



The Normative Content of the Principle of Non-Intervention in the Jurisprudence of the International Court of Justice: Analysis of Practical Cases

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Abstract

The interpretation of the principle of non-intervention by the International Court of Justice in the case of Nicaragua v. United States has established clear standards on actions that constitute unlawful interference in the internal affairs of a State, including the key elements of a violation of the principle of non-intervention. The ICJ emphasized that only actions that exert a coercive effect on the sovereignty of the affected State reach the threshold of a violation of the principle of non-intervention, which was interpreted as the essential element for the existence of interference. The paper also addresses the connection with previous jurisprudence, in particular the Corfu Channel case, where the principles of state responsibility and respect for sovereignty were established. The analysis of the cases shows that although the decision was not implemented by the United States, it consolidated the understanding of the legal norms on the limitation of intervention and the right to self-defense. However, the paper highlights the tension between international law and political power, while illustrating the importance of international jurisdiction and precedent in preserving sovereignty that has played a key role in the establishment of the principle of non-interference.

Keywords: *Principle of Non-Interference; ICJ; Violation; International Law*

1. Introduction

The principle of non-intervention constitutes one of the fundamental pillars of contemporary international law, sanctioned in Article 2(7) of the Charter of the United Nations and widely developed in the jurisprudence of the International Court of Justice. Among the cases that have had the greatest impact on clarifying the content and limits of this principle is the ICJ decision in the case of Nicaragua v. United States of 1986, where this case represents a historical precedent, becoming a key reference in public international law. Through this case, the Court not only interpreted the limits associated with non-intervention, but also clarified which acts or state actions constitute unlawful interference in the internal affairs of a sovereign state.

One of the central issues addressed in this paper is related to the interpretation that the Court has given to the principle of non-intervention, especially in the context of direct and indirect support. The Nicaragua judgment clarifies that financial, logistical and military support for armed groups, as well as their training, constitute forms of unlawful interference, as they are intended to influence the choice of political orientation of another State. The Court emphasized that only acts that have a binding effect on the sovereign will of the State, affecting its essentially internal affairs, constitute a violation of the principle.

Of great importance in this context is also comparative analysis with the previous jurisprudence of the ICJ, in particular with the Corfu Channel case between the United Kingdom and Albania of 1949. While this case focuses on state responsibility and territorial obligations, it has nevertheless directly influenced the development of standards of international jurisprudence regarding respect for sovereignty, non-use of the territory of another State for unlawful acts and non-interference. This makes it important to assess the extent to which the modern interpretation of non-intervention in the Nicaragua case builds on the legal foundations established in the Corfu Channel case, creating a coherent continuity on the interpretation and completion of the elements of the construction of the fundamental principles of the international order.

Thus, this paper aims to analyze the following research questions: (1) the interpretation that the ICJ has given to the principle of non-intervention in the Nicaragua case; (2) the categorization of actions that constitute unlawful interference; (3) the essential role of the element of obligation in determining the violation of the principle; and (4) the connection of this interpretation with the previous jurisprudence of the ICJ, in particular the Corfu Channel case.

Historical circumstances leading up to the Nicaraguan conflict and the role of the US

Nicaragua is a small country in Central America. Its territory lies along the isthmus, a narrow strip of land that connects North and South America. Where on one side there is the Pacific Ocean and on the other side the Caribbean Sea.

For about 40 years, from 1937 to 1979, Nicaragua was under the control of a family dictatorship. This dictatorship began to collapse after the devastating earthquake of 1972, where about 10,000 people lost their lives and hundreds of thousands were left homeless. The world responded with a large humanitarian aid, but a large part of this aid was “destroyed” by the regime. This caused widespread anger.

At the forefront of the reaction was a socialist group called the Sandinistas, who opposed the dictatorship, but at the same time actively helped the population affected by the disaster, this caused the population from the disasters and economic crises to be in opposition to the regime (Takahashi, 2024). On July 19, 1979, the Sandinistas overthrew the dictator Somoza of Nicaragua. (Sobel, 1995).

From 1967 until July 1979, Nicaragua was ruled by Anastasio Somoza Debayle until he was overthrown by the Sandinistas. The Sandinista victory in the 1980s led tens of thousands, mostly young people from around the world, to travel to Nicaragua to support the new government and rebuild the devastated country.

