

# The United Nations' commitment to world peace When the International Court of Justice intervened in the Nicaragua-United States conflict

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InsideOver

Vision & Global Trends – International Institute for Global Analyses



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## Abstract

The Organization of the United Nations (UN) was established to help the World Order restart and flourish after the destruction caused by the World War II. The New York-based international organization has been trying to seek and maintain world peace since its foundation, sometimes successfully and other times unsuccessfully.

World peace, war prevention, peaceful dispute resolution, and international security aren't pursued merely by means of recommendations, international conventions, declarations of principles, or actions of the Security Council.

The International Court of Justice (ICJ) is the UN's principal judicial body and has been involved in many cases throughout its decades-long history, trying to avoid wars and settle disputes between member states.

The Court intervened on a case which is very noteworthy as it explains the international law's position on unconventional warfare, aggressive war, and the principle of non-intervention, and helps underline the limits between theory and practice when it matters to make the great powers accept international rules and obligations. The case is Nicaragua vs. United States.

**Key words:** *United Nations, International Court of Justice, Nicaragua, United States of America*

## Introduction

The international law is against aggressive wars, be they officially declared or be they carried out secretly with unconventional means, and strongly defends the principle of non intervention, also known as “non interference”.

This principle is aimed at restricting the ability of a state to interfere in the domestic affairs of another state and is one of the main corollaries of every's nation right to sovereignty.

Sovereignty implies that every state shall have both the right and the power of exerting self-government over itself, with no interference from outside entities, be they states or be they non-state actors.

Reality differs significantly from the imaginarium depicted and defended by the international law and is common practice of each nation to defend its own interests by interfering in other states' internal affairs. The interference can assume peaceful forms, in terms of lobbism and diplomatic pressures, and non-peaceful forms, ranging from threats to the extreme resort: war.

The principle of non interference speaks against those actions whose goal is to influence the domestic and international policies of a state. These actions can include economic retaliation, such as the stop to development aid, embargoes, trade restrictions, sanctions, and the carrying out and use of terrorism as a tool destined to destabilize a state.

International organizations which are engaged in the pursuit of world peace, such as the United Nations, or aim to promote multilateral cooperation and good neighborhood-based policies, such as the European Union or the Shanghai Cooperation Organisation, must confront the states' daily resort to practices forbidden by the international law and sometimes their interventions prove useless as result of the clash between realpolitik and reality.

But international law is imperfect also because the states still own their sovereignty, so they keep acting following Thomas Hobbes' “Bellum omnium contra omnes” (lit. “the war of all against all”), a principle according to which the world system is based on and shaped by anarchy. Such anarchy manifests itself in form of competition, struggles, antagonism, rivalries, security dilemma, arms races, and so on. In such a system, the power to act is held only by the great powers, which are the only ones that can ignore rules and obligations coming from the international law without experiencing any consequence.

This paper aims to expose the international law's limits as regard to its very restricted capabilities to make the great powers accept “*what that comes from above*”, that is to make them accept what the international law says on specific topics, especially on world-important issues.

To prove this opinion is examined the “Nicaragua vs. United States” case treated by the International Court of Justice in mid-1980s.

In fact, the case represents the perfect example of how international law and international organizations are unable to pursue their peace-aiming purposes when is matter to put the world-great powers before their responsibilities and make them accept international rules and obligations derived from treaties, customary law, conventions.

## **The United Nations and the International Court of Justice**

The United Nations is a New York-headquartered universally-extended international organization, established in 1945, in the aftermath of the San Francisco conference. Its foundation was backed by the United States, emerged as the world-leading power after the destruction of the centuries-old European-centered world.

The goal was to drive the international community into a new era shaped by, and centered on, Washington, whose principal interests at that time were the economic recovery of Western Europe, the consolidation of the newborn American hegemony, and the building of a network based on liberal institutions later re-called the “Bretton Woods System”.

50 heads of states met in San Francisco between April and June 1945 to work on the UN Charter, the organization's foundational treaty. The Charter made the UN responsible for promoting and maintaining world peace and international security, protecting human rights, fostering friendly relations within the international community, supporting international law, and being a platform for discussing the world-most important issues.

Currently, the UN has officially six working languages, which are the world-most spoken: Arabic, Chinese, English, French, Russian, and Spanish.

