[73] which suggests exclusionary tactics that disallowed local membership and indigenous participation in the trade economy. Through these networks and relationships, credit arrangements and financing devices were created. In addition, 'working capital' and unsecured credit (without collateral) was extended to these firms by the banks due to the informal commercial networks.[74] This type of social capital served to enhance and strengthen colonial interests in constraining credit and financially excluding Ceylonese businesses and communities.

C. Continued Financial Exclusion

To understand the catalyzation of an independent financial regulator in contemporary Sri Lanka, "exclusion" must be explored in a historical context. The undercurrents of the colonial financial climate discernibly contributed to the current fiscal landscape with respect to financial inclusion and a need for regulatory independence. "The new export economy became an integral though subordinate part of a vast imperial network of production and exchange which was more or less coordinated and controlled by the metropolis in London."[75] The business of banking was confined to trade and export markets as mentioned previously, which in turn excluded any financing for internal or domestic commercial ventures usually pursued by local firms and business leaders.[76] The credit apparatus was designed to facilitate and support export-oriented production owned by European colonial interests and disallowed non-locals to enter the credit markets. Due to the lack of access to credit and the absence of financing opportunities, a robust shadow economy with variegated bartering systems emerged. This method of commercial engagement was the preferred method of obtaining supplies and services to ensure local commercial viability;[77] the use of this system was predicated on cultural norms and the need for a mechanism that would support local commercial ventures without the use of money.[78] It was operated as a parallel economic tradition to the formal banking system, employed by colonial settlers.[79] Historically, money lending was part of indigenous culture as explained below.

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71 De Silva, *supra* note 20at 190.
72 *Ibid* at 191.
73 *Ibid*.
74 *Ibid* at 192.
75 Wickramasinhe, *Sri Lanka, supra* note 30 at 8.
76 de S Gunasekara, *supra* note 44 at 193.
77 De Silva, *supra* note 20 at 246.
78 *Ibid*.
79 Comparisons can be made to the informal shadow economy and modern-day village moneylender.

D. The Chetty Bankers and Money Lenders[80]

The credit vacuum allowed middle-agents, such as the *Chettiars*[81] and money-lenders to thrive in the domestic commercial sphere.[82] The Chettiars, also known as Nattukottai Chettiars, are from the banking caste, which originated from South India.[83] This group of businessmen were non-local moneylenders and traders, and predominately came from business families, which controlled a large sector of businesses in India.[84] The Chettiars were able to provide access to credit to Ceylonese firms due to their large business experience and relationships that spanned throughout South Asia.[85] They were able to work with British colonial administrators to engage in financing arrangements without traditional banks during colonial expansion.[86] The Chettiar financial network grew between India, Burma and Ceylon due to the railway expansion and the introduction of the telegram system.[87] The communications mechanisms fostered reliable information routes with respect to fiscal arrangements, changes and political news. This served to reduce information asymmetry that plagued the colonial credit markets.[88] The Chettiars' role in fiscal matters grew in Ceylon as they financed the plantation economy and other related industries.[89]

The foundational ideology that prompted a call for a national financial institution was partly based on the high cost of borrowing due to *Chettiar* transactions, which adversely impacted Ceylonese business communities. These were described as money lending arrangements with third party agents. Due to the shortage of credit and access to other financing arrangements, local businesses had to resort to using moneylenders, also known as private credit agencies. The cost of borrowing proved to be detrimental to many local industries and the call for a national solution became heightened. The money lenders, Chettiars, were simply conduits between the colonial financial institutions and local businesses. They were able to supply credit and liquidity for local merchants in Colombo, who were maligned from financial services.[90]

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80 de S Gunasekara, *supra* note 44 at 3.

81 The Chettiars are bankers from South India, who settled in Sri Lanka, formerly Ceylon. See also Kalyani Ramanath, "Intertwined Itineraries: Debt, Decolonization and International Law in Post – World War II South Asia" (2020) 38:1 L & History Rev.

82 de S Gunasekara, *supra* note 44 at 193; See also Chapter, "The Chetties – bankers from South India".

83 Anirban Mukherkee, "Transition of Credit Organizations: Case Bankers in Colonial India" (2017) 41:2 Social Science History 333 at 333; Also see Raman Mahadevan, "Immigrant Entrepreneurs in Colonial Burma – An Exploratory Study of the Role of Nattukottai Chettiars of Tamil Nadu, 1880 -1930" (1978) 15:3 Indian Economic & Soc History Rev; David Rudner, *Caste and Capitalism in Colonial India: The Nattukottai Chettiars* (Berkeley: University of California Press, 1994).

84 Mukherkee*, ibid* at 334, 353.

85 Ramdas Menon, "Banking and Trading Castes in the Colonial Period: The Case of the Nattukotai Chettiars of Tamil Nadu" (1985) 5:2 South Asia Bulletin 13.

86 Mukherkee, *supra* note 83 at 335.

87 *Ibid* at 338, 340; "Burma was the main center of business for the Chettiars. Even though they hailed from India, only a small fraction of their working capital was operative in India."; *Ibid* at 351; This also created tensions amongst local Burmese and Chettiars due to the economic inequality.

