

IS INJURIA SINE DAMNUM SUPPLEMENTED BY OTHER LEGAL PRINCIPLES?

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ABSTRACT

The law presumes the existence of legal injury and there is no need for actual injury. What is important is- Infringement of legal rights. This research paper emphasizes on fundamental rights of the Indian Constitution can be seen as supplementing injuria sine damnum, as they provide a framework for protecting individual legal rights that can be remedied through the principle of Injuria sine damnum. However, the recognition of fundamental rights has led to changes in the law that may have the effect of limiting the application of injuria sine damnum. At the same time, they also coexist and complement each other and are widely recognized and applied together in the Indian legal system. This research paper will provide an analysis of the two concepts of Injuria Sine Damnum and Fundamental Rights correlation with references to the case laws and understanding the application in the Indian legal system.

Keywords: Injuria Sine Damnum, Fundamental Rights, Legal Rights, Legal Injury.

INTRODUCTION

Injuria sine damnum is a Latin term that translates to “injury without damage” i.e. ‘legal injury’ refers to a situation where someone’s legal rights have been violated without any actual financial loss or damage. This concept is particularly relevant in the law of torts, where a person can sue another for civil wrong or injury caused by the other person’s conduct, even if the injured person has not suffered any actual financial loss.¹

On the other hand, Fundamental Rights are protected and guaranteed by the Constitution which is the fundamental law of India. It is more detailed than those found in the Constitution of any other country in the world. Fundamental Rights are guaranteed by the Constitution without any discrimination against all persons. They protect individual liberties and freedoms from infringement by the state or private parties. They are enshrined in the Indian Constitution and are enforceable through the courts.

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¹ Ratanlal & Dhirajlal, The Law of Torts (28th edn, first published 1897)

In Indian law, both fundamental rights and the principle of “injury sine damnum” are recognized and protected. For example, if someone’s fundamental right to privacy is violated by another person’s conduct, such as by unauthorized surveillance or data breaches, the injured party may be able to sue for a civil wrong, even if they have not suffered any actual financial loss. In this case, the principle of “injury sine damnum” could be applied to support the claim for a civil wrong caused by the violation of the fundamental right to privacy.

STATEMENT OF PROBLEMS

Injury sine damnum and the fundamental rights of the Indian Constitution are not exactly interchangeable, as they serve different legal purposes. While both concepts provide a basis for legal remedies. Fundamental rights provide a basis for legal remedies for violation of individual rights, they do not necessarily replace the principle of injury sine damnum. Injury sine damnum and fundamental rights can be applied together in certain legal situations to provide remedies for violation of legal rights and can be seen as complementary to each other in the Indian legal system.

OBJECTIVES

The objective of this research paper states that Injury sine damnum is closely linked to the protection of these fundamental rights enshrined in the Constitution of India. If an individual’s fundamental rights have been violated they can seek a remedy even if they have not suffered any actual loss or damage. This is because the violation of a fundamental right itself constitutes an injury. Similarly, Injury sine damnum is to provide a remedy to an individual who has suffered a legal injury even if they have not suffered any tangible or monetary. Moreover, Injury sine damnum supplemented by Fundamental rights in India would involve more a holistic and proactive approach to protecting the legal rights of individuals and recognizing that these rights are an essential part of a just and equitable society and that legal injury can be just as damaging as physical injury and to provide remedies and compensation for such injury by the principles with their recognition in the Indian Constitution.

SIGNIFICANCE

Injury sine damnum has great significance concerning fundamental rights, even if no damage or loss has occurred. Overall, it promotes accountability, ensures access to justice, and promotes a just and equitable society. For example, when a violation of a fundamental right

occurs, a person can seek redress under the principle of *injuria sine damnum*. If a person's freedom of speech and expression is violated, they may be able to bring a claim for *injuria sine damnum* to recover damages for the harm caused to their legal right that is where fundamental rights provide a basis for legal rights that can be remedied through the principle of *injuria sine damnum*.

RESEARCH METHODS

This research paper mainly highlights how *Injuria Sine Damnum* the concept of tort has enhanced and is compatible with Fundamental Rights of the Indian Constitution yet Fundamental Rights have emerged more in the modern legal system. This research paper has identified the research problem by conducting research and formulating the data and analyzing the concept of *injuria sine damnum* with context to fundamental rights. Drawing conclusion and communicating the thought of the author of this research paper to the respective audience.

ANALYSIS

Injuria sine damnum is a principle of tort law that allows a person to seek damages for the violation of a legal right, even if there is no accompanying financial loss or damage. While it is a standalone legal principle, it can be supplemented by other legal principles that provide a framework for protecting individual legal rights.

1. For instance, In India, fundamental rights enshrined in the constitution provide a framework for protecting individual rights and can be used in conjunction with *injuria sine damnum* to seek remedies for violations of those rights.
2. Statutory rights are created by legislation these rights can supplement *injuria sine damnum* by providing a legal basis for the protection of specific legal rights. For example, a statute may provide for a right to privacy or a right to access information, which can be used in conjunction with *injuria sine damnum* to seek remedies for violations of those rights.
3. Common law rights are the rights that have been recognized and developed through case law. These rights can supplement *injuria sine damnum* by providing a legal basis for the protection of specific legal rights. For example, the common law right to property can be used in conjunction with *injuria sine damnum* to seek remedies for violations of that right.

This provides a legal framework for protecting individual legal rights.

Findings: Here are some notable case laws in India that have dealt with fundamental rights and injuria sine damnum.