The commitment to world peace isn't pursued by means of mere diplomacy but also through peace-keeping, peace-building, peace-making and peace enforcement operations.

The Department of Peace Operations has the responsibility to oversee such operations, which range from humanitarian interventions to fact-finding mission aimed at checking the implementation of peace agreements.

The UN's peace-keepers are popularly known as Blue Helmets and are formed by military and civilian personnel provided by the member states.

It is the Security Council that authorize peacekeeping operations on the basis of the rights granted by the Chapter VII. Sometimes, the peacekeeping operations are backed by regional organization such as the North Atlantic Treaty Organization (NATO).

Some people make confusion and think the UN has its own army. There is no UN army: the Blue Helmets keep belonging to the entities and the states they come from. What does it mean? A British soldier working as a UN peacekeeper does not cease to be a British soldier at the service of London only because of his role within the UN.



### **But what does it happen when a peacekeeper commits a crime?**

According to the UN, peacekeepers are a UN organ and, accordingly, the organization responds for their conduct and their crimes. This is a very important issue, because the Blue Helmets are periodically exposed to scandals due to the alleged crimes committed while on mission in war-plagued countries: from sex exploitation to human rights violations.

During the Yugoslavian wars, Netherlands-provided Blue Helmets were charged with the responsibility to protect Bosniak civilians in Srebrenica from Serbian militias but they failed and were accused of negligence and complicity. Was the UN or was Netherlands responsible for their conduct? According to the Dutch Supreme Court, the responsibility belong to the Dutch state, but is very limited. The issue is, therefore, stil open and yet to be solved.

To date, the UN represents the large majority of the international community as it has 193 member states (2019 <sup>1</sup>) sitting in the General Assembly, which is the platform for talks about the topics covered by the Charter that periodically reunites in meetings, the so-called “sessions”.

The General Assembly is the only UN's body in which all member states have equal representation (every state has one equal vote) and serves as the main deliberative and representative platform of the organization.

It has many powers and functions: to manage the UN's budget, to pursue the UN's purposes, to elect the non-permanent members that periodically enter the Security Council, to elect the UN Secretary-General, to make recommendations, to suspend or expell existing members or to accept new ones, and so on. The decisions are usually taken with the two-thirds majority system and the recommendations aren't binding on the member states. The annual sessions are the opportunity to talk about all the most important issues covered and involving the organization, but sometimes sessions can take place for extraordinary reasons.

It has played a key-role in the creation of a peace-oriented world order and has helped approving many important conventions about disarmament, genocide, war crimes, protection of human rights, and so on.

The General Assembly is only one of the six main organs that compose the UN's body, the others are: the Security Council, the Economic and Social Council, the Trusteeship Council, the Secretariat, and the International Court of Justice (ICJ).

The Security Council is charged with the important responsibility of maintaining international peace and security, which are pursued through the powers of establishing

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1 *General Assembly of the United Nations*, UN.org, retrieved on 30/12/2019, <https://www.un.org/en/>

peacekeeping operations, introducing sanctions regimes, and authorizing military interventions through resolutions. It is composed by 15 members, 5 held a permanent position and 10 are elected on a regional basis for a two-year mandate. The permanent members reflect the result of the World War II and are the United States, France, the United Kingdom, China (which replaced Taiwan in 1971), and Russia (which inherited the seat from the Soviet Union).

Currently, the non-permanent members are Belgium, Dominican Republic, Equatorial Guinea, Indonesia, Ivory Coast, Kuwait, Peru, Poland, and South Africa.

Each member has one vote, but only the permanent members has the right of veto through which they can stop unwanted resolutions, from the acceptance of new member states to candidatures for the Secretary-General.

The Economic and Social Council, also known as ECO SOC, is charged with coordinating the activities of the United Nations' 15 specialised agencies, the 8 functional commissions and the 5 regional commissions, which work on the promotion of the organization's economic and social goals.

It works as a forum for discussion in which are formulated policy recommendations destined to the UN's member states and the quality of its activities is further improved by the presence of non-governmental organizations, which are granted the status of consultative members, and the external role played by the World Bank and the International Monetary Fund.

The Trusteeship Council has the responsibility of ensuring that the so-called “trust territories” are managed in the best way possible.

Trust territory is a term used to define former colonies and mandates that successfully achieved independence or self-government and need external support in finalizing their national building process. The last trust territory under the body's coordination was Palau, which entered the UN in 1994 after years passed as the “Trust Territory of the Pacific Islands”.