The situation became increasingly dangerous as the "Contra" forces, backed by Somoza supporters and the United States, sought to restore the old balance of power. The United States began supplying arms to groups opposing the Sandinistas. However, the most important factor undermining the effectiveness of the support was the huge discrepancy in the level of U.S. aid provided to the rebels (Sobel, 1995). Reductions in official US government support led to the collapse of the insurgency campaign and meant

that, in the end, the US support program was only partially effective in aiding the Contras' war (Office of the Inspector General, 1997). The Central Intelligence Agency had been financing the rebels since 1981, secretly funneling money and weapons (Office of the Inspector General, 1997).

Through the table below, find data on the financing of the Kontras group:

1981	Unspecified	Covert support	Nacional Securitz Directive
1983-84	24 milion \$	Limited support	Congressional funding cap
Prill 1984	1 Milion \$ /muaj	Saudi Arabia's contribution	Indirect support
1985	25 milion \$	Humanitarian aid	Through NHAO
1986	100 milion \$	Financial support	Approved by Congress
1987	Non-lethal assistance	Non-military support	After Oliver North and KS's revelations

***Burimi:** The Cia-Contra-Crack Cocaine Controversy:A Revië Of The Justice Department's Investigations And Prosecutions (Office of the Inspector General, 1997).

2. *The Principle of Non-Intervention and the Principle of Self-Defense*

The principle of non-interference in the internal affairs of a State is specifically set out in Article 2, paragraph 7, of the Charter of the United Nations. “Nothing in the present Charter shall imply for the United Nations the right to intervene in matters which are naturally within the domestic jurisdiction of a State, or the obligation of Member States to give effect to any regulation in such matters under the Charter; the application of binding measures under Chapter VII shall not be affected by this principle. (United Nations, 1945)”.

Meanwhile, the Principle of Self-Defense is provided for in Article 51 of the Charter of the United Nations.

“Nothing in the present Charter shall impair the inherent right of individual or collective self-defense if an armed attack occurs against a Member State... (United Nations, 1945)”

Article 51 of the Charter is one of the most important provisions, serving as the basis for collective defense, while it is increasingly being seen as a legal blessing in the international arena (Gibson, 1957).

2.1. **How did the International Court of Justice interpret the principle of non-intervention in the case of Nicaragua v. United States?**

In the 1986 decision in the case of Nicaragua v. U (International Court of Justice, 1986), The International Court of Justice developed one of the most important interpretations in the history of international law on the principle of non-intervention and the right of self-defense. The circumstances of the case were complex: Nicaragua accused the United States of having taken covert and direct military action by training, arming, and financing rebel groups known as the Contras, as well as by direct military operations, including the mining of ports and violations of territorial space (International Court of Justice, 1986). The Court accepted that these actions, confirmed by documentary evidence, formed the factual basis of the legal analysis. In its interpretation of the principle of non-intervention, the Court emphasized that this principle is not only a political norm, but a fundamental norm of customary international law, binding on all States. It explained that prohibited interference means any action intended to influence areas in which the State has exclusive competence, including the political, economic and social system (International Court of Justice, 1986). Analyzing the US support for the Contras, the Court concluded that the training, financing, arming and providing operational instructions to armed groups aimed at overthrowing the Nicaraguan government clearly constituted unlawful interference. (International Court of Justice, 1986) The purpose of the actions, according to the Court, was not simply humanitarian or

political support, but the exercise of pressure to impose a different political direction in Nicaragua, which is contrary to the norm of non-intervention (Schachter, 2008)

2.2. What actions did the ICJ consider to be unlawful interference in the internal affairs of a state in the Nicaragua case?

An important aspect of the decision was the determination that supporting non-state actors with armed capabilities constituted a “use of force” within the meaning of international law. The court noted that the supply of weapons, military training, and operational instructions provided by the US had had a direct impact on the Contras’ ability to carry out armed acts, and therefore constituted an indirect use of force. (Schachter, 2008). The Court emphasized that states cannot avoid international responsibility by using intermediary groups to carry out acts that the state itself could not carry out directly without violating the UN Charter (Cassese, 2005).

