

Portuguese Imperial Building in the Kotte Kingdom of Sri Lanka as a Reflection of 16th Century International Law

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<p>Keywords: Sri Lanka, Kotte, Portuguese, Sovereignty, Kingdom</p> <p>DOI: 10.25041/lajil.v5i2.2946</p>	<p><i>The role of colonialism in shaping international law has been a contentious issue among legal scholars, who overwhelmingly view international law as a tool of imperialism. This paper describes the 16th-century interactions between the Portuguese and Sri Lanka, which served as early instances of an international legal system biased towards European interests. The practices adopted by the Portuguese in Sri Lanka during their engagements with the Kotte kingdom represent early instances of unequal treaties, the undermining of sovereignty, and the imposition of "puppet rulers." This paper critically examines these practices in the context of the evolution of international law during the 16th century.</i></p>

A. Introduction

For many centuries, philosophers have proposed views on the power of legal thought beyond the boundaries of territories. The status of international law as a cohesive system is debatable, given the complexity surrounding the concept of a "system" as described by various philosophers, including Leibniz and Kant. In the early 17th century, the term "system" was gradually accepted as a phrase referring to the external aspect of the government, which Grotius conceptually conceived as a bond between autonomous communities. (*Foedus arcitissimum inter civitas*)¹. The notion of a system was further developed by scholars like Hobbs, who devoted a whole chapter of his *Leviathan* to discuss the vastness of "system, in which he defines a system as "any number of men joined in one interest or one business." Nevertheless, the narrative on international law as an organized system was novel in the 16th. The Salamanca

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

School in Spain significantly influenced the early historiography of international law in the 16th century, grounding its framework in theology and natural rights. A notable example is Francesco Vittoria's renowned justification of the Spanish claim over the Indigenous peoples, which remains a classic illustration of their approach.²

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

Vittoria, invoking the concept of natural law as a universal principle that applies to everyone, including non-Christians such as Indians, aims to utilize *ius gentium*, originating from Roman law, for various purposes. These include dividing properties and territories, supporting the right to travel and trade, and the occupation of *terra nullius*. However, Vittoria's stance on the legal status of these actions remains unclear.³

The events that led to the rise of the Spanish and Portuguese empires and their establishment of global dominance in the early 16th century paved the way for the development of international law as a governing system. Spanish and Portuguese empires attempted to civilize and convert the indigenous populations to “one true religion.”⁴ In contrast to the Westphalian system established in the 17th century, the Treaty of Tordesillas in 1494 was pivotal in 16th-century international law, allocating the newly discovered territories outside of Europe between the Portuguese and Spanish empires. However, during their colonial expansions, these Iberian powers showed little interest in adhering to a framework of international legal principles. The conventions and doctrines they developed with the nations outside the European continent displayed ambivalence toward adopting a static system. The Portuguese completion of their spiritual and temporal conquest in Sri Lanka in the 16th century highlights the inconsistency of the international legal thought system despite the initial advocacy of natural law by the Salamanca School. The Portuguese tenure in Sri Lanka stands out in their Asian history as the sole instance where they significantly engaged in territorial governance and became deeply involved in the state's affairs, showcasing a unique aspect of their colonial endeavors.

The recent scholarly literature exploring the history of international law views international law as an instrument of the empire⁵. International law has been widely regarded as an intellectual achievement stemming from Europe, which was diffused to the non-Western world through force and coercion during the colonization process. This paper describes the complex nature of Portuguese practice of interstate relations between Portugal and the King of Kotte Kingdom in the 16th century as a paradox to the foundation of international law in Europe, the mysterious policy adopted by Portuguese in Sri Lanka to install puppet princes in their occupied territories as a method to legitimize their authority to the polity and the geopolitical challenges that encompassed Portuguese presence in Sri Lanka in late 16th century. This paper explores the

² Marti Koskenniemi, *Empire and International Law: The Real Spanish Contribution*, *University of Toronto Law Journal*, Vol.61, No.1, pp.1-36.

³ *Ibid.* p. 16

⁴ Disney, *The Portuguese in India and other Studies, 1500–1700*; Subrahmanyam, *The Portuguese Empire in Asia, 1500–1700: A Political and Economic History*; Thomaz, *De Ceuta a Timor*

⁵ Koskenniemi, *Introduction: International Law and Empire*: Aspects and Approaches

reasons for the lack of a static international law principles system during the Portuguese occupation of Sri Lanka.

