***La notion du dommage dans le cadre du délit de négligence (common law) et de la responsabilité extracontractuelle du fait personnel (droit civil) au Canada: une étude en droit comparé.***

Author: Marel Katsivela

The article aims to set out the principles governing the concept of damage in the context of extra-contractual liability resulting from one’s personal acts or omissions under Quebec civil law and the common law tort of negligence in Canada. The author seeks to identify similarities and differences that govern this concept and to put forth suggestions on the legal *statu quo*. While the applicable rules in this area only partially converge, the legal concerns remain by and large similar. Court findings are alike in some instances but differ in others.

For example, *solatium doloris* is not a recognised head of moral damage under common law but is sanctioned by Québec civil law. Further, although Québec civil law does not have a specific category named: pure economic loss’ as is the case in common law, it treats this type of damage under a larger category that is named material loss. Conversely, while Québec law requires a damage to be ‘légitime’, common law does not. However, this legal system treats the illegal conduct of the plaintiff as a defense that the defendant can invoke under the tort of negligence. One of the main differences underlying this notion in both legal systems is that what Québec civil law treats under the concept of damage, common law may treat it in different elements of the tort of negligence (for example, duty of care, factual causation, remoteness). Despite the divergence in approach, judicial conclusions may be similar in some instances. The comparative study of damage within the two legal cultures in Canada proves to be quite a field to discover!