

## **The Relationship between Non-Pecuniary Damages and Punitive Damages: On the Recent Development from the Historical Background and Function Evolution**

*Ju-Yin Chen* \*

### **Abstract**

In the history of law, there has been a long period of time that civil liability and criminal liability were not well distinguished. Although the social background of the origin of non-pecuniary damages and punitive damages is close, it does not mean that the two are the same concept. Besides, early torts were not categorized in detail, so assault and battery are often regarded as normative behavior types. However, the contemporary viewpoint has shifted from the act of the tort-feasor to the compensation of the victim's damage. Whether the actor is intentional or negligent, when the victim's physical, privacy or emotional interests were infringed, and thus the victim's intangible mental suffering caused by this, the law should use appropriate methods to measure and adequately recover it. Personality rights and non-pecuniary damages have undergone a fantasy course during the last two hundred years. The great change is a response of the modern legal system to the need to protect personal interests derived from society, reflecting the legal and economic development of a country. Taiwan's civil law is inherited from the European civil law system, and although we have taken a conservative attitude towards non-pecuniary damage compensation in the past, yet, this system has been gradually developed now. Taiwan's law distinguishes between civil and criminal

---

\* Professor, School of Law, Soochow University.  
E-mail: juyinchen0803@gmail.com

systems, and the law of damages is purely monistic. Therefore, the “damage amount” used to calculate punitive damages should include both pecuniary damage and non-pecuniary damage. Article 51 of the Consumer Protection Law is a choice for the new field to achieve special legislative purposes, which involves the evolution of non-pecuniary damage as well as contemporary issues of social value. Following these lines of thought, this article focuses on the relationship between “non-pecuniary damage” and “punitive damages” by observing the development trends of several major countries. This year (2021) the Supreme Court announced the Ruling of the Grand Chamber Decision No. 2680 (2019), and I hope that by exploring this issue more in-depth, to have a clearer understanding of the rational movement of these legal concepts and systems in changing times.

**Keywords: Pain and Suffering Damages, Non-Pecuniary Damages, Emotional Distress, Punitive Damages, Consumer Protection Act, Damages, Personality rights, Ruling of the Grand Chamber**