

Article 4 of the Draft Declaration of Rights and Duties of States

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SUBJECT(S): GENERAL ASSEMBLY, RIGHTS AND DUTIES OF STATES

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Pursuant to a General Assembly Resolution, the International Law Commission drafted, in 1949, a Declaration on the Rights and Duties of States. Under Article 4 of the Draft Declaration, “[e]very state has the duty to refrain from fomenting civil strife in the territory of another State, and to prevent the organization within its territory of activities calculated to foment such civil strife.” Consequently, and especially because of the ongoing state of crisis characterized by aggression and the use of force in countries like those of the Middle East, the need to examine such a duty becomes more significant than mere academic. This Article aims to analyze the scope as well as the limitations of such a legal duty.

First, the Article examines recent treaties and declarations in order to establish the state of affairs prior to the declaration of the abovementioned duty. Here, the discussion focuses on the fundamental premise enunciating non-interference with the internal affairs of the other States. It is further deduced that these treaties support such a duty.

Second, the changes brought about by the United Nations Charter as well as the resolutions of the General Assembly are determined. This would primarily yield the affirmation that such duty is in harmony with the said Charter.

Third, the Article finally analyzes the nature and limitations of the duty in light of its characterization as a rule of law. The discussion in this section has the effect of dividing the duty into two parts, namely, the primary and the secondary. The primary duty involves the duty of the State “to refrain from fomenting civil strife in the territory of another State.” The secondary duty, on the other hand, touches upon the duty “to prevent the organization within its territory of activities calculated to foment such civil strife.”