

Official Statement by a Foreign State on Domestic Policy Related to the Principle of Non-Intervention

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Abstract. The non-intervention principle is a legal principle that applies to various legal instruments, including treaties. It can be differentiated into two components: intervention in another state's internal affairs and intervention concerning matters within each state's discretion. Article 2(4), which includes "territorial integrity", can be interpreted in two ways: limited, which prohibits force for territorial conquest or annexation, and broad, which confuses "integrity" with territorial "inviolability" and implies intervention would compromise a state's territorial integrity.

Keywords: *State Action, State Responsibility, Principle of Non-Intervention, .*

Abstrak. Prinsip non-intervensi merupakan prinsip hukum yang berlaku dalam berbagai instrumen hukum, termasuk perjanjian internasional. Prinsip ini dapat dibedakan menjadi dua komponen: intervensi terhadap urusan internal negara lain dan intervensi terhadap hal-hal yang berada dalam kebijakan masing-masing negara. Pasal 2(4), yang mencakup istilah "integritas teritorial", dapat ditafsirkan dalam dua cara: secara terbatas, yaitu melarang penggunaan kekuatan untuk penaklukan atau aneksasi wilayah; dan secara luas, yang menyamakan "integritas" dengan "ketidakbolehan pelanggaran" wilayah serta mengimplikasikan bahwa intervensi akan mengganggu integritas teritorial suatu negara..

Kata Kunci: *Tindakan Negara, Tanggung Jawab Negara, Prinsip Non-Intervensi.*

A. Pendahuluan

The non-intervention concept is upheld by a range of legal instruments, including bilateral, regional, and multilateral treaties. The principle is frequently articulated in a straightforward manner without providing context, and occasionally a treaty provision that appears to be related to the principle of nonintervention may actually address a different issue (Maziar Jamnejad, Michael Wood, 2009).

The principle of non-intervention, enshrined in Article 2(7) of the UN Charter, prohibits interference in the internal affairs of other states. However, Jordan's public condemnation of Israel does not constitute coercion as defined by international law but rather reflects legitimate diplomatic expression within international norms. This illustrates complex balance between respecting the sovereignty and speaking out against human rights violations.

Intervention is commonly defined as "dictatorial or coercive interference by an outside party or parties, in the sphere of jurisdiction of a sovereign state". The elements of "dictatorial or coercive interference" include not only direct military interference but also non-military measures, especially economic ones.

Two elements of an unlawful intervention are sometimes distinguished. First, there must be an 'intervention' by one state in the affairs of another. Second, the intervention must bear on "matters" in which each State is permitted, by the principle of State sovereignty, to decide freely'. No State or group of States has the right to intervene, directly or indirectly, for any reason whatever, in the internal or external affairs of any other State. Consequently, armed intervention and all other forms of interference or attempted threats against the personality of the State or against its political, economic and cultural elements, are in violation of international law.

In certain cases, it is possible to differentiate between two components of an illegal intervention. Firstly, it is necessary for one state to "intervene" in another state's internal affairs. Secondly, the intervention must concern matters which are within the discretion of each state, in accordance with the principle of state sovereignty (Maziar Jamnejad, Michael Wood, 2009).

There are several components in Article 2(4) that can be explained, including "territorial integrity", which might be interpreted in two different ways. There is the limited interpretation, which holds that the use of force for territorial conquest or annexation is forbidden by territorial integrity. It basically just has to do with shifting borders or limits, and it might even forbid occupying land illegally. The broad definition of "territorial integrity", on the other hand, confuses "integrity" with territorial "inviolability", or the idea that boundaries are untouchable and that any intervention within a state would compromise that state's territorial integrity (Patrick M Butchard, 2018).

Abdullah said a lesson to be drawn was that Israel's "indiscriminate aggression" in Gaza would never guarantee its security. His remarks were carried on state media following a statement by the royal palace. Jordan's King Abdullah said that Israel had created a whole generation of orphans with its "brutal" war in Gaza, where he said over 30,000 people, primarily women and children, had been killed or were missing as a result of the conflict (Suleiman Al-Khalidi, 2024). The UN Convention on Genocide, which defined the word precisely for the first time, was adopted only in 1948 (Boghossian, P., 2010).

The Middle East's desert highlands, home to Jordan, are characterized by significant conflict. The country covers around 89,000 square kilometers and has a population of about 11 million. Jordan relies heavily on foreign cooperation due to its limited natural resources. The nation obtains significant financial support from the International Monetary Fund (IMF), the United States, the European Union, and wealthy Gulf monarchs. The security of this volatile region depends on external support (Guillermo D. Olmo, 2024). This makes Jordan a country that has chosen to be neutral, although this does not align with the statement made by the King of Jordan. However, Jordan's neutrality is closely related to the principle of non-intervention.

