

damage caused in civil wars, riots or rebellions, he proposed the same principle of due diligence which it is usually advisable for the State to exercise under such circumstances in order to prevent or check such acts. Professor Charles De Visscher stated that the obligation of the State should be commensurate with the means at its disposal. Mr. Politis did not accept this view, which makes responsibility dependent upon the circumstances of the State. "If this doctrine is to be made subject to internal troubles," Mr. Politis said, "it would place disorganized States in an advantageous position, and their responsibility would become too limited. In accordance with the formula of Mr. De Visscher, where there is the most damage caused by internal trouble, there would also exist the least responsibility. The speaker suggests, however, that, to a certain extent, the influence of the temporary impotence of the State might be taken into consideration in determining its international responsibility."

However, this resolution of the Institute does not appear to be quite in accord with the view of the European governments. The Bases of Discussion of the Preparatory Committee mention the cases in which the authorities have failed to accomplish everything in their power to preserve order, or have failed to exercise reasonable diligence to punish those who have inflicted injury upon the person or property of an alien. The replies of the governments refer, as a rule, to the duty of the State to accomplish everything in its power. Other governments prefer the doctrine of reasonable diligence or reasonable steps, and one of them (the Government of Austria) refers to the conduct of the State that is not what might be usually expected of a civilized State. In any event, the prevailing view is not to require the State to do the impossible. Its obligation depends upon its available means and its circumstances. It should not be conceived, however, that these means might be permitted to be so utterly deficient as to amount to a practical avoidance of the duty to afford proper protection. On the other hand, it would not be proper to think, as Mr. Politis does, that the relative lack of development of a State or its temporary disablement operates as a sort of punishment upon it, by applying to it the same standards of protection expected under normal conditions. Of course, it would not be altogether unfair for courts of arbitration to apply this doctrine when the lack of development cannot be tolerated, or when the degree of disorganization can not be properly explained by the actual circumstances. Nevertheless, it is quite possible for situations to arise wherein the mitigation of the responsibility, and even utter exemption therefrom, would seem only proper. It is advisable to adopt, as regards this question, a formula that will be sufficiently flexible to permit the international jurisprudence to be guided by principles of justice in its application to the great variety of concrete cases.