88 Lucian Arye Bebchuk, "Litigation and settlement under imperfect information" (1984) 15:3 Rand J Economics 404.

89 Mukherkee, *supra* note 83 at 353. See also W S Weerasooria, *The Nattukottai Chettiar: Merchant Bankers in Ceylon* (Dehiwala, Sri Lanka: Tisara Press, 1973). Also see David Rudner, "Banking in the Bazaar: The Natukottai Chettiars" in Ajay Gandhi et al, eds, *Rethinking Markets in Modern India* (Cambridge University Press, 2020) 29; Ramanath, *supra* note 81.

90 de S Gunasekara, *supra* note 44 at 195.

The Chettiars further provided a vital linkage between banks and "Ceylonese borrowers."[91] As H.A. de Gunasekara notes, the Chettiars' extension of financial services primarily built the local Ceylonese enterprise.[92] They were the dominant lenders for local businesses operating domestic operations. "The Chettiars were in fact responsible for the thin trickle of credit which found its way to internal trade and production."[93] Historical accounts, however, depicted these relationships as predatory and non-discerning lenders.

> "The Chettiar was ready to accommodate the genuine businessman, he was ready to accommodate the speculator and the spendthrift. He lent as readily to the exporter of desiccated coconut as to the impecunious landowner trying to raise a dowry for his daughter. When the commercial banks left the task of financing Ceylonese business to the Chettiars, they were unwittingly encouraging the growth of an unsound credit structure."[94]

From a pragmatic perspective, the Chettiars participated in financial inclusion initiatives for their own benefit, yet they were met with local suspicion and criticism from local business leaders for their exploitative lending strategies. They were characterized as "shylocks and bloodsuckers" as they "loath to refuse an application for credit however unsound it was…and the loans were unrelated to the need of the borrowers."[95] It is interesting to note that non-Ceylonese businesses by settler-colonialists, such as Arabs, Europeans and Indians (settler-colonial commercial operators) did not have the need for financial services provided by the Chettiars, as they were able to access alternate sources of credit.[96]

VI. CEYLON BANKING COMMISSION

The fragmented deployment of financial services on the Island prompted political intervention through the creation of the Ceylon Banking Commission. In 1934, the Ceylon Banking Commission was formed to investigate the state of financial affairs in Ceylon.[97] Its function and purpose, which was led by the Director of the Central Bank of India, was to determine if Ceylon should establish a "state-aided" banking facility.[98] Legislative history provides a glimpse on the policy approaches considered during the time of colonial rule. On November 23, 1932, a resolution was made to appoint "a Commission to go into the System of Commerce, Banking and Insurance of this Island."[99] The Commission was formed to examine the economic structure of the island during this time period, and to uncover the challenges experienced by the local business community, which included the real challenges of financial inclusion and financial

91 *Ibid* at 11.
92 *Ibid* at 197.
93 *Ibid*.
94 *Ibid* at 198.
95 *Ibid*; An analogy can be drawn to contemporary microfinance institutions that face similar critiques yet extend credit to individuals who are unable to access traditional forms of financial services.
96 The settler-colonial commercial operators obtained financing from their home countries and their own non-local communities.
97 A Ramaiya, "The Ceylon Banking Commission" (1935) 45:178 The Economic J 378.
98 *Ibid*.
99 de S Gunasekara, *supra* note 44 at 1.

independence from colonial rule. Local lawmakers recognized that the economic autonomy of Ceylon's growth and development was a crucial component needed to destabilize colonial structures that solely benefited European interests.

A. Predatory Financial Services

The Ceylon Banking Commission Report[100], was designed to study the financial landscape of the country. The Commission's Report (hereinafter "Report") included complaints against the practices employed by the Chettiars, primarily based on high interest rates which led to an increase in indebtedness in local communities.[101] The Commission, however, dismissed these complaints as part of the money lending business, as these practices were examined "with the working expenses, imperfection of security and the risk involved."[102] Pawnbrokers and general money lenders, who were not Chettiars, were also mentioned in the Report as sources of alternate financial arrangement. In paragraph 990 of the Report, the Commission described money-lending as an "ancient business"[103], which anyone can participate in and that "wealthy persons and retired officials do not hesitate to engage in this activity."[104] The Commission clearly acknowledged these informal transactions and characterized them as "amateur"[105] moneylending, and in some cases, was seen to be borne from altruism, thereby a stringent regulatory climate was not desirable. The Report provided simple examples of justifiable money lending transactions in its findings, such as "the landlord's advances to his tenants."[106]

The Report further discussed the existence of an established legislative ordinance which adequately regulated pawn broking and moneylending. The Report noted[107]:

> Sufficient safeguards exist to protect the debtors from the malpractices of the creditors. If abuses are still found in practice they are inseparable from the nature of private lendings and indicate difficulties of legislation in these matters. It is impossible to save a person by law who refuses to take advantage of measures designed to help him or desires to commit economic suicide.[108]

This above referenced paragraph suggested that the Commission shifted the onus on the borrowers and found that the legislation already existed to protect borrowers from predatory lending. The referenced deficiencies outlined by the Commission reinforced the need for a national bank to support local financial institutions that served local communities. "The existing banking organization with its nerve-centre thousands of miles away and whose management lacks intimate touch with the population is unfitted to meet reasonable indigenous demands for credit."[109] The Report further emphasized the dire absence of