B. Discussion

1. Portuguese View on Law

Manuel Bastian Saavedra stated, “The idea of law that dominated Iberian worldview was nevertheless broader than an imperial image may suggest.”⁶ After the emergence of Portugal as a kingdom from its medieval slumber in 1189, the Portuguese attitude to law was not different from their Spanish counterparts in the Iberian Peninsula. The law was presumed to have gained its authenticity from God. It contained a *quasi*-ontological quality and was understood as an ordering force that could be found both in nature and in all kinds of human institutions and practices. The legal capacity was extended to wider subjects such as animals, lands, and colors. This archetypical juridical worldview among the Portuguese Spanish jurists perceive law as a revered cultural paradigm, and this “pan juridification of the world was inherently different in its stance today.

The fundamental aspect of the Portuguese understanding of law was its belief in a divine origin that transcended earthly entities like the state and politics. In this framework, society comprises corporate bodies (*corpora*) representing various professions and entities, such as cities, parishes, universities, and kingdoms, each with distinct and elevated legal statuses. Translating divine law into human legislation fell to the political authorities, embodying “*jurisdiction*” or the “power to declare the law.” This process was guided by a theological drive, limiting the scope of human legislative power to merely uncovering the law from its divine source, thereby placing political power under divine authority. Sandra articulated it

“In this juridical model of government, the power to rule was inseparable from the power to judge.”⁷

Portuguese utilized the same model in their global quest for imperial building.⁸ Adopting the Castilian principle of “*Audiencias*” from the late medieval period, which epitomized the judicial order of the kingdom, the Portuguese, in their overseas territories, shifted the focal point of legal authority to their officials. This move empowered these officials to pronounce the law, encompassing activities such as negotiating treaties and promulgating decrees. Regarding the mechanism adopted by the Portuguese in its overseas expeditions, Hespanha stated

“Outside of the king’s jurisdiction, relations with foreigners and foreign rulers, with allied potentates through “*Amistad*” (friendship) and with enemies were also regulated by “*ius gentium*,” creating different sets of norms that, though beyond the power of the monarch, were not foreign to the unitary framework of the juridical order of the *ancient regime*.”⁹

⁶ Manuel Bastian Saavedra, Norms Beyond Empire: Law Making and Law Normativeness

⁷ *Ibid*, p.12

⁸ Bastias Savendra, “Jurisdictional Autonomy and the Autonomy of Law: End of Empire and the Functional Differentiation of Law in the 19th Century Latin America.

⁹ Antonio Hespanha, Early Modern Law and the Anthropological Imagination of Old European Culture”

2. Early Portuguese Encounters in Sri Lanka

The time gap between Vasco de Gama's arrival in Calicut in 1498 and the Portuguese landing in Sri Lanka under Lorenzo de Almeida in 1505 was seven years. The apparent gap of this relatively brief period strengthened the Portuguese venture as a technologically powerful European power to confront all its adversaries in the Indian Ocean. With the advent of the Portuguese presence in Sri Lanka, the island's internal political stability was at stake due to a series of internal power struggles that encompassed the chief polity called "Kingdom of Kotte," which resulted in the emergence of rebellious regional polities in Sri Lanka such as Kandy and Jaffna. However, the Kingdom of Kotte did not lose political significance when the Portuguese reached the Sri Lankan shore.

The monopoly on the cinnamon trade along the West coast of Sri Lanka was long held by Muslim merchants, supported by the rulers of Kotte. Despite the seemingly fortuitous arrival of Almeida in Sri Lanka, the Portuguese were not ignorant of the island's strategic importance. They were likely well-informed about it through sources in Calicut and Cochin, hubs of Muslim trade. However, the initial objectives of the Portuguese ventures in Sri Lanka did not explicitly show the ambition of a territorial acquisition. Their visit to the island was not different from the ones of other merchants from the Middle East and China, except for the fact that the Portuguese were bearing firearms. The power of the Kotte polity was declining due to the weakened leadership of its aging King, Dharma Parakramabahu, who displayed a willingness to welcome the Portuguese.¹⁰

Fernao Cotrim, the first envoy dispatched by the Portuguese to engage in discussions with the King of Kotte, unambiguously articulated the stance adopted by the Portuguese in their interactions with the rulers of the lands they visited. He affirmed their sole intention was to pursue peaceful trade, yet they were prepared to wage war against any who rejected their peace offer.¹¹ This phenomenon should be ascertained from two different standpoints parallel to the common Iberian attitude toward any international legal consensus in the 16th century. First, the treaty of the Tordesillas, which divided the newly discovered world between Portugal and Spain in 1494, granted a univocal right for the Portuguese in the Indian Ocean to proceed with their navigation uninterruptedly.

