

is measured by the feelings of indignation stirred in the breasts of twelve indignant men by the arts of eloquent counsel, assisted sometimes by the oratory of the judge. These damages are called "exemplary."

Now, most countries allow a claim for moral damages as supplementary to a claim for damage to person or property—but to what extent do they permit actions for moral damage only, *i.e.*, for damage to honour, affection or other moral feelings? There are countries which definitely make moral damage justiciable *per se*. Prominent among these is the Argentine Republic, but it generally confines the remedy to damage arising from an act, since art. 1108 of the Civil Code says that a person who has occasioned prejudice to another by omission shall only be liable when a prescription of the law imposes upon him the obligation to fulfil the omitted act. Apart from that general provision "every right may be the subject-matter of a wrong, whether it is a right over an exterior object, or is intimately connected with (*se confunda con*) the existence of a person" (art. 1109). "Every wrong causes an obligation to repair the prejudice resulting therefrom to another person" (art. 1111). "If the act is an offence against the criminal law, the obligation arising therefrom includes not only the indemnity for loss and profit, but also the moral injury which the offence has made the person to suffer, by molesting him in his personal security or in the enjoyment of his property, or by wounding his lawful affections" (art. 1112). "The obligation to repair the damage caused by a wrong exists, not only in respect of him whom the wrong has directly damnified, but with respect of every person who has suffered thereby, although it be in an indirect manner" (art. 1113). "Every reparation of damage, whether material or moral, which is caused by a wrong, must merge in a pecuniary indemnity to be fixed by the judge, saving the case in which the object which was the subject-matter of the wrong is restored" (art. 1117). But a person offended by calumny or insult can only recover damages when he proves actual damage or loss of profit and that only when the defence fails to prove the truth of the aspersion (art. 1123). Specific instances of wrongs are dealt with in the same connection, and among others the right to sue for damages by homicide is conferred on the widow and