With regard to the US claim of the right of self-defense, the Court conducted a detailed analysis of Article 51 of the Charter of the United Nations and the relevant customary law. The US claimed that it was acting in the context of collective self-defense, in support of El Salvador, arguing that Nicaragua was interfering in the internal affairs of that State and supporting armed rebels (International Court of Justice, 1986). The Court rejected this claim, noting that the right to self-defense can only be activated when there is a clearly established and documented “armed attack.” Furthermore, the Court noted that El Salvador had not submitted any formal request for assistance. (Leigh, *Military and Paramilitary Activities in and Against Nicaragua (Nicaragua v. United States of America)*, 2017), which is an essential procedural requirement for the exercise of collective self-defense with reference to the UN Charter.

The Court also specified that not every form of support for opposition groups in another state can be considered an “armed attack.” (Papastavridis, 2016). The key element for the right of self-defense to be triggered is that the act must be of the nature of a large-scale and high-intensity military attack, as interpreted by the ICJ. In this case, the evidence presented by the US was not sufficient to prove the existence of such an attack by Nicaragua (Llamzon, 2007).

The court found that the US had clearly violated the principle of non-intervention and the principle of prohibition of the use of force, and had wrongly used the institution of self-defense as a justification for its actions. (Leigh, *Military and Paramilitary Activities in and Against Nicaragua (Nicaragua v. United States of America)*. 1984 ICJ Reports 392, 1985).

At the time the United States withdrew from participating in the Nicaragua case at the International Court of Justice, the US government expressed concern that “the path on which the Court may now embark could cause great harm to it as an institution and to the cause of international law.” (Damrosch, 2012). The United States now claims, as it did in April, that this court clearly lacks jurisdiction over Nicaragua's claims (Robinson, 1985). In coming forward again to argue this conviction, the United States reaffirms its commitment to the rule of law in international relations and its trust and expectation that this Court will decide the cases currently before it in accordance with that law.

The decision was not implemented by the United States, as it declined the Court's jurisdiction and considered the decision not binding on its actions (Henkin, 1979). The case of *Nicaragua v. US* presents the tension between international law and power politics, where large countries may not respect decisions when they clash with their strategic interests (Llamzon, 2007).

2.3. What role does the element of “obligation” play in determining a violation of the principle of non-intervention by the ICJ?

The principle of non-intervention constitutes a fundamental norm of customary international law, on the side of which the connection with the principle of sovereignty and legal equality between states is also expressed. However, as regards this principle, as the International Court of Justice has repeatedly emphasized, not every form of influence between states constitutes a violation of the principle of non-intervention. The key and essential element to ascertain a violation of the principle of non-intervention is the determining element of obligation. The definition and definition of the content of the principle of non-intervention as an international principle was initially established in the Nicaragua case, where the Court formulated for the first time clearly the normative content of this principle.

In which case the International Court of Justice stated that: “The principle of non-intervention includes the right of every sovereign State to conduct its own affairs without external interference” (ICJ, 1984). The Court also clarified that the definition of interference lies in the element of methods of coercion: “Intervention is prohibited when it uses methods of coercion in relation to choices that should remain free” (International Court of Justice, 1986).

This interpretation by the Court clearly clarifies that only actions that aim to impose the will of one state on another, by denying it the freedom of decision-making in matters falling within its sovereign competence, constitute a violation of the principle of non-interference. This implies that political, diplomatic or economic pressure, in the absence of coercion, is not sufficient to establish a violation. Although this case focuses mainly on the violation of the Vienna Convention on Diplomatic Relations, it reinforces the definition of coercion as an infringement of the freedom of action of the state.

The above-mentioned case has highlighted that even when the actions of a state or actors related to it create a coercive situation (Takahashi, 2024) that impedes the exercise of the sovereign functions of another state, we have a violation of the principles of international law.

Meanwhile, in relation to the principle of non-interference in the internal affairs of the state, an international precedent is the case of Armed Activities on the Territory of the Congo (DRC v. Uganda) (2005) (Kirgis, 2017), the Court found a direct violation of the principle of non-interference as a result of the presence and military actions of Uganda in the territory of the Democratic Republic of the Congo (Kirgis, 2017).

International doctrine broadly supports the standard established by the Court, emphasizing that prohibited interference means “a coercive pressure aimed at controlling or directing the sovereign elections of another state (Briggs, 2017)”. The analysis of jurisprudence and scientific literature clearly shows that coercion constitutes the central element for determining the violation of the principle of non-intervention. Only when a state uses coercive means that aim to impose its will on another state, denying it freedom of choice in sovereign matters, is a violation of this principle found (Steiner, 2017).

