

have the same duties with respect to private citizens, and it is incumbent upon the State to afford the rights of the latter proper protection against the injustice and encroachments of either rank. This would be a truly logical and equitable solution.

(e) In connection with these acts of subordinate agents, special consideration has been given in certain cases to damages caused through violence on the part of incompetent armed forces.¹ When they are acting under orders of their superiors, their conduct belongs under the same category as the usual acts which involve the responsibility of the State. There are certain other instances, however, in which soldiers may inflict damage without the authority, or while not being under the control of their superiors, either through the use of the means at their disposal, or through the exercise of apparent authority. It is maintained also that it is not essential that the acts of soldiers should have been executed in their military capacity, or that they should or not be within the scope of their functions.² Responsibility should be absolute and unqualified, as provided by Article III of the Fourth Hague Convention of 1907, which states that "the belligerent power shall be responsible for all the acts committed by persons who form part of its armed forces".

(f) The task accomplished by the Preparatory Committee of the Codification Conference leads to believe that it is possible to attain the codification of this question of responsibility for administrative acts. Practically all the States consulted have stated uniform views. It might be mentioned that the Government of Great Britain affirms the principle of responsibility for loss or damage caused by the acts or omissions of officials within the range of their authority, but which are contrary to the international obligations of the State, or to its municipal laws, or which may be considered as having been anticipated by such laws.³ However, this last phrase relating to

¹ Even though damages caused by armed forces are, in fact, of an unusual character, there is no proper technical ground to place them in a class by themselves. The Institute of International Law considers that the action of military officers should be governed by the same general principles involving the conduct of government officials and agents.

² "It is immaterial whether the delinquent has or not availed himself of his military capacity; in fact, the reason why he was able to commit the act was the power that he always has while he is a soldier (or an officer). It is likewise immaterial whether or not the act is within the range of his military functions; moreover, in certain cases the act is utterly inconsistent with military duties (rape and arson); and responsibility also exists because such acts show, either wrongful negligence (criminal negligence if it is willful) on the part of the superior officers, or at least, lack of proper discipline and supervision. The wrongful act was committed by the soldier or officer by virtue of the powers that the State has placed in their hands, and the State is responsible for the improper use of such powers which it has entrusted to them, and which it should always keep under proper control." (Observations de M. le Fur—Annuaire de L'Institut de Droit International, Tome I, 1927, p. 514.)

³ "The State is responsible internationally for the acts or omissions of its officials acting within the limits of their authority. If a foreigner suffers loss or injury from