The Secretariat is the United Nations' executive body and play many key-functions, including the implementation of the six bodies' decisions and the setting of the UN's global agenda. The body is headed by the Secretary General, who is elected by the General Assembly.

The role started assumed an increasing importance during the Cold War as the result of the charisma and lobbism of Dag Hammarskjöld, secretary general from 1953 to 1961. Hammarskjöld, which was awarded a posthumous Nobel Peace Price, died during the mandate in a controversial plane crash while trying to solve the Congo crisis.

Lastly, there is the ICJ, which is analysed more in-depth coherently with the paper's purposes.

The ICJ, popularly known as the “World Court”, is the main judicial organ of the UN and is granted the powers to settle international legal disputes submitted by states and to give advisory opinions on legal issues useful to the UN's agenda. The rulings and the opinions of the ICJ are very important as they are a source of international law and, at least theoretically, create obligations.

The ICJ is formed by a panel of 15 judges of different nationalities elected by the General Assembly and the Security Council for nine-year mandates. The Court is headquartered in The Hague (Netherlands), where is located the so-called Peace Palace, and is the UN's only organ to be outside New York City. The official working languages are two, English and French.

According to the Article 93 of the UN Charter, each UN member is automatically granted membership in the court and, therefore, subject of its jurisdiction. Being a court's party means to have the right to call on it to solve disputes and ask request advisory opinions and to be obliged to comply with its decisions. If a state does not comply the decision's enforcement becomes responsibility of the Security Council, and here the court's and international law's limits start arising and show how much realpolitik matters.

Soon after the ICJ ruled that the United States was violating international law in Nicaragua by proclaiming the embargo and trying to overthrow a legitimate, although unliked, government by funding terrorism and unconventional operations, the country “withdrew” and declared that, from then on, it would accept the court's jurisdiction only on discretionary criterias and no longer compulsory. The Security Council could do nothing but to accept the reality: the US is a permanent member and can use its veto power to stop the Council's decisions. Nicaragua's call on the Security Council proved useless. It's true as well that the US could use its influence over France and Great Britain to convince them to show a friendly position.

For the ensemble of the above-mentioned reasons it is arguable that international law's effectiveness and range of action are doomed to be limited and restricted to small and medium players as the great powers have strength enough to act unilaterally and ignore what international law and international organizations say about specific topics.

## Nicaragua vs. the United States

Nicaragua, 1979: the US-backed dictator Somoza Debayle is overthrown by the so-called Sandinistas, a Communist and anti-American revolutionary guerrilla movement named after historic figure Augusto César Sandino and at that time led by Daniel Ortega – who is still in charge as the country's president.

In the aftermath of Debayle's fall, the revolutionaries establish the so-called “Junta of National Reconstruction” (*Junta de Gobierno de Reconstrucción Nacional* ) with the aim to restore peace and order in the civil war-plagued country, but their quest to peace proved harder than expected because Debayle's fall marked the beginning of a new chapter of the bloody civil conflict due to the appearance of the so-called “Contras”.

Ideology played no role within the Contras, they can be described as essentially anti-Sandinist and anti-Communist but they weren't completely on right-wing positions as they launched a bloody war simultaneously on the Catholic Church – which wasn't backing the government but had the “guilt” to be involved in the country's re-building. Contras' only aim was to overthrow the Sandinist government by any means possible: targeted killings, terrorism, sabotages, asymmetrical warfare, psychological operations. Every citizen found guilty of co-operating with the Sandinistas could be killed: ordinary people, clergy, civic activists, policemen, politicians, workers.

Moreover, the US had launched an embargo on Nicaragua and had broken every economic tie after Debayle's fall, worsening the already-hard situation. And there was something more: the presence of “UCLAs”. According to Nicaragua's accusation, UCLAs were US-paid contractors that were fighting side-by-side with Contras and were the protagonists of attacks against military bases, ports, ships, and oil plants.

The situation convinced the government to call on the International Court of Justice and open a case against the United States on April 1984, which was accused of being the mastermind behind the Contras, UCLAs and the dramatic economic crisis.

