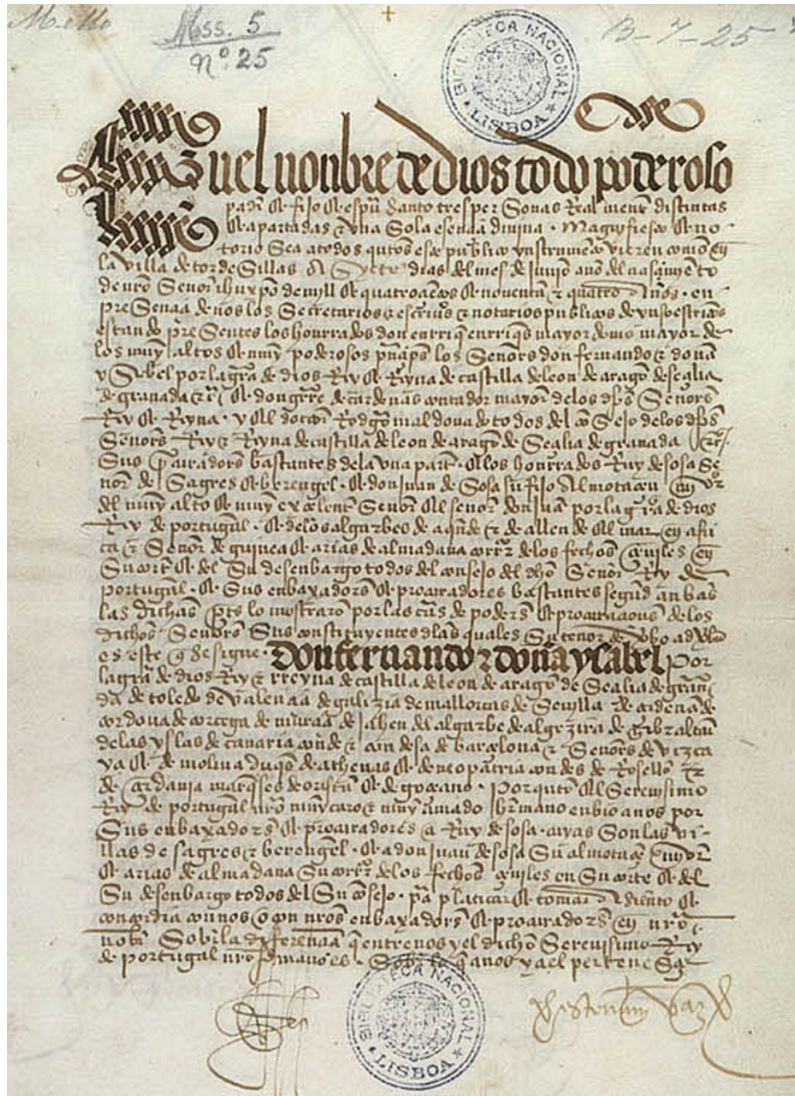


IB History HL

History Internal Assessment

How far was the *Treaty of Tordesillas* (1494) a landmark in international law?



The original copy of the Treaty of Tordesillas <<https://en.unesco.org/mediabank/25052/>>

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Word Count: 2200



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Section 1: Identification and Evaluation of Sources

Question is appropriate. Timeframe is perhaps too long for an IA

This investigation will explore the question “how far was the *Treaty of Tordesillas* a landmark in international law” with the timeframe set from 1455 to 1655.

The first source for evaluation is the *Treaty of Tordesillas* translated from Spanish by Frances Gardiner Davenport. This source is **relevant** to my investigation because it enables me to evaluate the values of the original Treaty document by comparing it against other historical events and the framework of international law. Its **origin** is **valuable** because it reveals the official rationale of the 15th-century Portuguese and Spanish crowns in justifying their possessions of lands. However, its origin is **limited** since it cannot inform the readers whether the states would respect the Treaty in the future, but merely displayed the result of negotiation between Spanish and Portuguese crowns on June 7th 1494.

Relevance

Partial V-O:
Could explain how it showed this

L-O

Description The **purpose** of the source is to establish a new demarcation line in the Atlantic in justifying the possession of lands by the two states. It is **valuable** in offering insight into how the crowns sought to justify their possessions through a written document. However, it is **limited** as the Treaty intended to divide the public sea under two states, whereby other European states were excluded from the Treaty thus unable to offer their stance regarding this political move.

