

## VIII

### EXHAUSTION OF LOGICAL REMEDIES

After the cases involving responsibility have been established, it should be stipulated, as hereinbefore suggested, that the prosecution of them should not always depend upon diplomatic claims procedure or interposition on the part of the governments. Responsibility is an obligation imposed by the principles of justice. The enforcement of responsibility is a function that may be either national or international. It is primarily a national function. Civilized nations have established administrative and judicial organizations for the purpose of preventing injury, repressing illicit acts, and providing due reparation for the damages sustained. In the international community there is, or should be, among the States, an agreement to set up a similar organization to exercise these functions in the international sphere, in order to restore cordial relations whenever impaired by a violation of the rights of any one of the States. This would be an excellent way of reconciling national autonomy with international cooperation. Moreover, this system is necessary in order to raise the standard of good will in the international relations of the States, and to avoid friction between their governments. Their intervention, after all, is only justified in cases of necessity. If there is no need for intervention, because of other expedient means available, diplomatic intervention would imply an exercise of undue pressure as regards questions of juridical nature. In this regard all the scientific views are in perfect accord<sup>1</sup> both in the practice followed by the States,<sup>2</sup> as well as in international jurisprudence.<sup>3</sup> There is also the very important part

<sup>1</sup>The work by Edwin Borchard, *Diplomatic Relations*, and *The Responsibility of States in International Law* by Clyde Eagleton, contain convincing data on this point.

<sup>2</sup>This practice is evidenced by the diplomatic correspondence of many of the States and by other documents of their governments. The note of the British Foreign Office of April 24, 1916, may be cited. This note sets forth that the Government of Great Britain attributes considerable importance to the rule that all national remedies should be exhausted before any diplomatic action is taken.

<sup>3</sup>Among the large number of cases cited by Borchard, Eagleton and Ralston on this point, the following may be mentioned: Burn Case, Moore's Arbitrations, p. 3140; Bensley Cases, *ibid.*, pages 3016-3018; Lagueruene, *ibid.* 3027; Baldwin, *ibid.* 3126; Selkirk, *ibid.* 3130; Leichardt, *ibid.* 3133; Jennings, Laughland and Co., *ibid.* 3135; Slocum, *ibid.* 3140; *Ada*, *ibid.* 3143; Smith, *ibid.* 3146; La Guaira, Ralston's Venezuelan Arbitrations, p. 182; De Caro, *ibid.* 819; Poggioli, *ibid.* 867; Canadian Claims for Refund of