Both Nicaragua and the US brought evidences to support their claims. The ICJ had to decide whether Washington was really behind Managua's instability or not and – if the involvement was

proved – to judge whether it could be considered a violation of the non-intervention principle described in the Article 2.4 of the Charter of the United Nations.

## The trial

Nicaragua charged the United States with the responsibility of having violated the article 2(4) of the UN Charter, articles 18 and 20 of the Charter of the Organizations of American States, article 8 of the Convention on Rights and Duties of States, and article 1(3) of the Convention concerning the Duties and Rights of States in the Event of Civil Strife.

According to Nicaragua, the violations were made by supporting and promoting instability within the country, namely by funding, training, arming and equipping paramilitary groups, and outside, namely by creating a hostile international environment.

More specifically, Nicaragua accused the US of carrying out military operations within the country, by air, land and sea, sending threats in forms violations of territorial sovereignty and intimidations addressed to the government, killing Nicaraguan citizens, interfering in the domestic affairs, and disrespecting the freedom to sea navigation in peaceful times.

Managua requested the ICJ to oblige the US to stop the covert warfare and pay reparations for damage caused to people, estates and the economy as a whole.

The US took a harsh and unexpected position which ignored Nicaragua's claims and underlined another element: the ICJ's right of jurisdiction and competence over the case.

It was clear since the beginning that Washington would not let the ICJ to interfere in the covert war and would not care about the verdict.

The ICJ was called on performing a long and difficult work as 291 points were presented to be analysed. The main points included accusations against the US about alleged attacks on Nicaraguan strategic infrastructures, such as ports, powerhouses, and railways, through the use of bombs and sabotages; claims about violations of air space, and the alleged American origin of the antigovernment squads Contras and Uclas.

The ICJ retraced the origins of the decades-old American interference over the country, underlining that Nicaragua's submission dated back to the independence from the Spanish empire. Since then, the US had interfered, even heavily, in the country's internal affairs and the so-called “*revolucion Sandinista*” could be read as the unwanted result of such interferences, which had feeded a growing anti-American movement among large sectors of the population.

Until the outbreak of the Sandinist revolution the country had been ruled by the Somoza dynasty since 1930s. The family advocated a strong relationship with the US and pursued an economic agenda friendly with landowners and American multinational corporations, the population had a few rights and the order was maintained by means of a tough military dictatorship.

*Was the US intervention justified?* Washington claimed that the Nicaraguan government was behind the region's fall into instability and that, therefore, an intervention was mandatory to restore peace and help partners. But the ICJ did not find evidence enough to support the accusation.

The ICJ highlighted the existence of an arms trade between Nicaragua and El Salvador-based rebels between 1979 and 1981, and foreign incursions within Guatemala's and Costa Rica's borders between 1982 and 1984 but nor Guatemala nor Costa Rica requested any US support.

The ICJ concluded, as regard to the first point, that the customary international law doesn't consider “the provision of arms to the opposition in another State as an armed attack on that State”, and as regard to the second point that it wasn't possible to say if Nicaragua was behind the incursions and that, in the absence of any official request for intervention, the US couldn't justify its actions as part of the “right of collective self-defence”.

*Who were the Contras and what they were guilty for?* The ICJ had “to determine whether the relationship of the contras to the United States Government was such that it would be right to equate the Contras, for legal purposes, with an organ of the United States Government, or as acting on behalf of that Government”.

The ICJ did not find enough evidence to support Nicaragua's claim but found Contras to be responsible of violations of humanitarian law

*Was the US subject to the ICJ jurisdiction?* The judges agreed by 11 votes to 1 that the ICJ had the jurisdiction in light of the article 36 of the Statute of the ICJ, which sets the basis for the compulsory jurisdiction, and the Treaty of Friendship, Commerce and Navigation between the US and Nicaragua of 1956. From that ruling on, the US ceased to take part in the case's proceedings and eventually withdrew from the Declaration of acceptance of the general compulsory jurisdiction of the ICJ one year later. The withdrawal was finalized on October 7, 1985.

The judges heard some important witnesses who took position against the US, among them: Nicaragua's Vice-Minister of the Interior, Luis Carriòn, American guerrilla expert David MacMichael, professor Michael Glennon and Father John Loison.

Carriòn, whose responsibility's was to guarantee the country's national security, documented the US involvement in military and paramilitary operations against Managua. He provided names, dates, papers, to prove his declarations, in particular about the Contras. He showed how the Contras were virtually irrelevant before the US started supplying them with money and weapons in 1981.