L-P

The **content** is **valuable** as it reveals the consensual nature of the Treaty, and the explicit instruction for papal authority to reduce its influence against the terms Spain and Portugal established. However, it is **limited** as it did not confirm a definite demarcation line but instructed both states to “dispatch caravels” to validate its accuracy. Therefore, it cannot inform us whether this instruction was executed in reinforcing the legality of the boundary.

L-C

The second source for evaluation is *Possessing Empire: Iberian Claims and Interpolity Law*, written by Lauren Benton. This source is **relevant** to my investigation, because it offers a retrospective analysis from a 21st-century legal historian that benefits from hindsight over the international law framework. The **origin** is **valuable** because Benton is a professor of history and law in Yale university, and a specialist in the study of the history of international law and the legal history of European empires. However, its **limitation** is that Benton uses limited primary sources and bases her research predominantly upon secondary sources written by other historians, which limits the author’s potential to provide a more thorough insight regarding the Treaty.

Relevance

Partial V-O:
Doesn't explicitly reference her output

L-O -but evidence could be given.

The **purpose** of the source is to offer a comprehensive analysis over the Iberian states' justification over their possessions. It is **valuable** because Benton confronts the assumption that the Treaty adheres rigidly to the Roman legal doctrine over possession claims. This allows me to weigh her argument against other defining factors over the Treaty's legal significance. Its **limitation** is that although according to the title, the historian intends to analyse how Iberian claims relate to the emergence of "Interpolity Law", the historian generalized the specific aspects of Interpolity Law, and focused on the pre-established Roman law and common law doctrines.

V-P

L-C not
L-P

The **content's value** is that the author introduces a new perspective on the legal values of the Treaty with her in-depth analysis over how the Treaty differs from Roman legal doctrine. Nevertheless, its **limitation** is that Benton did not consider the Iberian claims prior to the Treaty, thus her conclusion was drawn upon a narrow temporal scope.

Too
brief

L-P

Word Count: 541

Section 2: Investigation

* Due to the absence of standardised line number markings in the *Treaty of Tordesillas*, the references to the Treaty will not be displayed as in-text citation after the first reference shown in Paragraph 2.

Context provided

When Columbus returned from the exploration of Americas in 1492, the dispute between Spain and Portugal over the acquisition of territories was renewed. Thus, on June 7th 1494, the *Treaty of Tordesillas* was signed between the Spanish and Portuguese crowns, with a demarcation line drawn along a meridian of 370 leagues west of the Cape Verde Islands. In the following centuries, debates emerged over whether the Treaty served as a landmark of international law.

Perspectives
Herzog could be clearer to how he is in opposition

While historians like Thomas Duve perceives the Treaty's departure from its reliance over papal authority marked a turning point in international law (Duve 2), Herzog criticized the arbitrariness of the Treaty, as the states nevertheless relied on practicalities to solve disputes in the long-term (Herzog 34). By evaluating the impact of the Treaty, the extent of its enforcement, and the crowns' intention of drafting the Treaty, this investigation will argue that the Treaty was only a landmark of international law in theory, while in practice, the Treaty was not strictly enforced by the crowns due to practicalities and the lack of acknowledgement from other European states. Developed Argument

In one sense, the *Treaty of Tordesillas* marked the transition for states to legitimize their actions built on "mutual consent" (**Treaty of Tordesillas*) between sovereigns against the pre-established practice of seeking papal recognition for their claims. In seeking to consolidate the status of their future discoveries with autonomy, Spain and Portugal asserted in the Treaty that papacy will order future bulls only "according to what is set forth" and align its interventions with the "tenor of this agreement". This act highlighted the proactive command of the states in reducing papal interference over the Treaty content. As such, the role of papacy was made passive against state actions, and it was until 1506 that the bull *Ea Quae* was issued to the Treaty (Preiser 23). Although Bown insisted the decade-long delay between the Treaty and the papal bull did not undermine the long-standing significance of papacy in validating the legality of state actions (Bown 214), he overlooked the consequent impact of the Treaty. By 1529, when the *Treaty of Zaragoza* referenced *Treaty of Tordesillas* during disputes over Moluccas, the request for papal confirmation became non-existent (Duve 6). Moreover, in contrast to the autonomous state action presented in the Treaty, it was a longstanding trend for Portugal and Spanish rulers to seek papal