When the Portuguese embarked on their voyages in the Indian Ocean, there was no sign of a counter to the claim of Grotius's "*Mare Liberum*" from Europe. Cortim was well aware of the essence of Tordesillas as a Portuguese delegate, but his initial approach to the Kotte ruler was to be a partner. Fernao Cotrim, serving as the inaugural envoy from the Portuguese to initiate dialogue with the King of Kotte, distinctly conveyed the policy the Portuguese adhered to when dealing with sovereigns of the territories they encountered. He stressed that "*We declared war on all who did not accept our peace,*"¹² which denoted the beginning of the unequal treaties of the Western powers in Sri Lanka.

Cotrim's stance before the King of Kotte serves as a reminder of the complex legal apparatus of the Iberian world, which was antithetical to a monopoly of law under a single ruler. On the contrary, the ability to uphold relations with foreigners outside Portugal was extended to the

¹⁰ C.R de Silva, Portuguese

¹¹ Sir Paul E Pieris, *Ceylon the Portuguese Era*, Cave: Colombo, 1913, p.56.

¹² *Ibid.* p.44.

officials. Thus, the early efforts of the Portuguese encounter with the Kotte ruler in Sri Lanka should be ascertained as a venture embodying the decentralized legal stances of the Iberian world.

The initial negotiations between the Portuguese and the King of Kotte marked not so much a novel strategy as applying a well-established practice by the Portuguese in the East. Their usual approach involved forging treaties with local rulers. Through these agreements, the Portuguese secured a monopoly over the trade of specific goods they sought, while the local princes committed not to engage in trade with any nation hostile to the Portuguese. In return, the Portuguese agreed to buy the monopoly goods at predetermined prices, supply the region with necessary European commodities, protect the coasts from maritime threats, and support the King against his enemies. These terms often allowed the Portuguese to construct their fortresses, within which they wielded almost sovereign authority.

Despite obtaining permission from the ruler of Kotte to establish a commercial base in Colombo, the Portuguese influence in the island's internal affairs remained limited until Lopo Soares de Albergaria took office as the Portuguese governor-general in Goa in 1515. Determined to strengthen Portuguese presence, Albergaria succeeded in building a fort in Colombo by 1518. This shift from a relatively inconsequential role to a position of significant influence in Sri Lanka should be analyzed within broader developments in the Iberian Peninsula, highlighting the strategic evolution of Portuguese engagement in the region.

The early frontiers of international law should be regarded as a discourse blended with the quest for geopolitical power. The juxtaposition of the rapid military development under Albergaria in Colombo and the Portuguese plea from the King of Kotte was a subtle reaction to Portuguese encounters with the Moors in the Indian Ocean. Since the establishment of *Estado da India* under Albuquerque, the Portuguese intensified their interest in the island of Sri Lanka for its strategic location between Western India and the Indies.

Albergaria successfully managed to subdue the opposition from the Moors in Colombo to establish a Portuguese stronghold and invited the Kotte ruler, King Dharma Parakramabahu, to conform to his earlier treaty with the Portuguese. The treaty signed between the Portuguese and the Kotte king in 1518 raised several questions on its binding nature as it portrayed the King of Kotte as a vessel to the kingdom of Portugal.¹³ Portuguese historians such as De Queyroz have named this treaty an act of vassalage.¹⁴ The treaty creates a sense of subordination of the Kotte ruler to the Kingdom of Portugal. It states

“ I, the Emperor Parakramabahu, in the capital of my empire, this the fortieth year name Segar, am content and am well pleased to give to the Kings of Portugal each year a tribute 400 bares of Cinnamon, and 20 rings set with the rubies which are found in the island of Ceilao, and ten elephants with tusks, on the sole condition that the present governor and the viceroys and governors who succeed Lopo Soares de Albergaria in the state of India shall be bound to help and assist me against my enemies, as I am a vassal of the crown of Portugal”.¹⁵

This treaty appears to mark a pivotal shift in Portuguese policy in Sri Lanka, moving from a position of relative passivity to a significant point of influence. This transition elevated them to a dominant status in Sri Lanka amid the internal political strife that overwhelmed the Kotte

¹³ George Winius, *The Foundation of the Portuguese Empire, 1415-1580*, University of Minnesota Press.