The Court elucidated the extent of the principle by invoking the Declaration on Friendly Relations, thereby establishing that the principle of non-intervention pertains exclusively to the internal and external affairs of other states (Kohen. M, 2012). Non-intervention/non-interference is a right and not a liberty and, as such, it constitutes merely the 'flip side' of other states' correlative duties.

Therefore, it seems that the formulation 'right to non-interference', instead of 'duty of non-interference' or 'principle of non-interference', has perhaps a purely semantic or symbolic value and does not establish a distinctive legal category with legal implications other than those already existing in contemporary positive international law (Aloupi N, 2015).

Conceiving intervention within the sovereignty frame is reasonable perhaps when it

comes to today's international order, in which the principle of sovereignty informs the basic distribution of political authority, and intervention is practiced and experienced by sovereign states or their agents (Reus-Smit C, 2013).

Intervention, therefore, emerged as a regulating force between increasingly invasive transnational social forces and increasingly rigid political boundaries, constituted through the mutual recognition of sovereignty. In short, intervention belongs primarily to modernity (Lawson, G., & Tardelli, L, 2013).

One of the most contentious subjects of the deliberations that culminated in the formulation of the Friendly Relations Declaration pertained to the nexus between diplomatic endeavours and interventionist measures. With regard to the commonly acknowledged liberty of nations to endeavour to exert influence over the policies and actions of other nations in accordance with international law and established international custom, a number of Western states submitted a request for a revision.

In light of the acute urgency and intricate complexity of the Palestinian conflict, it is imperative to comprehend how Jordan, as a neighbouring state, strikes a delicate balance between the tenets of non-intervention and its international obligations on purported egregious human rights violations. Jordan's position offers valuable insights into the development of international policies in the region, particularly in situations involving elements of genocide. Without a clear understanding of how Jordan balances the principle of non-intervention with its international human rights obligations, the effectiveness of international law in addressing serious human rights violations could be undermined.

Jordan's diplomatic stance seeks to highlight the humanitarian crisis in Gaza while avoiding direct intervention, in line with evolving interpretations of the principle of non-intervention. Its actions emphasize that states can fulfill their international responsibilities by raising awareness and advocating for accountability without resorting to coercive measures.

B. Metode

In accordance with the designation of the subject matter under investigation in this research project, the methodology employed is that of juridical-normative research. The juridical-normative research approach is a research method that involves the review and analysis of secondary data, such as library materials, in order to gain an understanding of the theories, concepts, legal principles, and laws and regulations that are relevant to the research in question.

Accordingly, the methodology employed in this research is a normative juridical approach, with the subject matter comprising Jordan's Statement on the Issue of Genocide in Palestine and Its Relationship with the Principle of Non-Intervention.

The research specification employed is that of descriptive analysis. As defined by Sugiyono, the descriptive analysis method is a research technique that aims to provide an accurate and comprehensive description of the object under study through the analysis of data or samples collected from the subject (Sugiyono, 2009). The resulting description is presented in a way that allows for the generalization of findings to a wider population. This research offers an overview and a detailed analysis of the genocide conflict in relation to the principle of non-intervention.

This research project is centered on a singular, focused inquiry, which is pursued through the lens of a specialized case study methodology. In order to address the existing problems, it is necessary to utilize secondary data. Secondary data, also known as library data, can be obtained by conducting research in books, laws and regulations, and other official documents.

C. Hasil Penelitian dan Pembahasan

Principle of Non Intervention in International Law

When evaluating the scope of "intervention", it is important to acknowledge that, in an interdependent world, it is both desirable and inevitable for states to be concerned about and attempt to influence the policies and actions of other states. The objective of international law is not to prohibit such activity; rather, its purpose is to ensure that it is consistent with the sovereign equality of states and the right of their peoples to self-determination. The UK delegation sought to clarify that the concept of interfering in a state's "external affairs" should be interpreted in the context of the aforementioned commentary (Maziar Jamnejad, Michael Wood, 2009).

Commentators generally agree that political independence means "the autonomy in the affairs

of the state with respect to its institutions, freedom of political decisions, policy making, and in matters pertaining to its domestic and foreign affairs". "Every state has the right to independence and hence to freely, without dictating to any other state, exercise all its legal powers, including the choice of its own form of government," states the Draft Declaration on the Rights and Duties of States.

Article 2(4) says that "the threat or use of force against the territorial integrity or political independence of any state" is not allowed. The article calls for real military action instead of just words or diplomatic censure. This is a case where political power was used instead of military power. This point of view is in line with Article 1 of the UN Charter, which says that disputes should be settled peacefully.

