

cept in so far as the duty of the State to afford proper protection is concerned. The main question in this matter is, therefore, to determine wherein does the international obligation lie. If the damage has been inflicted upon another State, the principles of responsibility are limited by the duty imposed by the community upon its members to mutually protect themselves in matters involving the essential elements of its preservation or dignity. If the damage has been caused to foreign nationals, the question to ascertain is whether the State should afford them the same protection given to its own nationals, or whether this protection may differ. This has been one of the questions which have on certain occasions incensed Latin American States, on account of the impositions of which they have been victims in the past on the part of powerful States that have exacted excessive indemnities for their nationals.

There are conventions between the American States, constitutions and laws, treaties and court decisions, which have followed the policy of confining State responsibility within the limits of protection afforded to nationals. This was also the doctrine of the old treaty authorities and it was incorporated in the declaration of the Institute of International Law at its session in Oxford, wherein it was set forth that foreigners, regardless of their nationality, are entitled to the same civil rights as nationals, except in so far as otherwise specifically provided by current legislation. The same doctrine has been, of course, embodied in the draft code of the American Institute: "The American Republics do not recognize in favor of foreigners other obligations or responsibilities than those established for their own nationals in their constitutions, their respective laws, and the treaties in force." The reports of arbitral awards and of diplomatic claims contain varied decisions. The oldest rulings follow the principle of equality of nationals and foreigners. In the latest cases, however, there appears to be a change in this view. This modification has been clearly and specifically set forth in the resolution of the Institute of International Law at its Lausanne session and in Decision No. 7 of the Permanent Court of International Justice. The resolution of the Institute imposes upon the State the obligation to treat foreigners in accordance with the international law. This treatment of foreigners may have to be better than that accorded to nationals, if the municipal laws do not come up to the standards required by the international community. The Permanent World Court has proclaimed the predominance of international common law. The mixed arbitration commissions organized under the peace treaties of 1919 follow the same principle. A ruling of the Claims Commission, United States and Mexico, in 1926, also sets forth that in this question the problem does not consist merely of comparing the rights of nationals and foreigners, but that it is also necessary to allow foreigners their rights under international law.