¹⁴ Fernao de Queiros, *The Temporal and Spiritual Conquest of Ceylon*,

¹⁵ J.Pinto, *Historia Oriental de las Peregrinaconnes de fernan Mendes Pinto*, Valentia, 1645.

kingdom. In understanding the treaty, it is necessary to understand the Iberian territorial rights designed by Spanish jurist Lopez de Palacios Rubios in 1513 as “*Requerimiento*”.¹⁶ *Requerimiento* mentions that the Pope could dissolve the jurisdictions of the heathens and pagans and confer them on Christian monarchs.

The document that affirmed the legal basis for Spanish territorial expansion in the New World was a guiding light for Spanish and Portuguese colonial endeavors. In Sri Lanka, the situation for the King of Kotte took a distinctive turn after the ratification of the Portuguese treaty in 1518, followed by the establishment a robust military presence.¹⁷ This development undermined the King's standing among his subjects, marking the beginning of the Kotte Kingdom's gradual reliance on the Portuguese. This path would ultimately lead to its complete subjugation and the increasing estrangement of its ruler from the populace. Understanding the Portuguese tendency to strengthen their foothold in Colombo by forging treaties with the Kotte ruler should be considered alongside the evolution of international law in Europe. This body of law unequivocally supported the territorial ambitions of the Iberian nations in non-Christian territories. By 1520, a mere decade after their arrival in Sri Lanka, the Portuguese had cemented their role as treaty partners with the King of Kotte, a relationship that would become disadvantageous.

3. Kotte Kingdom Under Portuguese Influence

The early attempt made by the Portuguese to form a settlement in Sri Lanka lasted short, as the Portuguese fort was demolished in 1524. Three years before this event, the political apparatus of the Kotte kingdom was shaken by the assassination of Kotte king Vijayabahu VIII by his three sons, Prince Buwanekabahu, Mayadunne, and Pararajasinghe. This incident is known as “Vijayaba Kollaya” in Sri Lankan history. This event completely debilitated the political unification of the country, enabling the Portuguese to make expansion. *Vijayaba Kollaya* was followed by a series of events that showed the gradual transformation of Portuguese ambition from commerce to territorial acquisition.

The rise of Mayadunne as a rival to his brother Bhuwaneka Bahu intensified Portuguese attention back to the island after their withdrawal from Colombo in 1524.¹⁸ The assertive territorial expansion undertaken by Mayadunne, which constituted a discernible menace to Kotte, compelled Bhuwaneka Bahu to explore alternative avenues for security. In this context, the significant Portuguese establishment in Cochin, India, presented itself as the most logical option for protection. Bhuwaneka Bahu’s decision to appeal protection from the Portuguese was a detrimental mistake made by the Kotte ruler as the Portuguese sought to increase their influence. The formation of an alliance between Mayadunne and the Samorin of India instilled a sense of apprehension in King Bhuwaneka Bahu, leading him to believe that this coalition jeopardized his kingdom. In light of these developments, he dispatched a letter to the Portuguese captain in Goa, earnestly requesting his presence in Sri Lanka, with the conviction that such a visit would offer adequate safeguarding against his adversaries.¹⁹ The triumphant return of the

¹⁶ Marti Koskeniemi, Empire and the International Law: The Real Spanish Contribution, *The University of Toronto Law Journal*, Vol.61, No.1, (2011).

¹⁷ V.L.B Mendis, Foreign Relations of Sri Lanka, Tisara Publishers:Colombo, 1986, pp.178.

¹⁸ Rajavaliya, Trans : A.V. Suraveera, Thisara: Colombo, 1989.

¹⁹ Tikiri Abeyasinghe, Portuguese in Kotte, Colombo: Lake House, 1981, pp.109.

Portuguese to Sri Lanka occurred in the same time frame as the Western imperial protection based on the ideas of Vittoria and Vattel. However, the Portuguese adhered to the same policy of providing their imperial protection to the King of Kotte, which took a different bent from the protection doctrine based on Vittoria's natural law doctrine.²⁰ Sir Paul E Pieris described the conditions faced by Bhuwaneka Bahu as perilous. Pieris stated:

“The Portuguese, on their arrival, proceeded to Kotte, where they were regally entertained by the King at a banquet, being waited on by women, and the Captains were all presented with valuable gifts. In his gratification at the interest de Sousa had taken in his affairs, Bhuwaneka Bahu further advanced him a sum of 45,000 cruzados towards the fleet's expenses through this loan and several others, which were never repaid”.²¹

The escalation of internal political strife within the kingdom rendered Kotte vulnerable to increasing Portuguese sway, enabling Portuguese officials on the *Estrada da India* to expand their treaty-making powers with Bhuwaneka Bahu. The control the Portuguese had over their territories as an independent nation, separate from Lisbon's imperial rule, was divided. Because of its complicated structure, having a single, centralized government was impossible. The power to make laws was not held only by the Portuguese King but was shared among various officials in the empire. For example, there was no agreement among Portuguese officials on interacting with the ruler of Kotte, and some traditional Portuguese military leaders like Manuel Ferreira and Pero Vaz Travassos believed they should take over Sri Lanka for Portugal.