Indeed, they were unable of carrying out large-scale attacks and had no knowledge about unconventional, irregular and asymmetrical guerrilla warfare, they were mostly involved in crimes and had no political goals.

In 1981 the US Congress authorized a \$19 million delivery to fund anti-Communist operations in Nicaragua and Central America, part of this amount was addressed to help the Contras. From that date on, they engaged heavy conflicts with policemen and military and acted many spectacular sabotes, including the demolition of bridges.

They “qualitative jump” was due to the entry on stage of American and Argentinian experts, who trained the Contras in many fields. In 1982, the Contras staged a coup based on the seizure of Jalapa, a border town, in which should have been installed a government, whose recognition would have been guaranteed internationally in case of success.

According to Carriòn the plan was backed by the US, which sent \$30 million for its realization. But the coup failed because the Nicaraguan military forces won the battle for Jalapa. After Jalapa, neighboring countries such as Honduras were used by the CIA to build camps from which to launch offensives and perfect the raids.

The commander exposed the CIA-written manual “Psychological Operations in Guerrilla Warfare” to the ICJ. He claimed that it was delivered to the Contras by the CIA with the goal of helping them to “create terror” and learn the “art of propaganda”.

The ICJ examined deeply the manual's content, as we'll see in the next chapter, finding out that taught people how to perform killings and intimidations and called for the assassination of high profile figures belonging to the government, the army, the police, the justice. Later, the then-American President Ronald Reagan admitted that the manual was truly originated from the CIA and wasn't a fake.

Carriòn continued his hearing, claiming that the CIA was directly involved in many acts of sabotage, such as the explosion of the country's only oil pipeline, the mining of ports, and the disruption of many oil storage deposits. Such actions would be performed by the UCLAs, an acronym standing for “Unilaterally Controlled Latin Assets”. He estimated property damages for



\$375 million and showed the total number of victims caused by the Contras' guerrilla: 3,886 deaths, 4,731 wounded.

MacMichael was an employee of the Department of Defense-related Stanford Research Institute between March 1981 and April 1983 and later a CIA senior officer responsible of the agency's agenda Central America.

His hearing was particularly important for several reasons:

- 2000 He was an American citizen
- 2001 He worked for the CIA
- 2002 He worked on and managed highly relevant top-secret documents about the US covert operations in the subcontinent
- 2003 He was directly and personally involved in the covert warfare against Nicaragua

He confirmed that the US was behind the Contras with his own words, during a official hearing:

*“The overall purpose was to weaken, even destabilize the Nicaraguan Government and thus reduce the menace it allegedly posed to the United States' interests in Central America [...]*

*[Their actions] hopefully provoke cross-border attacks by Nicaraguan forces and thus serve to demonstrate Nicaragua's aggressive nature and possibly call into play the Organization of American States' provisions [regarding collective self-defense].*

*It was hoped that the Nicaraguan Government would clamp down on civil liberties within Nicaragua itself, arresting its opposition, so demonstrating its allegedly inherent totalitarian nature and thus increase domestic dissent within the country, and further that there would be reaction against United States citizens, particularly against United States diplomatic personnel within Nicaragua and thus to demonstrate the hostility of Nicaragua towards the United States”.*

He was asked to confirm whether the US had enough evidence to say that Nicaragua smuggled weapons illegally with the left-wing insurgency in El Salvador be it in forms of personak knowledge or any other sources. He couldn't confirm the claim but he added something even more shocking: it would have been impossible for Nicaragua to delivery weapons to El Salvador in

considerable amounts without being discovered by the American secret services and regional network of spies. There was no relevant shipment seized and no relevant jailing made while he was employed and he said nothing occurred after ending the contract to change his opinion about the facts.

Glennon was another key-witness as he was sent on a fact-finding mission in Nicaragua by the International Human Rights Law Group and the Washington Office on Latin America to check the existence of Contras-committed human rights violations. He wasn't alone, he worked side by side with American attorney Donald T. Fox of the International Commission of Jurists.