3. Case “Corfu Channel Case”

The Corfu Channel Case, where a decision was issued on the case of Great Britain and Albania. Where the latter was sued by Great Britain

In the event of 22 October 1946, two British warships where 44 people lost their lives, while 42 sailors were injured when mines exploded in the territorial waters of Albania. Britain sought

compensation and claimed that Albania had knowledge of the mines or had failed in its obligation to warn foreign ships (INTERNATIONAL COURT OF JUSTICE, 1947).

4. ICJ Jurisprudence Regarding the Principle of Non-Interference

Given the unification of the Court's jurisprudence on the principles of international law, the dilemma is the question: To what extent does the interpretation of the principle of non-intervention in the Nicaragua case rely on the previous jurisprudence of the ICJ, in particular in the Corfu Channel case (Albania v. the United Kingdom)?

In the Corfu Channel case, the ICJ emphasized that respect for the territorial integrity of States and non-interference in internal affairs are inseparable elements of the sovereignty principle (ICJ, 1984). The Court's interpretation in this case has also become recognized as a cornerstone of modern international law (INTERNATIONAL COURT OF JUSTICE, 1947). Although the doctrine has clarified that the Corfu Channel case was an early case and focused more on the use of physical force, it developed a clear norm that was later expanded in decisions of the cases presented (INTERNATIONAL COURT OF JUSTICE, 1947).

In the Nicaragua decision, the ICJ clarified that the norm of non-intervention is part of customary international law and constitutes a norm of binding character for every state (International Court of Justice, 1986), thus the ICJ decision marks a progressive step in the consolidation of the principle of non-intervention (Schachter, 2008).

While Corfu Channel dealt with the violation of territorial space and state responsibility, Nicaragua extends further into the field of indirect interventions, including support for non-state actors (INTERNATIONAL COURT OF JUSTICE, 1947). Likewise, the argument that the interpretation in Nicaragua has served to clarify that the political reorientation of a government by another state, even without the direct use of force, can constitute unlawful intervention (Briggs, 2017).

In Nicaragua, the US argued that its actions were lawful under the principle of collective self-defense to support El Salvador (Briggs, 2017). The Court rejected this claim, insisting that self-defense is limited only to cases where there is a verifiable armed attack on the assisting state (Alan Riding, 1979).

Finally, it has been argued that there is a normative continuity between the Corfu Channel and Nicaragua decisions (Hoekstra, *Helping the Contras: The Effectiveness of U.S. Support for Foreign Rebels During the Nicaraguan Contra War (1979–1990)*). While Corfu Channel served as a precedent to affirm that states must respect sovereignty (Alan Riding, 1979), Nicaragua extends this obligation to the field of indirect interventions, thus consolidating the principle of non-intervention as a norm that must be applied universally (Sobel, 1995).

5. Results

The analysis of the case of Nicaragua v. United States highlights several essential conclusions regarding the interpretation of the principle of non-intervention by the ICJ. First, the ICJ has clearly established that the principle of non-intervention is not merely a political norm, but a fundamental norm of international law binding on all States. Any action that seeks to influence the internal affairs of a State, whether through financing, arming, training or providing operational instructions to non-State actors, constitutes unlawful interference and a violation of sovereignty.

Second, the ICJ has identified concrete acts of interference, including support for paramilitary groups aimed at overthrowing the Nicaraguan government, the mining of ports and direct military intervention, as clear examples of violations of the principle of non-intervention. These acts cannot be justified by claims of humanitarian or political support, since their real effect was to coerce and pressure the sovereignty of the other State.

Third, the element of “compulsion” is crucial in determining the violation. A state is held responsible when its actions cause direct pressure, violence or threat to another state, whether the actions are carried out directly or through intermediary actors. This concept emphasizes the limitations that powerful states should not exceed in exercising their influence over weaker states.

Finally, the ICJ’s interpretation is based on previous jurisprudence, in particular the Corfu Channel case, which confirmed international responsibility for actions that violate the sovereignty of another state. This precedent serves as a basis for understanding that the principle of non-intervention is an immutable norm of international law and that international mechanisms are important to limit the arbitrary actions of powerful states. Furthermore, the Nicaragua case shows that although ICJ decisions have normative force, their implementation can be hampered when superpowers are involved, highlighting the gap between legal norms and international political reality. In this context, the case highlights the importance of respecting the sovereignty of states, limiting unlawful interference, and the need to strengthen international justice mechanisms to guarantee the implementation of ICJ decisions.

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