Meanwhile, due to his advancing age and conflict with his brother, Bhuwaneka Bahu, the ruler of Kotte, was worried about choosing a successor. After discussions with his advisors, he decided his grandson, Prince Dharma Pala, should be protected by King Dom Joao III of Portugal. In 1541, a group from Sri Lanka and the Portuguese traveled to Lisbon.²² The negotiations in 1541 between the Sri Lankan group and the Portuguese King changed Portugal's minor role in Sri Lanka, elevating the Portuguese King to the guardian of a Sri Lankan heir to the throne. In exchange, King Bhuwaneka Bahu promised to keep paying tribute as before and let the Portuguese King keep control of certain areas if he defended them. The agreement signed by both sides confirmed the Portuguese King's new role.

“And as it is my earnest desire in all these matters to please the King as mentioned earlier of Ceyllam as well for the great goodwill I bear towards him as for the high kindness which he has always willingly displayed in all matters relating to my interests which have arisen, and is my hope that the aforesaid his grandson will likewise for all time cherish, maintain and preserve this our friendship and will be grateful to me and will all this great kindness at my hands.”²³

²⁰ Lauren Benton, Lisa Ford, *Rage for Order: The British Empire and the origin of International Law*, Cambridge: Harvard University Press, 2015.

²¹ Sir Paul E Pieris, *Op.Cit.*, p.77.

²² Alan Strathern, *Theoretical Approaches to Early Sri Lankan History and the early Portuguese Period*, *Modern Asian Studies*, Vol.38, No.1, (2004).

²³ Zoltan Biedermann, *The Matrioshka Principle and How it was overcome: Portuguese and Hapsburg Imperial Attitude in Sri Lanka and the responses of the Rulers of Kotte (1506-1598)*, *Journal of Early Modern History*, 13 (4), 2009.

The sudden changes in Portuguese position on the island from mere armed merchants to policy makers were due to the disruption of the Kotte kingdom and the uncertainty that dwindled in the King's mind. The decadent status of Bhuwaneka Bahu before the Portuguese affected the exclusion of sovereign equality from the 16th-century international legal order. Vittoria's view, grounded in natural law, suggested that international law was an equal resource for all states. However, this was not the case, especially during the Iberian expansion of their overseas empires. Furthermore, Vittoria's strong statements implied that if the Indigenous peoples resisted the Spanish, it could be seen as aggression, justifying self-defense by the Spanish. This justification was similarly used by the Portuguese in Sri Lanka. In the aftermath of the infant prince Dharmapala's baptism in Lisbon, the Portuguese enhanced their political grip over Sri Lanka through a rigorous process of converting natives to Christianity led by Franciscan-Jesuit missionaries. Every attempt made by locals to retaliate was brutally oppressed by the Portuguese even though they had no legitimate authority in the maritime provinces of Sri Lanka. The peak of Portuguese influence had not yet been reached, and their power was further strengthened when the King of Kotte requested military help from Goa to defend his rule against Mayadunne. Taking advantage of their dominant position, the Portuguese frequently carried out religious persecution, including looting Buddhist and Hindu shrines. This action was officially approved by a letter from Portuguese King João III to Goa in 1546.

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

The letter highlighted the Catholic influences deeply embedded in the broader narrative of the Iberian pursuit of a global empire. This originated from the Papal Bull issued to the King of Portugal in 1455, which authorized him to conquer and subdue all pagans and other enemies of Christ.