[100] Ramaiya, *supra* note 97.
[101] de S Gunasekara, *supra* note 44 at 12; Wickramasinhe, *Sri Lanka, supra* note 29 at 146.
[102] de S Gunasekara, *supra* note 44 at 12.
[103] *Ibid* at 13.
[104] *Ibid*.
[105] *Ibid*.
[106] *Ibid*.
[107] *Ibid.*
[108] *Ibid.*
[109] *Ibid* at 14.

branch banking remittance services, and investment for local industries.[110] In order to enhance economic growth and development, the Commission recognized that national banking facilities were required. It further found that "powerful indigenous banks are always helpful not only to the commercial community, but also to the Government in their hour of need. National banking will lower rates of interest."[111] These findings reproduced from the Commission are historical in nature but are eerily still applicable to contemporary Sri Lanka.[112]

B. The Creation of a National Bank & The Bank of Ceylon -- "An expression of self-government"

The Ceylon Banking Commission Report catalyzed the establishment of a national bank. The creation of the Bank of Ceylon has been lauded as the first post-colonial financial institution in the country, which became a symbol of financial liberation. It was a product of nationalism in response to the colonial economic constraints imposed on local commercial and fiscal initiatives. The lack of financial services available for local and traditional businesses became "an important national issue", given the backdrop set out in the previous sections of this paper.[113] The discriminatory treatment in lending arrangements and inadequate financial services became increasingly evident, and local businesses were forced to resort to pawnbrokers, informal funding sources and moneylenders in order to obtain financing also described in the preceding section of this paper.[114] "Thus, when the winds of the Great Depression wafted to Sri Lanka, the national entrepreneurs were reduced to penury."[115] The colonial political climate affected the subject colonies. Clearly, this was an example which demonstrated that financial inclusion and financial independence was a pre-independence national aspiration, requiring a national response.

As business leaders, and members of the Ceylon State Council grew more and more impatient with the lack of autonomy under British rule. George E. de Silva, one of the first Members of an Independent Parliament in Ceylon, formalized a demand to create a "state aided bank to rescue the nationals from their dire predicament."[116] A stronger movement of support commenced calling for 'an indigenous bank'.[117] As expected, there was considerable opposition from colonial interests. Despite the challenges in creating a national monetary institution, the Bank of Ceylon was established on August 1, 1939 under British occupation.[118] Independence in Ceylon was granted in 1948.[119]

This historical moment was significant in the country's institutional building, as the country was undergoing social and economic shifts in its political landscape. The Bank's mission and purpose were described as "the country's leading bank."[120] Ceylon's lawmakers were intent on creating a local push

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110 *Ibid*.
111 *Ibid*; The blueprint of the issues surrounding lending, pawning, financial services and money lending are still pervasive in the contemporary fiscal landscape, specifically in the context of financial inclusion.
112 The nationalization of banking was thought to reduce of the exclusionary conditions, but it did not; as financial inclusion is still a challenge in Sri Lanka. In addition, the current economic predicament experienced in Sri Lanka is illustrative of the financial institutional and political failures that are remnants from colonialism.
113 de S Gunasekara, *supra* note 44 at i.
114 *Ibid*.
115 *Ibid*.
116 *Ibid*.
117 *Ibid*.
118 *Ibid* at ii.
119 Peiris, *supra* note 31.
120 de S Gunasekara, *supra* note 44 at ii.

towards a savings mechanism and credit facilities to create an investment culture that was nationally focused. The establishment of this monetary institution was characterized as a *public institution*.[121]

C. The Ceylon Banking Commission's Report & Findings

In his submissions to Ceylon's parliament, George de Silva, the Member of Parliament, stated "unless we could give the people of this country some encouragement to get money on easy terms it is almost impossible to carry on agriculture to the benefit of the people."[122] De Silva further argued that the high interest rate charged for lending arrangements disproportionately affected local individuals and communities, and that the absence of a national bank with local interests allowed communities to become victims to predatory actors and discriminatory treatment.[123] He explained:

> I find, Sir, that in Ceylon we have a number of banks, and most of these banks are exchange banks except perhaps one, and that is the Imperial Bank of India. The Imperial Bank of India lends money and I might say that they lend money to a particular community and they naturally expect to look after those traders who have come from India and settled down in Ceylon[124]

De Silva's pinpointed the disparate economic allocation of financial services. It is clear that a national bank was desired to create 'inclusion' and separateness from political interference. In his plea, he noted that:

> We find that most banks that are established here are run by bankers who have come from foreign countries. They did not bring large capital into this country. They have the credit given to them by the Ceylon Government and by their customers who live in this country. But, when it comes to a question of borrowing any money you will find that the banks are very loath to grant loans for industrial purposes and for agricultural purposes.[125]

The Ceylon Banking Commission issued its report in 1934 after 56 meetings with stakeholders,[126] which outlined the state of economic affairs in Ceylon and made recommendations to establish the Bank of Ceylon.[127] The Commission was tasked to identify the deficits within the existing financial system and to develop an underlying rationale for establishing an "indigenous State-aided bank".[128] The Commission noted that "National banking has proved a boon in every country and it is also essential for the economic advancement of Ceylon. Foreign banks and foreign business houses…are temperamentally and constitutionally unsuited to help the country's operations to any great extent."[129]

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[121] *Ibid* at iii.
[122] *Ibid* at 2.
[123] *Ibid* at 3.
[124] *Ibid*.
[125] *Ibid* at 4.
[126] *Ibid* at 8.
[127] *Ibid* at 7.
[128] Ramaiya, *supra* note 97 at 379.
[129] *Ibid*.

