

## From Prerogative to Prohibition: Article 2(4) as Customary International Law in *Nicaragua v. U.S.*

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38 *ATENEOLJ.* 1 (1994)

*SUBJECT(S):* PUBLIC INTERNATIONAL LAW

*KEYWORD(S):* NON-USE OF FORCE PRINCIPLE

This Note provides an analysis of the *Nicaragua v. U.S.* case. This case confirmed the non-use of force principle, as enunciated in the U.N. Charter, specifically through Article 2(4). The Note is divided into seven parts, the first of which is the introduction. The first and second Chapters provide the theoretical frameworks for the study. The first Chapter explains the Sources Doctrine on custom and treaty while the second Chapter applies the custom-treaty interplay to the non-use of force principle. Chapter three, meanwhile, relates the pertinent background, facts, and ruling of the *Nicaragua* case. An analysis of the Court's ruling is provided for in Chapter four, and the discussion of the significance of the *Nicaragua* decision is found in Chapter five. Lastly, Chapter six contains the conclusion of the Author.

The Note analyzes the case on two levels. On the first level, there is an analysis of the consistency of the Court's legal conclusions with international law. The second level meanwhile examines the method employed by the Court in determining the existence of Article 2 (4) in custom. The Note also demonstrates the significance of the *Nicaragua* decision to the international community in two respects. This is done by first solidifying the customary status of Article 2 (4), where the Court strengthens a rule once considered revolutionary but is of the utmost importance today. Second, the Court's method of determining the existence of Charter rules in customary law will have great practical applicability in the proof of sources of State obligations in future I.C.J. cases and in various other fields of international law. In addition, this Note suggests that the Philippines stands to benefit from a closer study of international law and the Nicaraguan experience in *Nicaragua v. U.S.* The reason for this is because the Philippines shares with Nicaragua common historical and socio-political roots. The country may find analogies that could be helpful in better understanding its past and present use of force position in international affairs.