

the exhaustion of the legal remedies available within the municipal judiciary is a condition precedent to international cognizance.

There is not, in fact, any proper reason to apply different principles of law, depending upon the rank of the officers of the State. Neither would there be a good reason to base this distinction upon the fact that redress for the damage may be had through prosecution of the legal actions provided by the State for the protection of the rights of the inhabitants of its territory. These actions are, in general, available to all persons in connection with damages caused by all kinds of agents. Certain special cases in which the State disclaims responsibility, shielding itself behind the ancient conception of its powers as a body politic involve, in fact, immediate international responsibility, as they imply a veritable denial of justice. Therefore, logically speaking, any classification made of the acts of government officials as regards the international responsibility of the State therefor, would have to be based exclusively upon the nature of the acts proper and the legal position assumed by the State in the matter, in relation to other States or their nationals.

It is thus the nature of the act, which should establish whether it comes properly within the national or the international jurisdiction. Reference has been hereinbefore made to national or private matters, which come properly within the municipal jurisdiction. However, there are certain matters which involve principles of international law, or which affect the conduct or obligations of the Family of Nations and are, therefore, beyond the jurisdiction of the municipal judiciary. Any facts in controversy in this kind of litigations, or the responsibility involved, could not be properly adjudged through an *ex parte* proceeding of any one of the States concerned, as equity would demand a superior jurisdiction to establish the truth of the facts and do justice. Some of these issues, however, may be properly settled through proceedings in the municipal organs, and, no doubt, it would be only fair, under certain circumstances, to afford the State an opportunity to do so. However, this is a matter involving rules of equity and comity, and under strict legal principles, all questions which are primarily international in scope, or which assume such character by reason of not being actionable under the municipal jurisprudence, entail international responsibility, whether they involve superior officers or subordinate agents or employees. The damage inflicted by one State upon another, already dealt with, belongs to the first category, the same as municipal laws which violate international principles, enacted by States wherein unconstitutionality cannot void them. In all other cases in which the States have afforded private citizens the right to sue high government officials, there is no distinction to be drawn, from the point of view of responsibility, between the acts of the latter and of subordinate officers or petty employees. They both