To demonstrate the historical absence of financial inclusion, subsections of the Report are examined in this section to provide the underlying considerations employed to establish a national financial framework. Much like many other colonies, perceptions of the Ceylonese were described using a European gaze, thereby informing colonial policies that stemmed from these perceptions based on culture, skin color and 'otherness' of the colonized.[130] The report articulated 'financial exclusion' as 'Handicaps of Ceylonese'.[131] These 'handicaps' are described below:

> A good deal of prominence is given in some quarters to the inability of the Ceylonese to carry on successful business, banking, and industrial undertakings. Want of punctuality in meeting their obligations is frequently urged as an argument of unfitness. There is nothing inherent in the indigenous people, which makes them unfit for these pursuits. They are only victims of past circumstances which have created a situation wherein most of those activities are monopolized by foreigners, who have built up unassailable positions. Not only in the strong competition to be faced, but considerable leeway has to be made up in training, experience, and credit and financial methods.[132]

This passage clearly conveyed a cultural bias against indigenous communities and sought to provide underlying solutions to combat the discriminatory financial exclusion of local communities. The Commission further addressed the discriminatory treatment faced by Ceylonese borrowers and customers:

> Serious complaints were brought to the notice of the Commission about the discrimination of these banks in the matter of distribution of credit. It is difficult to adjudicate upon these grievances. Every dissatisfied applicant thinks, rightly or wrongly, that he has not been fairly treated. There are several subtle considerations about character, business efficiency, and capacity to repay, which a bank manager has to take into account before deciding on a credit proposal. The matter becomes more complex because the debtors are reluctant to accuse openly their creditors because of the fear of victimization, and bankers categorically deny these accusations. However, reading between these divergent statements, it is not difficult to see that, although in some cases dissatisfaction is due to ignorance of principles which govern commercial advances and even though there may be no intentional racial discrimination on the part of the bank management, in practice, it somehow comes into operation through the Shroff, his guarantee, his commission, and the higher rates of interest have created sufficient grounds for genuine complaints and not unjustifiably created the popular impression of discrimination.[133]

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130 There is a whole body of international socio-legal scholarship that has pursued this type of analysis; See for example Makau Mutua & Antony Anghie, "What is TWAIL?" (2000) 94 American Society of Intl L 31; Obiora C Okafor, "Critical Third World Approaches to International Law (TWAIL): Theory, Methodology, or Both?" (2010) 10 Intl Community L Rev 37; Antony Anghie, *Imperialism, Sovereignty and the Making of International Law* (Cambridge: Cambridge University Press, 2004); Sundhya Pahuja, *Decolonising International Law: Development, Economic Growth and the Politics of Universality* (Cambridge: Cambridge University Press, 2011).

131 de S Gunasekara, *supra* note 44 at 9.

132 *Ibid* at 9.

133 *Ibid* at 10; in paragraph 978 of the Report.

This paragraph encapsulated the systemic exclusion and discrimination experienced by local customers.

Other historical accounts suggested that part of the discriminatory treatment was attributed to the fact that bankers did not physically or personally meet Ceylonese business leaders or customers. Instead, this isolation or rift made it "impossible for the banks to ever to develop an intimate banker-customer relationship between themselves and the Ceylonese which would have dispelled some of their innate doubts regarding the creditworthiness of Ceylonese clients…"[134] The banks regarded the Ceylonese as "small men often with little capital of their own."[135] These sentiments articulated a further need in establishing a national and independent bank with public access.

D. Challenges in Financial Services & Unregulated Financial Activity

The 'unregulated banking activity' or ancient cultural forms of raising funds and financial services were also a continued policy concern and preoccupation for lawmakers during the post-colonial period. The Report specifically addressed the cultural practice of '*cheetus*', which are described as communal savings devices, and these savings mechanisms were perceived as a threat and as a potential "injury which they cause to the public in their present unregulated state."[136] They are further described as "full of abuses which call for early legislation"[137]; and they assumed that "cheetus provide a crude, but perhaps a necessary form of borrowing and lending suited to a certain section of the community in debt, but they will disappear with the growth of national banking."[138] There was an implicit understanding that these informal financial transactions were a part of the daily lives of many due to the exclusion from traditional financial institutions, thereby establishing an argument for local access and consumer protection by seeking a national bank. It is interesting to note that these devices are still in usage in present day Sri Lanka and the Diaspora.[139]

The findings of the Report further emphasised the lack of financial literacy.[140] The Report's call for action suggested that "importance of these problems to the development of indigenous banking is unquestionable. Ways and means are suggested to accelerate education and training of Ceylonese in banking. It is also urged that arrangements should be made to provide education in co-operation so as to quicken and expand the co-operative movement."[141] An examination of the Hansard of the debates in the State Council further illuminated how nationalism and anti-colonial resistance were wrapped up in the call for establishing a national bank. Lawmakers cited that the primary reasons for "forming a national bank is the lack of credit facilities for financing internal trade and local industry";[142] and "the lack of contact between bankers and their Ceylonese clients"[143] contributed to this position as discussed in the

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134 *Ibid* at 203.
135 *Ibid*.
136 *Ibid* at 11.
137 *Ibid;* Paragraph 983 of the Report.
138 *Ibid*.
139 Sharryn J Aiken & Rudhramoorthy Cheran, "The Impact of International Informal Banking on Canada: A Case Study of Tamil Transnational Money Transfer Networks (Undiyal), Canada/Sri Lanka" (Ottawa: Law Commission of Canada, Spring 2005).
140 de S Gunasekara, *supra* note 44 at 21.
141 *Ibid.*
142 de S Gunasekara, *supra* note 44 at 24; The Hon. Mr. Sundaram's submission.
143 *Ibid*.

previous section. Further, the Report asserted that "the European officials at the bank lack that intimate touch with local enterprise and local population which is generated only by free and unfettered intercourse of daily life"[144]; and the "discrimination exercised by banks between different classes of clients."[145] The exclusionary nature of these barriers were the foundational reasons for pursuing a national financial institution.

