

 EDITORIAL

Civil liability, non-material damages and comprehensive reparation for damages in Ibero-America

The possibility of participating as guest editor for *Revista IUS* at the invitation of its Editorial Board has given me the opportunity to work with a distinguished group of professor-researchers from both Mexico and Hispanic America on a subject of great specialty to the law—civil liability as a fundamental element of non-compliance with obligations in various areas of legal relations.

The concept of damages as a central element of civil liability is evaluated not only as a fundamental legal institution, but also, and to an ever-increasing degree, in terms of the potential consequences for the person via the concept of non-material damages, which is linked to damage to the person via the infringement of their personality rights. In Mexico, the revitalization of the elements of non-material damages has been a necessity since the incorporation of the *pro homine* principle into the Constitution, as a form of protecting the dignity of the person. Therefore, a study using the methodology of comparative law is greatly needed in Ibero-America in order to identify the transition of these elements toward comprehensive reparation.

The prevention of and protection from the damages that appear in liability cases are also explored in this issue by authors, from both Mexico and abroad, from a contemporary perspective nuanced by their great experience and renowned work as both researchers and legal practitioners.

The themes covered in this issue are all highly original and of an interdisciplinary nature, as demanded by the law in these times, in which legal quagmires have been overcome by the development of society and science themselves, as well as the implementation of effective public policy, in which civil liability fulfils not only a compensatory and reparatory function but also a preventive one.

The issue highlights the authorship of excellent Argentine professors, whose work takes, as a starting point, the concept of damages as the presupposition of civil liability in the recently enacted Argentine Civil and Commercial Code. The function of this preventive aim is linked to the economic analysis of the law, which is undertaken with great legal technique in order to introduce methodological assumptions, both of a legislative nature and those of legal practitioners themselves, which seek more efficient decisions.

The theme of this issue also highlights the concept of non-material damages in the context of novel contemporary situations corresponding to family law and social media. It should be noted that, in these times, claims for non-material

damages due to non-compliance in conjugal relationships and civil liability claims based on the right to fidelity have emerged in various countries over a similar timeframe.

Civil liability, as has been established, does not imply a quagmire pertaining solely to civil law, but also one leading to other greatly important situations occurring in professional practice in general, such as civil medical liability and the application of punitive damages in Mexico. In terms of the duty of the lawyer, the liability incurred by public servants is also evaluated.

We also cover punitive damages in Spain and the problems that have occurred exceptionally in determining the final amount awarded as compensation in intellectual property cases.

The link between civil liability and criminal law is highlighted in three studies, which consider both self-endangerment by the victim as an attenuating factor in liability and compliance with the comprehensive reparation for damages to the victim, or victims, of the commission of a crime or the violation of human rights. These issues are presented in order to evaluate the transition from retributive to restorative justice, which takes, as a central axis, the reparation for damages caused to victims.

By selecting the studies presented in this issue, we have achieved the participation of authors from Argentina, Chile, Spain and, of course, Mexico. Presenting diverse arguments on converging themes from a range of nations and schools, the issue establishes parallels between the social situations in each country, which, ultimately, converge in their positions while weighing specific local circumstances. The quality of the participants has been foremost in the face of all the difficulties that occur during this period of hard work. I thank them for their contribution and patience, which have enabled us to achieve this result based on their excellent work.

Similarly, I would like to thank the *Revista IUS* editorial team for allowing me to participate in this issue, which I expect to have a great impact on the area of civil liability in the contemporary context of the increasing incidence of comprehensive reparation for damages.

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