The draft articles say that state conduct is based on the principle of attribution. This means that any action or inaction by the state that breaks an international obligation may make the state responsible on the international level. Article 2 says that the two most important conditions that make up a state offence are the cornerstones of the offence. Chapter II (Articles 4–11) explains how to use the attribution method (Draft articles on Responsibility of States for Internationally Wrongful Acts, with commentaries, 2001).

In the ensuing observations, "act of state" will refer to both legislative and administrative actions like statutes, decrees, and orders, as well as the executive or administrative exercise of sovereign power by an independent state or by its fully authorised agents or officers (Michael Zander, 1959).

A fundamental principle of international law, the concept of state responsibility is derived from three tenets: the principles of state sovereignty, the principle of equality amongst states, and the structure of the international legal system. The stipulations set out in the present text assert that an international responsibility is established between two states whenever one of them conducts an act against the other that is considered to be unlawful. The necessity for reparations arises in instances where an international obligation has been violated (Malcolm N. Shaw, 2012).

The attribution of a specific behaviour to the state is a prerequisite for its qualification as an internationally unlawful act. The State is a legitimate legal person with complete authority to act in accordance with international law. However, this acknowledgement does not negate the fundamental truth that the state is incapable of acting independently (Draft articles on Responsibility of States for Internationally Wrongful Acts, with commentaries, 2001).

There are various domains of state responsibility. The subject under discussion pertains to the realm of international law, specifically addressing the question of illegal activities perpetrated by a state that exert a direct impact on the territorial integrity or sovereignty of other states. Such activities may include, but are not limited to, violations of treaties, incursions into the territorial jurisdiction of another state, and the destruction of state property (Malcolm N. Shaw, 2012).

Nevertheless, other states may be held accountable for the conduct in question or for any harm resulting from it. This is in spite of the fact that Article 1 states that every internationally wrongful act of a state implies that state's international responsibility (Draft articles on Responsibility of States for Internationally Wrongful Acts, with commentaries, 2001). The concept of individual accountability and state responsibility can be considered to coexist. There is no mutual exclusion between the two (Malcolm N. Shaw, 2012).

The field of international criminal law primarily contains the definitional components of genocide, as the previous explanation of the concept made clear. Although genocide is a crime for which a criminally responsible individual must exist, it is also an internationally wrongful conduct in that, according to the customary criteria of attributing individual acts to a state, its commission may result in state guilt. Since both a state and an individual may be held accountable for a single act under international law, individual and state accountability run concurrently if the correct threshold of attribution is met.

The notion of the state as a subject of international law is indicated by the term "attribution to the State". In accordance with numerous legal systems, state organs are comprised of multiple legal persons, including ministries and other legal bodies. Each of these legal persons is believed to possess distinct rights and obligations, for which they are exclusively responsible and subject to legal action. However, the international law of state responsibility operates under a distinct set of principles (Draft articles on Responsibility of States for Internationally Wrongful Acts, with commentaries, 2001).

There is a divergence of opinion regarding the question of whether the state should be held strictly liable for criminal acts or omissions or whether the involved officials must demonstrate negligence or malice. The so-called 'risk' approach, which is predicated on the objective accountability

principle, posits that the state is held to strict liability. Irrespective of the question of whether the state acted in good faith or not, it will be held accountable under international law to the state that was harmed by an unlawful act that was carried out by one of its agents (Malcolm N. Shaw, 2012).

The present UN Charter formally acknowledges non-interference as the foundational principle of international law, with long-established customary international law providing a solid foundation. However, the efficacy of this approach is predicated on the matter being adjudicated primarily within the domestic legal system and the pertinent legislation being implemented in an appropriate manner. The identification of such findings has proven to be a contentious issue within the framework of international law procedures (Zhang Naigen, 2016).

As with the closely related concept of sovereign equality of nations, non-intervention is a fundamental tenet of international law and the foundation for more detailed regulations. The International Law Commission (ILC) has stated that the articles of the draft declaration enunciate general principles of international law, the extent and the modalities of the application of which are to be determined by more precise rules.

This statement was made when the ILC included nonintervention in its 1949 Draft Declaration on the Rights and Duties of States. As stated in the preamble to the 1969 Vienna Convention on the Law of Treaties, "non-interference in the domestic affairs of States" is listed as one of the "principles of international law embodied in the Charter of the United Nations". One of the "fundamental principles of international law" that is set out in the Friendly Relations Declaration is the principle of non-intervention. The Nicaraguan International Court also made reference to the customary-law principle of non-intervention.