As the Report was being debated in front of the State Council, the Hon. Mr. Bandarainaike, then a Member of Parliament, (who would later become Prime Minister of Sri Lanka in 1956)[146] provided his support for establishing a national bank. He insisted that a national financial institution with fair corporate governance measures would increase capital accumulation for the Ceylonese.[147] During this period, only 35 percent of the country's capital was locally controlled[148], and that establishing a home-grown financial institution would create *economic equilibrium* and enhance the *economic position* of the country.[149] He further articulated that "this is a very urgent need. It is no use talking of great national movement of reconstruction[150]" without creating financial independence. He further stressed:

> It is pointed out that it is the duty of the State to help as far as possible in the task of reconstruction and economic progress. Banking is one of the chief methods undoubtedly in modern economics where the greatest help can be given for adequate and satisfactory credit facilities which are undoubtedly the heart which alone can pump blood into all the network arteries and veins which constitute economic life of the people.[151]

The sentiments of independence from colonial rule were pulsating amongst lawmakers during this time, and Mr. Bandarainaike further used the Report's finding to highlight that "the history of Ceylon records the exploitation of its commerce by the Portuguese, Dutch, the British and the Indians for over 100 years."[152] He continued that "even at present its entire trade is being run by foreigners, with foreign capital, foreign labour, and foreign brains. The non-Ceylonese element has kept a strong hold on business, trade and industries of the country, and few opportunities have been allowed to the average Ceylonese to engage in trade and industries either by Government or business firms."[153] These legislative discussions underscored the modern banking context in post-colonial Sri Lanka and has contributed to the economic plight of foreign indebtedness.

The Report further advocated the need for law reform, as the banking regulations employed were transplanted from the British systems and effectively mimicked colonial banking procedures and had an

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144 *Ibid*.

145 *Ibid*.

146 "S.W.R.D. Bandaranaike: prime minister of Sri Lanka" (22 September 2022), online: *Britannica* <https://www.britannica.com/biography/S-W-R-D-Bandaranaike>.

147 de S Gunasekara, *supra* note 44 at 40; The Hon Mr. Bandaranaike's submission.

148 *Ibid*.

149 *Ibid*.

150 *Ibid* at *43.*

151 *Ibid*.

152 *Ibid* at 44.

153 *Ibid;* The Commission strongly recommended "that the State-aided Bank should assume the principal responsibilities of providing credit for internal economic activities whether related to agriculture, commerce, or industry.

absence of indigenous inclusion with respect to banking practices. The legislation in place was described as "too antiquated to meet the demands of present day commercial and banking activities and that the legal system of Ceylon governing them should be carefully revised."[154]

E. The Counter-Narrative & Opposition

Despite the widespread support for a national bank, there was much opposition from various stakeholders to the newly proposed bank scheme. In particular, the colonial administration and the Chamber of Commerce appeared to be vehemently opposed, and existing business interests in Ceylon actively sought to thwart information during the inquiry period by the Commission.[155] The opposition was based on multiple ill-founded assumptions, such as: (1) a rapid formation of a bank would create an unsound fiscal environment, (2) that corporate governance should include a majority of non-Ceylonese Directors due to their former banking professional experience, and (3) that a national bank may not be necessarily required, as the existing foreign controlled institutions offered similar services with the proper legislative amendments. Local lawmakers were not in agreement with the opposition of the national banking scheme. In fact, this issue was a great political unifier, and partisan politics were left aside.[156] The anti-colonial resistance amalgamated into a collective voice to create financial advancement by demanding a national bank and local, and independent regulatory institution.

In his advocacy for establishing an indigenous financial institution, Mr. Bandaranaike further provided a response to the issue of a collaborative arrangement with the colonial administration by using this analogy:

> Now, Sir, we are asked to follow a sort of "Little Red Riding Hood" policy. You know what happened to that unfortunate and trusting maid. She visited her grandmother. She put on her best dress, her nicest red-riding habit and visited her grandmother, who was supposed to be very sick and dying, with some custards and other nourishing food. The grandmother turned out to be a wolf; and what happened was that poor little Red Riding Hood found herself the final habitat inside the stomach of the bogus grandmother. We must be careful in rushing to this grandmother who is going to help use this way; we must be very careful in trusting to the bona fides of this grandmother, It is because I am not personally satisfied with the bona fides of this particular grandmother that I place these facts before the House.[157]

The analogy above clearly amplified the power dynamics of colonialism, where patriarchal policies were used to disempower local communities, decentralize decision-making and create dependency on the colonial administration. The above submissions by Mr. Bandaranaike also demonstrated the disparate treatment endured by local economic endeavours, and clearly conveyed that change and financial inclusion during that time could only manifest in the establishment of a national bank. There appeared to be unanimous support for a national bank regime, and other members of the State Council of Ceylon fully

[154] *Ibid* at 17.
[155] *Ibid* at 38.
[156] *Ibid* at 48.
[157] *Ibid* at 46.

assented. During the debates, Mr. G.G. Ponnambalam, a member of the State Council, cautioned that a national bank should be free of political interference, even if guided by the State.[158] This is the first instance where regulatory independence as an internal control for fiscal management was formally raised in these discussions.

