

Document:-
A/CN.4/W.5

**Draft Declaration on the Rights and Duties of States - As proposed by the Sub-Committee on
the draft Declaration - incorporated in document A/CN.4/SR.19, footnote 2**

Topic:
Fundamental rights and duties of States

Extract from the Yearbook of the International Law Commission:-
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(<http://www.un.org/law/ilc/index.htm>)*

Chairman: Mr. Manley O. HUDSON.

Rapporteur: Mr. Gilberto AMADO.

Present:

Members: Mr. Ricardo J. ALFARO, Mr. James L. BRIERLY, Mr. Roberto CORDOVA, Mr. J. P. A. FRANÇOIS, Mr. Shuhsi HSU, Mr. Vladimir M. KORETSKY, Sir Benegal N. RAU, Mr. A. E. F. SANDSTRÖM, Mr. Georges SCALLE, Mr. Jean SPIROPOULOS, Mr. Jesús María YEPES.

Secretariat: Mr. KERNO, Assistant Secretary-General in charge of the Legal Department; Mr. LIANG, Director, Division for the Development and Codification of International Law, Secretary of the Commission.

Draft Declaration on the Rights and Duties of States (resumed)

SECOND READING

1. The CHAIRMAN drew attention to the draft Declaration on the Rights and Duties of States as proposed by the Sub-Committee¹ on the Draft Declaration.²

¹ Set up at the sixteenth meeting. See A/CN.4/SR.16, paras. 112-116.

² The Draft Declaration read as follows:

"Whereas the States of the world form a community and the protection and advancement of the common interests of their peoples require effective organization of the community of States;

"Whereas the great majority of the States are organized as a legally constituted community and have established a new international order under the Charter of the United Nations;

"Whereas the community of States is universal and participation in its constitutional organization should also be universal and obligatory;

"Whereas the maintenance of international peace and security is the supreme aim of the community of States and the United Nations has set forth purposes and principles and has established organs and procedures appropriate for the realization of that aim and conforming to the rules, customs and principles generally recognized by the civilized nations as constituting international law;

"Whereas the reign of law is the necessary foundation of international peace and security, and therefore it is important to define the basic rights and duties that States may exercise or must fulfil in their mutual relations; and

"Having in mind the principle that rights and duties are correlative and the right of one State implies the duty of other States to respect it;

"The General Assembly of the United Nations adopts and proclaims the following:

"DECLARATION ON THE RIGHTS AND DUTIES OF STATES

"Article 1

"Every State has the right to maintain its existence and to provide for the well-being of its people.

"Article 2

"Every State has the right to have its existence recognized by other States.

"Article 3

"Every State has the right to independence and thus to exercise freely, without being subject to the dictates of any other State, all its legal powers includ-

2. Mr. KERNO (Assistant Secretary-General) wished to make some general comments on the draft Declaration. Recalling that the Commission

ing the choice of its own form of government. It is in this sense that States are sovereign.

"Article 4

"Every State has the duty to refrain from intervention in the internal or external affairs of any other State.

"Article 5

"Every State has the right to equality in law with any other State.

"Article 6

"Every State has the right to exercise jurisdiction over its territory and over all persons and things therein.

"Article 7

"Every State has the duty to settle its international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered.

"Article 8

"Every State has the duty to refrain from waging war as an instrument of national policy and from resorting to any threat or use of force either against the territorial integrity or political independence of another State or in any other manner inconsistent with international law and order.

"Article 9

"Every State has the duty to refrain from recognizing any territorial acquisition made by another State through force or the threat of force.

"Article 10

"Every State has the duty to refrain from giving assistance to any State which has failed to perform the duty set forth in Article 8 or against which the United Nations is taking preventive or enforcement action.

"Article 11

"Every State has the right, individually or collectively, to take legitimate measures for its own defence or for the defence of any other State.

"Article 12

"Every State has the duty to carry out in good faith its obligations arising from treaties and other sources of international law and it may not invoke limitations contained in its own Constitution or its laws as an excuse for failure to perform this duty.

"Article 13

"Every State has the duty to see that conditions prevailing within its own territory do not menace international peace and order, and to this end it must treat its own population with respect for human rights and fundamental freedoms for all.

"Article 14

"Every State has the duty to refrain from fomenting civil strife in the territory of another State, and the duty to prevent the organization within its territory of activities calculated to foment such civil strife.

"Article 15

"Every State has the right to accord asylum to persons of any nationality who request it in consequence of persecution for offences of a political character.

"Article 16

"Every State has the duty to conduct its relations with other States in accordance with international law, and with the principle that the sovereignty of the State is subject to the supremacy of international law."