State declaration of the principle of non-intervention

Despite the severity and moral and political significance of the statement, it does not constitute a violation of Article 2(4). This is because it does not involve the threat or use of military force. Rather, it is a legal and diplomatic effort to halt human rights violations.

The non-intervention/non-interference principle appears to encompass at least two distinct categories of rights and duties, each of which is implied by a different characteristic of sovereign states and reveals a different aspect of the principle as it is enshrined in various international instruments and customary international law.

The United Nations General Assembly's Declaration on the Inadmissibility of Intervention and Interference in the Internal Affairs of States is a document which makes this distinction very evident. Indeed, the Declaration expressly states in Article 1 that "no State or group of States has the right to intervene or interfere in any form or for any reason whatsoever in the internal and external affairs of other States" (UN, 1945). Article 2 then affirms in Article 3 that "the rights and duties set out in this Declaration are interrelated and are in accordance with the Charter of the United Nations."

For there to be an internationally wrongful act of a state, the action attributable to that state must breach an international obligation. Both treaty and non-treaty obligations are encompassed by the well-established phrase "breach of an international obligation of the State" (Draft articles on Responsibility of States for Internationally Wrongful Acts, with commentaries, 2001).

Therefore, the emergence of humanitarian intervention in state practice in the post-Cold War era was seen as a significant shift from a state system founded on non-intervention and respect for sovereignty to a cosmopolitan system where individual rights supersede the state's right to sovereignty and where universal governance of some kind is in place. It is hard to say that we have transcended the state-centric modern world system, even with the accumulation of state practices regarding humanitarian intervention and the deterioration of the norms of sovereignty and non-intervention. Furthermore, calling the existing system totally anarchic would be inaccurate.

The non-intervention norm in some ways suggests an orderly world where many societies may coexist in a comparatively peaceful atmosphere of harmony and concord by working to limit the use of armed force and lessen war among states. As a result, this set of standards was incorporated into the UN Charter and widely recognised as essential principles that must be respected. These values were so great that they prohibited humanitarian assistance in cases when the world order was broken, even if it was done to lessen suffering.

The limitation of force in any other way that is incompatible with the goals of the UN is the last clause in Article 2(4). According to Yoram Dinstein, this final language would forbid all

additional uses of force, including those that already violate a state's political independence or territorial integrity, making it a residual "catch-all" clause (Gareth Evans, Mohamed Sahnoun, 2001).

The first thing that springs to mind when we talk about state responsibility for genocide is state accountability for the actual act of genocide. State accountability for a violation of this duty is of the utmost importance, and the duty of states to refrain from genocide is of the most fundamental character both philosophically and practically. But in addition to the basic duty to refrain from genocide, nations are also obligated to prevent and punish genocide, among other ancillary duties, under the Genocide Convention

In this regard, the responsibility of states extends beyond direct commission of genocide to encompass failures of prevention, complicity, or lack of due diligence in addressing early warning signs. The International Court of Justice (ICJ) in the *Bosnia and Herzegovina v. Serbia and Montenegro* case affirmed that a state's liability may arise not only from its own actions but also from its omission to prevent genocide within its power and influence. This illustrates that state responsibility is both proactive and reactive: proactive in taking measures to deter genocide, and reactive in ensuring perpetrators are punished. Thus, state responsibility for genocide is framed as a comprehensive obligation rooted in international law, designed to safeguard humanity against one of the gravest crimes known to humankind.

D. Kesimpulan

Kesimpulan adalah bagian paling akhir dari sebuah artikel ilmiah. Memuat pernyataan ringkas atau poin-poin penting berdasarkan hasil penelitian dan pembahasan. Tidak diperbolehkan menuliskan kesimpulan dengan format *numbering*. Juga diperbolehkan menuliskan saran-saran untuk melanjutkan penelitian atau tema penelitian berikutnya yang relevan agar bisa menghasilkan kemanfaatan yang lebih luas.

The state's actions do not contravene the principle of non-intervention as articulated in Article 2(4) of the UN Charter. Its approach is limited to public statements and expressions of concern regarding gross human rights violations, without resorting to coercion or violence against the territorial integrity or political independence of another state. International law allows states to voice their position on international crimes, including genocide, as long as such expression does not lead to military intervention or coercion. State behaviour remains consistent with legitimate diplomatic expression within the confines of international legal obligations.

The state is encouraged to uphold its diplomatic strategy by continuing to express concerns over violations of international law through legitimate and non-coercive channels. To reinforce its commitment to the principle of non-intervention, the state can also engage in multilateral forums, issue joint declarations with other neutral states, and support fact-finding missions. These actions can enhance its role in promoting accountability while maintaining its adherence to international norms on state sovereignty and non-intervention.

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