VII. THE BANK OF CEYLON – THE FIRST NATIONAL FINANCIAL INSTITUTION

On August 11, 1939, the Bank of Ceylon was declared open by the British Governor, Sir Andrew Caldecott.[159] It was established during a time of Ceylon's constitutional, social and economic reform. Local leaders were intent on reconstructing an independent governance regime away from colonial rule where the "absence or inefficiency of financial institutions" were even more pronounced.[160] The long and tedious journey toward creating a national bank in spite of vehement opposition was due to the dedication and commitment of Ceylonese Ministers and State Council members, and became an expression of social and institutional change in the former Ceylon's political history.[161] The history of economic development and institution building was not apolitical; it is significant to note at this juncture that the banking enterprise in Ceylon is a political act and continues to be so in current times. The early operations of the Bank of Ceylon created a pathway to financial inclusion and financial independence. This newly created national institution was able to sustain and survive the economic climate in response to World War II, and bank runs.[162]

The Bank of Ceylon adapted to local economic conditions and started its banking activities with an *inclusive* and independent focused framework. It developed a mechanism in the late 1950s, described as a "Bank on Wheels", where a mobile banking service became operational.[163] In this context, mobile banking focuses on the historical description of a physical mobile banking service – where the banker goes to the customer.[164] A mobile service was created "to give banking services in places where business is not sufficient to warrant a permanent office and a permanent staff and where banking services for restricted periods of the day would be sufficient."[165] This type of banking operation was also developed to "offer banking services in those towns geographically situated between branches,"[166] and "to serve as pilot branches to gauge the earning prospects in any given locality."[167]

As banking services were intended to become more accessible to local, rural and indigenous communities, the Bank of Ceylon adopted a national priority framework to serve as a catalyst for internal trade and economic development. In 1961, the Bank of Ceylon was nationalized and became government owned.[168] During this time, the People's Bank, another local bank, was created by the Sri Lankan

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158 *Ibid* at *51.*
159 *Ibid* at 103.
160 *Ibid* at 95.
161 *Ibid* at 96.
162 *Ibid* at 84.
163 *Ibid* at 196.
164 In contemporary literature, mobile banking refers to mobile banking using virtual platforms for electronic transactions.
165 de S Gunasekara, *supra* note 44 at 196.
166 *Ibid*.
167 *Ibid*.
168 *Ibid* at 197.

government to infuse capital into the agricultural sector and work with the cooperative movement.[169] This newly formed government initiative prompted the Bank of Ceylon to follow suit and create lending arrangements to revive the agricultural sector; banking policies included a mandate to assist small scale farming operations, tea production and industrial expansion.[170] Towards the late 1960s, the Bank of Ceylon included development banking at the behest of international financial institutions, which was intended to revive the expansion of rural credit.[171] These inclusive types of banking operations served to illustrate that financial inclusion methods were part of Ceylon's banking development post-independence. This is further demonstrative of how financial inclusion, as well as consumer-centric policy making, was part of the legal order stemming from national self-government and empowerment.

VIII. THE EMERGENCE OF THE CENTRAL BANK

As the colonial financial governance system became a site of resistance for local lawmakers, and monetary arrangements were focused on local economic development, it was evident that an institutional oversight mechanism was needed to create independent domestic monetary policies. A "rigid pattern upon the behavior of money and credit" was lacking.[172] It is interesting to note that resistance towards colonial rule was also demonstrated by the type of expertise sought by Ceylon in asserting independent institutions. "For advice on the establishment of a central bank, the government of Ceylon preferred to go to the Federal Reserve System of the United States rather than the Bank of England. Thus, while all the formative influences on Ceylon's monetary and banking institutions had been British, her central bank, both in its powers and its structure, resembles those that have been recently set up on the basis of American advice in a number of underdeveloped countries."[173] In 1946, Ceylon commenced the shift from the Currency Board System, a regime used by most colonized jurisdictions, to a central bank model. However, a decade earlier, the Commission was not in favor of creating a central bank for Ceylon. The Commission stated that "at this present stage of its economic development Ceylon hardly needs a Central Bank of Issue. It is not adequately equipped for such a highly advanced and technical form of credit mechanism….the country is not ripe to have a central bank."[174]

Eleven years later, in 1950 and two years after Ceylon's independence (1948) from colonial rule, the Central Bank of Ceylon was established. It was created under the *Monetary Law Act No. 58 of 1949*.[175] The Central Bank of Ceylon resulted after a one-man Commission. It was designed to emulate the American Federal Reserve System, as a federal state was envisioned by lawmakers' post-independence.[176] The federalization project established the post-independent government, the nationalization of the Bank