Maneka Gandhi v. Union of India 1978: In this case, the Supreme Court held that the right to travel abroad is a fundamental right under Article 21 (Right to Life and Personal Liberty) of the Constitution. The court also held that the principle of natural justice, which is a common law principle, applies to any action taken by the state that affects the rights of an individual. In this case, injuria sine damnum and fundamental rights coexisted to protect the right of the petitioner to travel abroad.²

Olga Tellis v. Bombay Municipal Corporation 1985: In this case, the Supreme Court held that the principle of injuria sine damnum applies to the deprivation of the right to livelihood. In this case, fundamental rights supplemented injuria sine damnum to protect the right of the petitioner to earn a livelihood.³

Kharak Singh v. State of Uttar Pradesh 1963: In this case, the Supreme Court held that the right to privacy is a fundamental right under Article 21 of the Constitution. This also states that the principle of injuria sine damnum applies to the violation of the right to privacy.⁴

Vishaka v. State of Rajasthan 1997: In this case, the Supreme Court held that sexual harassment of women at the workplace violates the fundamental rights of women to equality, dignity, and a safe working environment. It is also said that injuria sine damnum applies to sexual harassment and that victims of sexual harassment can seek damages for the violation of their legal rights. In this case, fundamental rights supplemented injuria sine damnum to protect the rights of women in the workplace.⁵

² *Maneka Gandhi v. Union of India* 1978 <https://blog.ipleaders.in/maneka-gandhi-v-union-of-india/> Petitioner contention [2] [8] [4]

³ *Olga Tellis v. Bombay Municipal Corporation* 1985 <https://www.drishtias.com/daily-updates/daily-news-analysis/olga-tellis-case-1985#:~:text=The%20Olga%20Tellis%20vs%20Bombay,of%20their%20right%20to%20livelihood.>

⁴ *Kharak Singh v. State of Uttar Pradesh* 1963 <https://www.scobserver.in/journal/right-to-privacy-court-in-review/>

⁵ *Vishaka v. State of Rajasthan* 1997 <https://byjus.com/free-ias-prep/vishakha-case-1997-sc-judgements/#:~:text=The%20Court%20ruled%20that%20sexual,set%20of%20guidelines%20are%20necessary> [3]

These cases illustrate how fundamental rights such as the right to practice as a profession, right to education, right to travel, right to equality, and right to livelihood can be protected by the Indian Constitution even if no actual financial loss or damage has been incurred, thereby upholding the principle of *injuria sine damnum*.

Implementation: In the above cases, *injuria sine damnum* and fundamental rights coexisted and worked together to provide legal remedies for the violation of legal rights. Fundamental rights provided a framework for the protection of individual liberties and freedoms, while *injuria sine damnum* provided a basis for seeking damages for the violation of legal rights.

However, there are cases where the recognition of fundamental rights has led to changes in the law that may have the effect of limiting the application of *injuria sine damnum*. For example in some jurisdictions, the recognition of the right to privacy as a fundamental right has led to the development of torts such as “intrusion upon seclusion” or “public disclosure of private facts” These torts allow individuals to seek remedies for violations of their privacy rights, even if they have not suffered any actual financial loss.

1. For example in Canada, the landmark case of *Jones v. Tsige* in 2012 recognized a new tort of “intrusion upon seclusion”, which allows individuals to sue for damages resulting from the invasion of their privacy, even if they have not suffered any financial loss. This tort was recognized based on the recognition of the fundamental right to privacy in the Canadian Charter of Rights and Freedoms.⁶
2. Similarly, in the United States, the recognition of the fundamental right to free speech has led to the development of torts such as defamation, which allow individuals to sue for damages resulting from false statements that harm their reputation, even if they have not suffered any financial loss.

In conclusion, the recognition and protection of fundamental rights may lead to changes in the law that limit the application of *injuria sine damnum* or provides new avenues for individuals to seek remedies for violations of their legal rights.

⁶ *Jones v. Tsige* [2012] [https://globalfreedomofexpression.columbia.edu/cases/jones-v-tsig/#:~:text=Jones%20brought%20a%20tort%20action,Jones%20appealed](https://globalfreedomofexpression.columbia.edu/cases/jones-v-tsig/#:~:text=Jones%20brought%20a%20tort%20action,Jones%20appealed.). [2] [3]

CONCLUSION

This research paper concludes with the fact that *injuria sine damnum* the concept is further strengthened and can be supplemented by the fundamental rights guaranteed by the Indian Constitution. It is the rights necessary for the protection of individual rights and for promoting a just and equitable society. It ensures that the rights of citizens are fully protected and not part of and that the government and other authorities are held accountable for any violation of those rights. However, the coexistence of these concepts in the Indian legal system also ensures that the rights of citizens are upheld and promotes accountability and justice for all.

Right to Privacy, Right to speech, Right to equality, and Right to education recognized by the Indian constitution, here *injuria sine damnum* can be used to demonstrate that the individual's right has been infringed upon, even if they have not suffered any financial loss or damage but Fundamental Rights play a significant role as it provides a broader framework for protecting individual's legal rights and ensuring equal treatment before the law.

Future Application: Privacy Concerns in social media in India has become a major issue. In the future, the principle of fundamental rights and *injuria sine damnum* could be applied to cases where an individual's privacy is violated by social media companies or parties. The right to privacy has already been recognized as a fundamental right in India and applied to protect the privacy of the concerned party. Also when Discrimination in Employment will be there on the basis of race, gender, religion, or other factors which is a common issue, the principle of fundamental rights and *injuria sine damnum* could be applied to cases where individuals suffer harm or injury due to such discrimination. For example, the right to equality is a fundamental right in India. With this like *injuria sine damnum*, the fundamental rights could be applied to a wide range of cases in the future, including cases involving privacy concerns in social media, discrimination in employment, and other civil wrongs caused by the violation of legal rights.