Following their mentorship of Dharmapala, the Portuguese extended their support to several other native royal figures in Sri Lanka. The influence of Portuguese missionaries played a crucial role in shaping the Portuguese perspective towards the Kotte kingdom. Notably, Portuguese Jesuit missionary Francis Xavier sent letters to Portugal indicating that the King of Ceylon was a staunch adversary of Christianity and did not merit Portuguese protection. After the death of King Bhuwaneka Bahu, Dharmapala, who was under Portuguese patronage, succeeded to the throne.²⁴

4. Dharmapala gifts his kingdom to the Portuguese.

At the beginning of the 1590s, the Portuguese had become the leading force in Sri Lanka. They had effectively controlled Kotte since 1551 and took over Sitawaka in 1593. In 1591, they placed Don Philip as the ruler of the Udarata region in Sri Lanka under the agreement that he would serve as a vassal to the King of Portugal and pass on the territory to Portugal if he had

²⁴ Paul E. Pieris, *Op.Cit.*, p.181.

no heirs. These gains were fortune that had come to them effortlessly. Their future seemed assured as all roads appeared to lead toward their becoming the sovereign ruler over the land.

The clever diplomacy used by the Franciscan friars played a key role in this situation. They guided Prince Dharmapala's moral education and shaped his views to favor Portuguese guidance. When Rajasinghe I of Sitawaka constantly threatened Colombo, these friars advised Dharmapala to officially give his kingdom of Kotte to the Portuguese through a legal document intended to take effect upon his death. This action led to Kotte becoming a controlled territory of the Portuguese King Dom Henrique, losing its independence.

Antonio Ribeiro confirmed The legal document in Portuguese in Lisbon and received the King's seal on August 12, 1580. This move legally transformed the Portuguese from being armed traders to official representatives of the Crown of Portugal. It marked the beginning of their control, which lasted until the Dutch expelled them from the coastal areas of Sri Lanka in 1658. Additionally, political changes in Portugal, such as the rise of Philip II of Spain to power, which brought the Portuguese Crown under the control of the powerful Hapsburg dynasty, had significant consequences for Sri Lanka.²⁵

Under Hapsburg's rule, Portugal adopted a stricter approach towards its external relations, focusing on maintaining control over its valuable overseas territories in India. During this period, the Portuguese strategy of installing puppet rulers in the state polity of Sri Lanka continued to legitimize the claim for the soil. This notorious policy initiated by the Portuguese was the maiden attempt made by European powers in South Asia, which conceived the new idea of the “**Doctrine of Lapse**” for the British imperial legal policy in India.²⁶ Following the example of installing Dharmapala as a puppet ruler in the Kotte kingdom, the Portuguese also set up weak rulers in the kingdoms of Jaffna and Kandy in Sri Lanka to preserve its interests.

The strategy of setting up international law as an imperial instrument in Europe gained popularity among Portuguese enterprises in the East. The legality of Dharmapala's donation of the kingdom of Kotte was further bolstered by the anatomy of the deed, which contained a clause disinheriting all the Kinsmen of Dharmapala from claiming to the Crown after his death.

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

“Empire’s law was a chaotic compound of legal regimes, combining the diversity of the very Metropolitan law with a wide array of particular legal orders, local usages, and judicial styles. [...] Rather than representing a hierarchical legal order dominated by a common set of imperial prescriptions, imperial law was a piece of lacing machinery knotting legal

²⁵ Zoltan Biedermann, The Matrioshka Principle and How it was overcome: Portuguese and Hapsburg Imperial Attitude in Sri Lanka and the responses of the Rulers of Kotte (1506-1598), *Journal of Early Modern History*, 13 (4), 2009.

²⁶ Punsara Amarasinghe, Imperial Promise of Protection in the 19th century International Law: The Case of Kandy Kingdom”, *SOAS Law Review*, Vol.2, No:1, 2020.

threads of different colors and resistance, assisted by a dispersed and incoherent body of officers, applied with the most diverse intensity to diversely dependent subjects".²⁷

Setting up puppet rulers in different regions of Sri Lanka was a key factor in the Portuguese's success in taking control of the country and legitimizing their rule. After setting up Dharmapala as a puppet ruler, the Portuguese focused on Udarata, where they installed Don Philip. Following suppressing a rebellion in the northern Kingdom of Jaffna, they proclaimed the sovereignty of the King of Portugal over Jaffna at the Nallur Convention.²⁸ This approach secured the Portuguese's interests and marked their dominance. A central aspect of this strategy was the promotion of Christianity over indigenous beliefs, primarily through the efforts of Franciscan missionaries who worked on converting native rulers to Christianity. This religious conversion lent a layer of legitimacy to their treaties and agreements. The Portuguese method of establishing puppet rulers illustrates how international law can be manipulated to undermine local consensus to benefit imperial ambitions.²⁹ This early tactic by the Portuguese in the 16th century laid the groundwork for the colonial mandate system in the 20th century, framed as a "sacred trust of humanity"³⁰ but often served as a pretext for the continuation of European dominion over other peoples.