They interviewed 36 people who had personally met Contras members and tested the reliability of their words through cross-checked methods and upon their return to the US they showed the results to the US Department of State. The results of their investigation were published in April 1985 and are here presented as they were literally presented before the judges:

*“We found that there is substantial credible evidence that the contras were engaged with some frequency in acts of terroristic violence directed at Nicaraguan civilians.*

*These are individuals who have no connection with the war effort-persons with no economic, political or military significance.*

*These are Individuals who are not caught in the cross-fire between Government and contra forces, but rather individuals who are deliberately targeted by the contras for acts of terror. Terror was used in the same sense as in recently enacted United States law: an activity that involves a violent act or an act dangerous to human life that Is a violation or the criminal law, and appears to be intended to intimidate or coerce a civilian population, to Influence the policy of a government by intimidation or coercion, or to affect the conduct of a government by assassination or kidnapping.”*

He also testified that had talks with Managua-based US diplomats as to know whether they ever investigated about the alleged crimes committed by the Contras. He found out that no official investigation was carried out even the awareness of the “enormous atrocities” daily committed because the US was maintaining an official policy of “intentional ignorance” on the topic.

The last important witness that was heard was French priest Jean Loison, who worked as a nurse in a hospital close to the border with Honduras. He took care of hundreds of patients who

fell victims of the Contras, strengthening the already-emerged evidence that the guerrilla group was involved in heavy crimes against unarmed and innocent civilians.

His hearing was particularly helpful as he helped highlight the brutal and nonsense actions committed by the Contras against unarmed and unaffiliated ordinary people. Such actions ranged from the kidnapping-for-rape of women to the torture-unti-death of peasants accused of ties with the Sandinistas.

While Nicaragua presented many witnesses and evidences to support its claims, the US refused to take part in the proceedings as it did not accept the ICJ's jurisdiction despite having signed the treaty and thus was theoretically obliged to accept the ICJ's verdict as binding.

Such behaviour was only a sign of what would follow next: no recognition of the ICJ's authority, prosecution of the covert warfare against the Sandinistas.

### **The verdict**

On June 27, 1986, the ICJ ruled that the US was guilty of many claims advanced by Nicaragua and, thus, ordered reparations and urged the US to cease the covert war.

The US was accused of effectively being behind the Contras insurgency, although it was not possible to determine the degree of interdependence between them, and carrying out attacks and sabotages against Nicaragua's strategic infrastructures. Lastly, the ICJ urged the countries to solve the ongoing dispute "by peaceful means in accordance with international law".

Let's now have an in-depth look on the ruling. In legal terms, the US was accused of:

- Violation of the principle of non-intervention: because it intervened in the the country's domestic affairs because it did not like the ideological nature of the government, despite the freedom of Nicaraguans to choose for their own
- Violation of Nicaragua's sovereignty: because the US wanted to change Nicaragua's internal dynamics by many means of pressures of economic, diplomatic and para-military nature; because the US laid mines in Nicaragua's territorial waters.
- Interruption of maritime commerce in peaceful times: because the US laid mines in Nicaragua's territorial waters.

1996 Being in breach of its obligations, derived from customary international law, not to use force and threat against another State: because it was proved the US role in the training, arming, equipping, sponsoring and funding of Contras and the promotion of a wide range of antigovernment activities; because it was proved the US role in dozens of sabotages and attacks on Nicaragua's internal territory between 1983 and 1984; because the US laid mines in Nicaragua's territorial waters

- Being in breach of its obligations derived from the Article XIX of the 1956 Treaty of Friendship, Commerce and Navigation signed with Nicaragua: because the US laid mines in Nicaragua's territorial waters; because the US declared a general embargo on trade with Managua; because it was proved the US role in dozens of sabotages and attacks on Nicaragua's internal territory between 1983 and 1984.
- Encouraging human rights violations by supporting the Contras and provided them with a dangerous guerrilla warfare handbook named "Operaciones psicologicas en guerra de guerrillas", in which is described how to kill people and to make social chaos spread.

Due to the result of the findings and the ascertained violations, the ICJ ruled that the US had to cease immediately the covert war and embargo and had to pay reparations to Nicaragua for both the damages caused by the covert war and the embargo; the Court would have decided the amount if the parts failed to reach an agreement.