Evaluation

Evidence

intervention in the past decades. For instance, when Alfonso V sought to justify the exclusive rights of trade and colonisation over lands south of Cape Bojador in Africa, Nicholas V issued the *Romanus Pontifex* in 1455 (Tomlins 101). Moreover, by 1493, Pope Alexander VI issued five additional bulls to grant Spanish rights over the Indies (Duve 3). Thus, the Treaty undoubtedly established a starting point for Spain and Portugal to legitimize their action independent of papacy, which differed from the established practices in the past.

Analysis and Evaluation evident

Further Argument. Furthermore, it can be argued that numerous modern international law concepts and notions were introduced under the *Treaty of Tordesillas*. For instance, Benton claims that the Treaty altered the states' rigid adherence to the framework of Roman Law. In contrast to the coercive cession of sovereignty when the opposite state won the claim under Roman law, the transfer of sovereignty was voluntary in the Treaty (Benton 22). For instance, the Treaty concluded with "We approve, commend, confirm...penalties and obligations...set forth in the said contract of agreement and concord above written", which reinforced the consensual nature of agreements established in the Treaty, and the proactive roles states took in maintaining mutual interests. As such, this highlighted the Treaty's conformity to the principle of *voluntarism* in international law, namely the absence of coercive actions between states in their agreements (Lesaffer 437). Additionally, it can be argued that stipulation of a meridian line in the Treaty signified the emergence of the term "possession" under international law, evidenced from the ongoing negotiation between both parties to stipulate inviolable territorial rights while denying non-European states' statehood (Linden 12). Rossi contends that the Treaty was limited in mixing the two legal notions together, namely territorial sovereignty "*imperium*", and ownership over resources of the sea "*dominium*" (Rossi 278). Nevertheless, the significance of the Treaty should not be discarded based on its inability to distinguish precise terms of international law. Therefore, by recognizing the emergence of new legal terms in the Treaty, it can be argued that the Treaty was valuable in its contribution towards the framework of international law.

Link could be clearer

Counter + Evaluation

Evaluation of evidence

Counter However, the legal significance of the *Treaty of Tordesillas* may be undermined by the two states' nominal enforcement of the Treaty. Both states lacked sufficient technical and scientific knowledge to accurately draw an unambiguous "straight" demarcation line of 370 leagues, with the measuring units of marine *league* different and inaccurate in nature (Chardon 130; Williams 6). Thus, despite the outlined territorial rights in the Treaty, whereby newly-discovered lands to the east would belong to Portugal and the west to Spain, it was impossible for the states to

objectively determine whether the opposite force has violated the boundary. As such, although Brazil fell between the spheres of both states, Portuguese explorer Pedro Álvares Cabral nevertheless claimed Brazil for Portugal in 1500, and the inability for Spain to distinguish a precise line against such claim accelerated the tension between two states (Bown 227). Hence, despite the legally binding terms written in the Treaty, the inability to enforce the said boundary in reality undermined the Treaty's significance as a turning point in international law.

Further evidence could have been useful

Moreover, the legality of the *Treaty of Tordesillas* was undermined by the lack of acknowledgement by other European states towards its written terms. The emerging Maritime powers such as England, France and Netherlands nevertheless established settlements within the sphere (Duve 5; Sluiter 29). By 1655, the English amphibious invasion force broke the Spanish territorial claim in the Caribbean and established the first institution of an English imperial state (Miller 186). Hence, the Treaty did not deter foreign states from violating the territorial rights in the long-term, and neither was exclusive rights of navigation in the zone enforced. Although Duve emphasizes on the legality of the Treaty boundary in shaping a sphere of sovereign influence in Pacific Ocean (Duve 5), his argument is nevertheless weakened by the failure of Spain and Portugal to enforce the outlined sphere against other European states. Rather, it can be argued that Treaty merely sketched out the sphere of "potential expansion" (Herzog 26) which did not confirm exclusive territorial rights for both states. Therefore, the lack of international recognition and the failure to regulate territorial violation against the European states limited the credibility for the Treaty to be regarded as a landmark in international law.

This is not strictly true. Although the principle is.