5. Towards an imperial path

A significant shift in Portuguese policy regarding their rule in Sri Lanka occurred due to unexpected changes and challenges, moving from the relatively peaceful strategy of installing puppet rulers to aggressively solidifying their imperial control. This change was realized when De Azavedo was appointed as a Captain-General. His leadership style was reminiscent of famous conquistadors like Cortes and Pizarro, characterized by a blend of military brilliance, ruthlessness, and unwavering focus on his goals.³¹

Contrary to the previous Portuguese Captain Generals, Azavedo built a casa or residence in a suburb called "Malwana" for a strategic purpose. After the death of the Kotte ruler Dharmapala in 1597, Azavedo gathered all the native noblemen and Portuguese officers in Malwana to announce the death of Dharmapala. Dharmapala made a will naming the King of Portugal as his heir, and De Azavedo quickly acted to take control of the territory on behalf of the Portuguese Crown.³² The legality of the Malwana Convention has sparked debate among historians, with many questioning the accuracy of the supposed agreement between the natives and Azavedo due to various inconsistencies.³³ Notwithstanding the complexity that prevailed among local historians, the offshoot of the Malwana Convention made a new paradigm shift in the Portuguese presence in Sri Lanka, which transferred from a decentralized position to a mission of consolidating power. A public meeting invoked by Azavedo in Malwana in 1597 demanded the overall obedience of all the public officials to the Crown of Portugal. In return,

²⁷ Antonio Hespanha, *Early Modern Law and the Anthropological Imagination of Old European Culture*

²⁸ Mudaliar Rasanayagam, *Ancient Jaffna*, Colombo: Caves, 1926, pp.187.

²⁹ V. Perniola, *The Catholic Church of Sri Lanka: The Portuguese Period*, Colombo: Thisara Publishers, 1984.

³⁰ Lord McNair in the South West Africa Opinion [1950] I.C.J. Rep. 1

³¹ V.L.B Mendis, *The Roots of Sri Lanka's Foreign Policy*, *South Asian Survey*, Vol.1, No.1, 1991.

³² CG Perera, *Dharmapala's Gift to Franciscans*, *Journal of Royal Asiatic Society*, Vol.54, 2008, pp.137-158.

³³ T.B.H Abeyasinghe, *The Myth of the Malwana Convention*, *Ceylon Journal of Historical and Social Studies*, Vol 7, 1964.

he promised an uninterrupted continuity of the Sinhalese customs and laws in the occupied territories. The appointment of De Azavedo signified Portugal's frank acceptance of these sovereign responsibilities and a desire to consolidate and secure the island against external threats.

The peculiarity of Malwana generated a debate on the outlook on the Portuguese's presence on the island as the convention lifted the rank of Azavedo to a king. Even after accepting the authority of Portugal King Philp as the "King and Lord of the island," Azavedo went on to create a quasi-kingship to the role of Captain General. In his seminal work titled "Kingship and Conversion in Sixteenth-Century Sri Lanka," Alan Strathern points out the ambition of Azavedo in creating a regal grandeur in the Court of Malwana, where he was obsessed with compelling native officers to address him as King.³⁴

Adopting the Malwana Convention in 1597 suggests that the Portuguese empire was not monolithically controlling how laws must be executed in the conquered territories. Instead, it established a set of norms that reflected the deep-rooted beliefs and cultural frameworks influencing governance. On the other hand, it created a larger picture for the natives of the regality of the Portuguese rule by aggrandizing its splendor, which was the inevitable way of binding Orientals to the subjugation as practiced by the Sinhalese kings. Sri Lankan historian Sir Paul.E. Peris explained;

"Amid the most fertile and agreeable regions of this Disawani stood Malwana where Azavedo constructed the *Casa* from which Generals were known locally as Kings of Malwana. Here de Azavedo resided for none years, and it was from here that Pereyra directed the military operations during his administration".³⁵

The rise of the Portuguese centrality of power parallel to the despair of the Kotte led its way to another set of gaps between the natives and the Portuguese. In particular, the only remaining native sovereign territory of Sri Lanka, the Kingdom of Kandy, was not recognized by the Portuguese as an independent polity due to the donation deed by Dharmapala. The Portuguese aimed to legitimize their authority by planning to install a puppet ruler, a Sinhalese princess named "Dona Catherina," thereby claiming the Kandyan kingdom.