The ICJ dismissed some American claims, including the ones about:

- 1994     Collective self-defence. No country demanded the US to intervene and Nicaragua launched no attack against the US nor declared any war. Nothing justified the covert war: it wasn't self-defence, it was aggression.
- 1995     Request by an opposition party. It isn't possible to intervene in a state's internal affairs upon request of the opposition and the reason is as simple as understandable: every state could be potentially justified to interfere and the security of international community would be threatened. Furthermore the US wasn't backing an "opposition group", id est a political party or a peaceful civil movement, but an armed group involved in human rights violations whose goal was to violently overthrow the government.
- 1996     Embargo. The embargo was a clear violation of the obligations derived from the Treaty with Nicaragua and wasn't possible to justify it as a reaction to alleged violations of duties previously taken at international level. The domestic policy of a state falls under its own jurisdiction and, admitting the existence of such violations, it would have been competence of the OAS to solve the dispute.

Anyway, it wasn't possible to enforce the verdict. The US vetoed any resolution in the UN Security Council between 1982 and 1985, and vetoed again in 1986 – the last time the UN member countries tried to do help Nicaragua get compensation and oblige the US to comply fully and immediately with the verdict.

The UN General Assembly presented a pro-Nicaragua non-binding resolution as well, which was passed with 94 votes and voted negatively by three countries only: the US, El Salvador, Israel. After the ruling, the US withdrew its acceptance to the ICJ's compulsory jurisdiction.

## Conclusions

The verdict proved several things which are very helpful to understand how the world order works and which are the limits of international organizations and international law when disputes and wars don't involve irrelevant players of the international community but involve great powers unwilling to subdue themselves to the international law.

The verdict served as a reminder for some of the most important principles listed in the “Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the UN”, which was adopted by the General Assembly on October 24, 1970 to commemorate the 25<sup>th</sup> anniversary of the organization. These principles are the prohibition on the use of force and of threat, peaceful dispute resolution, right of self-determination, and the sovereign equality of states. When such principles and concepts are melted together, they form the founding pillars of a peace-oriented and respect-based international community.

It is noteworthy the position taken as regard to Nicaragua's covert operations with El Salvador-based armed opposition. The US considered it as an “armed attack” and a justification for the right of self-defence, but the Court ruled that it didn't constitute a declaration of war despite being seen as a breach with the non-intervention.

The international law is clear about the aggressive and unconventional warfare: it's a violation of many important principles in light of its subversive and offensive nature. Accordingly, the states that are found guilty of it shall be punished. But how to oblige great powers to subdue themselves to the binding power of the international law? To date, it is impossible.

The UN is doomed to be imperfect until the General Assembly isn't endowed with binding powers and the Security Council kept in hostage by the strategic vetoes. The League of Nations failed its mission for similar reasons: it wasn't able of imposing its will upon the world-great powers nor they were willing to transfer powers and sovereignty to the organization. But the UN and its bodies are undoubtedly better than the League of Nations' network as they succeeded in getting several results worldwide as regard to economic and social development, decolonization, restoring of peace and national re-building.

International law is capable of great outcomes but as it is a creation of the states, it's dependent on them and chained by their wills, therefore can't be, in the current situation, a truly game-changing factor in the international relations.

Finally, there are several other doubts surrounding the effectiveness of international law and the operate of international organizations, especially on the recently arisen topic of the so-called humanitarian interventions.

Indeed, more and more often such UN-backed decisions prove over the years of having been counterproductive and of having legitimated politically led regime changes.

Let's take the Iraqi case. On November 8, 2002, the UN Security Council adopted unanimously the Resolution N° 1441, urging Saddam Hussein's Iraq to comply with the disarmament obligations derived from previous resolutions. It was a very sensitive case because the US had been in war against Iraq during the early 1990s and the Bush Jr administration had just launched the so-called War on Terror against Osama bin Laden and Islamist terrorist organization Al Qaeda, which was partly funded by Middle Eastern Islamic powers. The country was accused of possessing prohibited types of missiles, illegal smuggling of weapons throughout the region, and of having a secret arsenal of weapons of mass destruction. The resolution was used by the US as a justification to intervene militarily in Iraq in 2003, whose government was also accused of funding international terrorism and being somehow involved in the bloody 9/11 attacks. No weapon of mass destruction was found, no evidence of ties between Saddam Hussein and Al Qaeda emerged, no discovery of prohibited missiles. But it was too late: the government was overthrown and Saddam was executed.

It's clear that international law and international organizations are imperfect also because they can be used as instruments by the states to fulfill hidden purposes which otherwise would be strongly condemned by the public opinion and the international community.

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