

VII

PROTECTION OF ALIENS

(a) There are no other positive cases of responsibility on the part of the State than those mentioned. Its organs are the only ones that can involve it under the circumstances stated. These include, practically, the cases in which responsibility arises out of the illicit acts of private individuals. The responsibility for such acts might be due to the attitude assumed by the State at the time of their commission. The reason why the State is not responsible for the wrongful conduct of private individuals does not lie in the fact that the person might not be subject to international law, nor because he might be deemed incapable of violating its precepts. Such theory would be exaggerated and inadmissible. The reason lies in the nature of the acts. The acts of State organs are the consequence of their will moved by the moral or physical power of the community behind them. In the other cases, the individuals themselves are more than capable of committing the act without anyone's instigation. The necessities of justice demand certain guaranties in connection with the former, while there are no good reasons to require them in the case of the latter.

From the point of view of the responsibility that the State may incur by reason of its attitude in the case of wrongful acts of private individuals, the nationality of the wrongdoers is altogether immaterial. The responsibility arises out of the duty of the State to preserve order within its territory and as regards all its inhabitants. It is possible for an alien subject to commit an act against the foreign country in which he resides, or against his own country, or against some other State. No responsibility will arise in connection with the nationality of the perpetrator. For instance, the uprising of Venezuelan nationals in a Danish possession, viz., Curaçao, which resulted in acts of violence against the Danish authorities and in the seizure of arms from their stores for the purpose of invading the Venezuelan territory could not involve the responsibility of the State whose nationals committed the act, by reason of their nationality. Any hostile or injurious acts of private individuals against a foreign State may give rise to responsibility only in certain cases. This does not cover the entire field of State activities. Damage caused by persons, in general, do not give rise to responsibility ex-