"If damage has been caused to a foreigner in violation of contractual engagements or other indisputable obligations at international law, international responsibility may be claimed against the State irrespective of the condition that the matter must have been laid before the national courts."[1]

These reservations, however, do not affect the principle in question in any way, because practically all of them refer to matters that are essentially international in character, such as offences between States, differences of opinion in the interpretation of treaties, and the application of their provisions. In some of these cases it is possible for the State to make reparation through its national organs; and to allow the State an opportunity to do so would, naturally, make for cordial relations. However, these matters pertain to the international jurisdiction by reason of their very nature, and in the majority of cases they are beyond the scope of the State organs. The other points refer principally to damage caused to private persons. The responsibility arising therefrom, or in connection therewith, exists from the moment that the injury was inflicted. However, in order to make this responsibility effective, various proceedings have to be followed. The claim instituted through diplomatic channels is a relative and temporary procedure. This is resorted to whenever the State has failed to discharge its obligation as regards the proper administration of justice. This procedure will continue to be followed while the injured parties are not afforded personal actions that can be directly prosecuted by them in the international jurisdiction. And for the very reason that this diplomatic claim proceeding is relative, temporary and liable to impair the cordial relations of the States, its use should be properly restricted. The codification in this regard should also be inclined towards restriction. The codification formulas propounded in the various plans do not appear to be materially different. However, they are not free from defects. Basis No. 27 of the Preparatory Committee has the difficulty that it does not contemplate the cases in which the person has international remedies available.[2] The formula of the Harvard Law School Research Committee is imperfect, because it subordinates responsibility itself, instead of the mere diplomatic proceeding, to the exhaustion of local remedies.[3] The formula of the Institute of International Law is an improve-

[1] Société des Nations—Conférence pour la Codification du Droit International—C. 75. M. 69. 1929 V.

[2] "Where the foreigner has a legal remedy open to him in the courts of the State (which term includes administrative courts), the State may require that any question of international responsibility shall remain in suspense until its courts have given their final decision. This rule does not exclude application of the provisions set out in Bases of Discussion Nos. 5 and 6." (Conférence pour la Codification du Droit International, C. 75 M. 69. 1929 V. p. 139.)

[3] "Article 6.—A state is not ordinarily responsible (under a duty to make reparation to another state) until the local remedies available to the injuried alien have been exhausted." (Research in International Law—Harvard Law School—p. 133.)