

way of conceiving such responsibility, which presupposes that justice is supreme, even over the State's will. Responsibility is based: first, upon the law as a group of rules of conduct whose binding force lies on principles beyond the will of the State; and secondly, the consequence thereof, that the powers of the State are limited by the juridical force of such rules.

The usual lay foundation for the responsibility of the State lies on the fact of territorial sovereignty. Responsibility would thus be a mere consequence of the exclusive jurisdiction of the State. This doctrine is explained by stating that national jurisdiction entirely excludes any protection from foreign States. Each State, within its territorial limits, is the only one able to afford proper guarantees to the rights of aliens, and for this reason it is held responsible for whatever undue injury they may sustain. "The very fact of the exclusive authority of the sovereign State"—according to Hall—"establishes its responsibility." "International relations would not be possible"—Triepel avers—"if the jurisdiction of the foreign State where one resides should not be substituted for that of the home State, whenever the latter is unable to afford proper protection." This territorial doctrine has been recently applied in the decisions of the Mixed Claims Commission, United States and Germany, in connection with damages charged to Germany in colonial possessions not under her control.

National jurisdiction might explain the theory of domestic responsibility. However, it would be a mere explanation thereof, and not a judicial foundation thereof. The question is the function of enforcing such right within the limits of the territory, with reference to its occupants. In order that such function should have any effect upon a judicial system without the State itself, it requires some element to link it with those judicial systems. It is evident that every State is able to exercise due diligence to prevent injury within the bounds of its jurisdiction. This is, of course, a simple premise; but it is essential to ascertain the basis of the duty to prevent said injury, and the necessity of redress therefor. The doctrine which transforms *power* into *duty* must thus be introduced. Moreover, if jurisdiction were to constitute the only ground for responsibility, the State would be held liable for all sorts of damage, though only in respect of occurrences within its own boundaries. Both presumptions are, of course, quite incorrect. It would be necessary to amend this construction by including therein the question of exceeding the rights covered by the powers of the State.

A broader foundation for the doctrine of State responsibility lies upon the general assent of the members of the Family of Nations. This common assent would assume that the Nations should conform to certain rules and regulations in reference to organization and procedure, and to the general principles which govern the conduct of States. This common right thus established would imply that, if any political entity should refuse to conform