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169 *Ibid*.
170 *Ibid* at 197, 200.
171 *Ibid* at 201.
172 *Ibid* at v.
173 *Ibid*.
174 Ramaiya, *supra* note 97 at 381.
175 de S Gunasekara, *supra* note 44 at 130.
176 Federalism as constitutional solution was adopted to address a multi-ethnic solution in within a political fragmented regime. For a more in-depth discussion, please see A. Jeyaratnam Wilson, *Politics in Sri Lanka, 1947–1973* (London: Palgrave Macmillan, 1974); Michael G. Breen, *The Road to Federalism in Nepal, Myanmar and Sri Lanka*, 1st ed (London: Routledge, 2018).

of Ceylon, and the Central Bank as its fiscal regulator, and the countless other economic initiatives. These policies were politically motivated and were labor-centric, socialist, and patriotic. The State became a *de facto* development agency, working with international organizations and foreign experts. During this period, John Exter, an American economist, was appointed as the first Governor of the Central Bank of Ceylon in 1950.[177] John Exter was the architect of the Exter Report and an economist from the Board of Governors with the Federal Reserve System of the United States.[178] He also contributed to the establishment of central banks in Korea and the Philippines.[179] The choice to appoint an American as the first Governor of the Central Bank of Ceylon was a deliberate act. The intent was to align with experts who were not part of the British colonial administrative circle, as the finance minister remarked "because of the supervisory influence which the British people had over us for about 150 years."[180] Exter created the blueprint for the Central Bank model; he situated its context within the globalized economies and drafted a procedural map of its operation.[181]

Through establishing a financial framework for the Island, the Central Bank was charged with developing internal robust central banking procedures and creating policies on fiscal development. In all aspects, the Central Bank of Ceylon was modeled after a traditional version of the American central bank with respect to its "structure, powers and duties."[182] Through enacting the *Monetary Law Act*[183], the Central Bank of Ceylon was empowered to govern, regulate, and administer monetary and economic policies in a newly independent Ceylon. It was further empowered to employ remedial actions without much political interference in response to fiscal disruptions and to ensure financial stability.[184] In addition, the founders of the Central Bank contemplated that economic doctrines were susceptible to social and political realities, and that law reform was slow to adjust, as such the governance structure had to be sufficiently flexible to adapt to local conditions.[185] "Fashions in economic thinking are no less volatile than fashions in many other departments of human behavior. The heresies of one period may become orthodoxies of the next. The objectives of social and economic policy and the community's scale of values are continually changing."[186] This policy framework is presently still in place and has produced variegated national approaches to regulatory responses to Sri Lanka's fiscal health.[187]

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177 "John Exter (1950-1953)", online: *Central Bank of Sri Lanka* <https://www.cbsl.gov.lk/en/about/about-the-bank/bank-history/john-exter>

178 de S Gunasekara, *supra* note 44 at 260.

179 John Exter, "Report on the Establishment of a Central Bank of Ceylon" (1949), online (pdf): *Central Bank of Sri Lanka* <https://www.cbsl.gov.lk/sites/default/files/cbslweb_documents/about/Exter%20Report%20-%20CBSL.pdf>.

180 de S Gunasekara, *supra* note 44 at 261.

181 W A Wijewardena, *Central Banking Nearly Six Decades After John Exter* (Colombo: Central Bank of Sri Lanka, 2007) at 1.

182 de S Gunasekara, *supra* note 44 at 261.

183 *Monetary Law Act*, No 37 of 1974.

184 de S Gunasekara, *supra* note 44 at 264.

185 *Ibid* at 265.

186 *Ibid*.

187 The Central Bank of Ceylon changed its official name to the Central Bank of Sri Lanka on December 31, 1985.

IX. POLITICAL SYMBOLISM & CONTEMPORARY CHALLENGES

The Central Bank was not without its critique; it was seen as a national embodiment of state power and as part of the 'elite' class, as many of the Governors and Deputy Governors of the Central Bank came from privileged, well-connected families and social spaces.[188] The *revolving door and insiders'* condition has been a challenge for institutional change.[189] The same individuals occupied positions of power in different economic and political spheres, thereby creating a close-knit and tight political culture. This type of interconnected transfer of knowledge and social network with colonial remnants continued to create stakeholders that know each other socially or professionally and have specific institutional knowledge and power to change policies within central bank policy-making. This also may have contributed to the corrosion of the central bank's independence.

The historical survey of moments of institutional construction as explored in this article demonstrate that the impetus for the design was rooted in financial exclusion and equitable aspirations in response to the oppressive colonial power dynamics. The origins of the Central Bank of Sri Lanka's institutional framework continue to impact internal governance modalities, and the primary design defect has been the underemphasis of *institutional impartiality or independence*. John Exter's "wisdom was to create an environment for both the government and the central bank to have a peaceful and amicable cohabitation"[190] as opposed to a veil of strict impartiality free from political interference. Dr. W.A Wijewardene, a former deputy governor for the Central Bank, explained that Exter believed that "the Central Bank should as far as possible work in consultation with the government, rather than in isolation."[191] He believed that the true independence of the Central Bank could be preserved only through that consultative process.[192] This ambiguity in the present climate has caused challenges that have led to Sri Lanka's economic demise.[193] The non-neutral site of post-independence Sri Lankan banking practices are linked to political influence and have been subject to critique.[194] In 1971, senior central bankers were cautioned not to "merely to suit the political complexion of the government in power".[195] In the past few

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[188] Christopher Adolph, *Bankers, Bureaucrats and Central Bank Politics: The Myth of Neutrality* (New York: Cambridge University Press, 2013).