Like Dharmapala, the Portuguese intended to use Christianity as a key tool, following all necessary procedures to baptize the Sinhalese princess Dona Catherina. Nonetheless, the expedition launched by the Portuguese to put "Dona Catherina" on the throne of Kandy in 1594 became unmitigated chaos against the solid military resistance of the natives in the Kingdom of Kandy and Kandyan ruler Vimaladharmasuriya who forcefully married Dona Catherina to legitimize his rule.³⁶ The Portuguese were reluctant to acknowledge the Kingdom of Kandy's independence because of their strong desire to control the entire country and prevent any potential challenges to their presence. Their understanding of sovereignty and treaty-making

³⁴ Alan Strathern, *Kingship and Conversion in the 16th Century Sri Lanka*, Cambridge: Cambridge University Press, 2010.

³⁵ Paul E. Pieris, *Op.Cit.*, p .191.

³⁶ Gaston Perera, *Kandy Fights the Portuguese: A Military History of Kandyan Resistance*, Colombo: VYB, 2007.

was also based on the common Iberian perception derived from the writings of Vittoria and Suarez of the Salamanca School, whose ideas portrayed the Christian hegemony over the pagans regarding treaty-making and waging war.³⁷ Despite Vitoria's understanding of natural reason, he firmly believed that Indians could not wage war against the Christian Spanish, even though the Spanish were allowed to travel and trade freely. Vittoria's doctrinal position reflected the attitude the Portuguese showed toward the Kandyan kingdom, which was filled with territorial superiority. The growing fear that drove the Portuguese to consolidate power on the island was well justified by contemporary geopolitical events that were unfavorable to the Portuguese. During the latter part of Azevedo's tenure as Captain-General, his approach was more peaceful. He maintained peace with the Kingdom of Kandy on highly unequal terms, effectively accepting Portuguese suzerainty.

C. Conclusion

The approach taken by the Portuguese during their time in Sri Lanka, from an international law perspective, supports the theory proposed by modern international law scholars like Koskenniemi, Anghie, and R.P. Anand. This theory suggests that international law has often been a tool to legitimize European colonial powers, a notion that has gained popularity in legal academia.³⁸ The interest among scholars in this area highlights the appeal of this concept. However, examination of the colonial foundations of international law should be considered alongside the global history of the Iberian empires in the 16th century. The Portuguese and Spanish imperial endeavors laid the early groundwork for the international legal system.³⁹ The Portuguese situation in Sri Lanka was unique, characterized by its complex interactions with the native states.

While describing his stance on international law, Koskenniemi argues that international law contains dual corners called “doctrine of sovereignty and doctrine of sources,” which became problematic.⁴⁰ In their engagement with the Kotte Kingdom, the Portuguese did not admit the sovereignty of the Kotte king. Instead, it focused on securing their commercial interests by any means necessary. The gradual decline of the Kotte, hampered by the internal political turmoil and Kotte ruler Bhuwanekabahu's eagerness to seek protection from the Portuguese for his grandson Dharmapala, made the internal state polity more vulnerable. The Portuguese seized an awaited opportunity to infiltrate the political structure of Kotte, which eventually elevated their status to that of rulers. A key aspect to understand about the Portuguese approach to making agreements with the ruler of Kotte is the significant autonomy granted to Portuguese officials in the administration. The fragmentation of imperial rule among the officialdom intensified the expansion of Portuguese power. Considering the officials' involvement in law-making, it should be highlighted that the legality of those Portuguese officials with the Kotte ruler was constantly changing. In particular, this article has traced the subtle changes made by the Portuguese, from the strategy of installing puppet rulers to the centralization of authority, which was evident during the administration of Azavedo.

This article aimed to explore how Portuguese policy in Sri Lanka in the 16th century mirrors the early evolution of European international law, as the strategies employed by the Portuguese laid the groundwork for more sophisticated methods used by their European counterparts. For

³⁷ A Anghie, *Francisco Vittoria and the Colonial Origins of the International Law*, *Social and Legal Studies*, Vol.5, No.3, 1996.

³⁸ Irene Watson, *Aboriginal Peoples, Colonialism and International Law*, London: Routledge, 2015.

³⁹ *Ibid.*

⁴⁰ Marti Koskenniemi, *Global governance and public international law*, *Jutiz*, Vol.37:No.3, (2004), pp.241-254.

example, the doctrine of lapse, a policy adopted by the British East India Company during its expansion in India, and many of the unequal treaties utilized by Dutch-British colonial powers in South Asia likely have their origins in Portuguese practices.

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