Further examples were required

Finally, the intention of both states to focus on practicalities quickly outweighed their willingness to respect the Treaty terms in the long-term. Despite the stipulated terms for the states to enhance the accuracy of the said boundary by "dispatching two or four caravels" and sending "pilots, astrologers, sailors" to examine the situation within 10 months from the date of its signature, it was until 1512 when the states executed the terms (Davenport 101). Furthermore, the Treaty concluded with Spain and Portugal announcing to fulfil the "contract of agreements" with a date "valid forever and ever". However, when the 16th century Magellan's voyage offered Spain the alternate passage to the Spice Islands, Portugal sought to preserve its commercial interest in the Philippines, which resulted in its negotiation with Spain over a new demarcation line drawn 297.5 leagues east of the Moluccas in exchange for 350,000 ducats (Williams 7). By 1580, the frontier of Spain and Portugal was united as a result of their mutual interest over the enforcement

Over-explained

of inner frontiers against other European states and indigenous actors (Marques 40), which reinforced their lack of interest in enforcing the demarcation line written in the Treaty. One could argue that the Treaty reinforced the Crowns' intention to enact laws over possessing lands in the long-term, evidenced from how King Philip II of Spain specifically passed the *Laws of the Indies* in 1573 to "facilitate the performance of the discoveries, the establishment of new settlements" (Miller et al 854). Nonetheless, it should be noted that the enactment of such laws was fundamentally aimed to serve the crowns' practical interests over their territories. Therefore, just as Herzog concluded, the intention of crowns to invoke Treaty terms was merely a mean to suit the practicalities "according to convenience" thus limiting the legality of the Treaty (Herzog 26).

In conclusion, the *Treaty of Tordesillas* can only be regarded as a nominal landmark in international law that was valuable in theory. It is indisputable that the Treaty laid the foundation for autonomous states to legalize their action against papal authority, in addition to its introduction of various concepts in international law. Nonetheless, the extent of enforcement over Treaty terms was limited and the two states' interests in practicalities quickly outweighed their intention to respect the Treaty, therefore limiting the overall values of the Treaty as a substantial landmark.

Conclusion reached and justified.
Even if slightly repetitious.

Word Count: 1271

Section 3: Reflection

This investigation has enabled me to develop a more critical understanding of the various methods historians used, and the challenges they encountered.

One challenge historians face is to choose the appropriate scope for their investigation and shape their writing style accordingly. In my first draft, I was too concentrated on differentiating the legal theories of international law and overlooked the problem of the underdeveloped analysis regarding the Treaty's historical values. Moreover, due to my limited encounter with law as a subject, I have chosen an unsuitable writing style that made my writing less readable. This made me realized that historians should be sensitive to the scope of research and consider whether their corresponding writing style is comprehensive for their readers. For instance, when Linden explored the legality of European colonization by delving into the legal terminologies of "territorial sovereignty" and "property rights", he nevertheless based his arguments from numerous history cases studies (Linden 18). Although the scope of the writing is difficult to balance when the area of investigation becomes multidisciplinary, I have learned that it is nevertheless the historians' responsibility to use a historical discourse to shape their arguments and identify clearly the aspects their research focuses on.

Needs to explain why this is a challenge.

Examples link to the challenge is unclear

There are a lot of different ideas. It is not cohesive

Another challenge historians encounter is to recognize the danger of using present dynamics to classify past events. This leads to the potential for historical events to be contorted under the permeation of modern ideas in the historians' work. Hence, it should be the historians' role to acknowledge the historical and political context of the events they are investigating before reaching their conclusions. For instance, Rossi used the 21st-century South China Sea dynamics to categorize the limitations of the Treaty into a "syndromic indicator" (Rossi 2). As such, her evaluation was overshadowed by her underlying assumption as a modern legal historian, therefore neglecting the context of an underdeveloped legal framework in the 15th century. Similarly, my initial analysis of the Treaty was affected by my reading on modern legal theories, resulting in me cherry-picking the semantic weaknesses of the Treaty in emphasizing its limitations. Thus, although we should recognize how history moulds a better understanding of the contemporary world and that human opinion can never be fully objective, I perceive it is beneficial for historians to be aware of the historical context behind the events they investigate in reaching a more well-grounded conclusion.

Challenge identified

Link made

General statement

Word Count: 388

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