[189] Lars Frisell et al, "Governing the governors: A clinical study of central banks" (2008) Sveriges Riksbank Working Paper Series No 221.

[190] W A Wijewardena, "68th Anniversary of the Central Bank of Sri Lanka: A Revisit to Central Bank Independence: How to Resolve the Emerging Issues?" (2018) at 6, online (pdf): *Central Bank of Sri Lanka* <https://www.cbsl.gov.lk/sites/default/files/cbslweb_documents/press/pr/speech_20180828_68th_Anniversary_Oration_e.pdf> [Wijewardena, "Anniversary"].

[191] *Ibid*.

[192] *Ibid*.

[193] "Lack of independence at Central Bank led to Sri Lanka's bankruptcy: Governor Nandalal Weerasinghe", *The Hindu* (17 March 2023) <https://www.thehindu.com/news/international/lack-of-independence-at-central-bank-led-to-sri-lankas-bankruptcy-governor-nandalal-weerasinghe/article66630830.ece> ["Lack of Independence"].

[194] Wijewardena, "Anniversary", *supra* note 190; C Premaratne, "The Long March of the Central Bank – 60 Years of the Central Banking in Sri Lanka" (2011), online (pdf): Central Bank of Sri Lanka <https://www.cbsl.gov.lk/sites/default/files/cbslweb_documents/publications/otherpub/60th_anniversary_the_long_march_of_the_central_bank.pdf)>.

[195] Wijewardena, "Anniversary", *supra* note 190 at 2.

decades, the CBSL's independence appears to have been diluted due to political interference and other corporate governance failures.

X. CONCLUDING COMMENTS

The different historical stages of development of the Central Bank of Sri Lanka described in this paper explored how colonial conditions underscored and informed the trajectory of institution building with respect to the CBSL. Contemporary calls for fiscal reform and understanding of its internal functions are now at the forefront due to Sri Lanka's economic collapse. Among the many factors cited, the Central Bank's independence has been questioned.[196] As part of the current IMF bailout package proposed to ameliorate the financial crisis, *central bank independence* has been included as a condition.[197] The mass protests by the people, also described as "Aragalya" was a by-product of financial exclusion, nepotism, serious corruption and "large-scale mismanagement".[198] The collective public uprising illustrated the fault lines tremoring since independence from colonial rule. Douglas R. Holmes in his article, "Public Currency: Anthropological Labor in Central Bank" suggests that central banking practices and policymaking illustrate the relationship central banks share with the public.[199] "The main stakeholder of a central bank is the public who holds on to the entirety of money it has created prudently or otherwise. Hence, the obligation of the Governor and the board members is to the public and not the political masters who have appointed them to their respective posts. They hold those positions as trustees and not as owners of central banks."[200] The fiscal measures and monetary stabilization techniques employed are linked to stakeholders and the public good. The financial exclusion, deep and troubling policy failures and post-covid consequences experienced by individuals and already marginalized communities led to the mass movement against the status quo.

Through the historical mapping of the establishment of the CBSL, a narrative emerges to demonstrate that the CBSL serves as a geopolitical entity, encoded with economic, political, social, cultural, and colonial vestiges. The foundational design of the CBSL in its inception did not include a specific or established component that required *mandated* independence from political influence. However, the new terms of the IMF bailout package prompted Sri Lankan legislators to enact further legislation to promote central bank independence. The Central Bank Bill was passed to ensure autonomy and independence, [201] and is "aimed to provide autonomy to the Central Bank without any undue influence from the fiscal authorities or the government" is currently being reviewed by law makers.[202]

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196 W A Wijewardena, "Central Bank Independence: Issue to the Fore Again, But Will the Government Have Foresight to do it?" (29 August 2022), online: *Colombo Telegraph* <https://www.colombotelegraph.com/index.php/central-bank-independence-issue-to-the-fore-again-but-will-the-government-have-foresight-to-do-it/>.

197 *Ibid.*

198 Maljini Ranaraja, "Notes from the Field: Sri Lanka's Revolutionary 'Aragalaya'" (20 July 2022), online: *The Asia Foundation* <https://asiafoundation.org/2022/07/20/notes-from-the-field-sri-lankas-revolutionary-aragalaya/>.

199 Douglas R Holmes, "Public Currency: Anthropological Labor in Central Banks" (2015) 9:1 J Cultural Economy 5.

200 Wijewardena, "Anniversary", *supra* note 190 at 2.

201 Online: Reuters <https://www.reuters.com/world/asia-pacific/sri-lanka-parliament-oks-bill-boost-cenbank-independence-2023-07-20/>.

202 "Lack of Independence", *supra* note 193.

It is further interesting to note that due to the historical financial exclusion, the post-colonial incentive to abandon the British model for the American model was a strategic decision. However, the mere failure of emphasizing the central bank independence at its inception also created a flaw in design within the economic structure in Sri Lanka. As the CBSL, along with international financial institutions, are in the process of restructuring the banking regime, the oversight and regulatory changes are expected to transform monetary policy and governance. This scholarly contribution sought to demonstrate the linkages of historical narratives involving financial inclusion to the internal operations of the Central Bank of Sri Lanka and offers further research possibilities in this area.