

## EDITOR'S NOTE

### PHILOSOPHY OF PRIVATE LAW

The Latin American Legal Studies journal is celebrating three years of existence with the publication of its seventh volume. During this time, the journal has included numerous authors from different jurisdictions, strengthening the journal's international approach. The journal also includes a great variety of topics and different perspectives, with a common concern with legal aspects of relevance to Latin America. Importantly, the journal has also kept its bilingual character, with the simultaneous publication of all its articles in English and Spanish, an aspect that is characteristic of this journal.

Another distinctive aspect of the journal is the publication of special issues. With the objective of strengthening specific areas of researching interest within the region, the journal has a procedure according to which anybody can propose a special issue, which can occupy some of the articles of the volume or the complete volume. The special issues can have one or two Guest Editors, who are in charge of receiving and reviewing the articles for the special issue.

In this opportunity, I am proud to present a special issue dedicated to the philosophy of private law, that was developed under the direction of the Guest Editors Esteban Pereira Fredes and Alexander Vargas Tinoco. The idea was conceived in the context of the organization of a special workshop dedicated to the topic on the IVR annual conference of philosophy of law in Lucerne, Switzerland, in 2019. The volume has, as usually has been the case in the journal, an enormous international focus. Both the authors and the articles' referees are from different nationalities. In this sense, it is worth mentioning that all the papers were subjected to a double-blind peer review, except for Claudio Michelon's article, which it is re-published in English and appears here in Spanish for the first time.

The volume gathers reflections upon the philosophical principles that justify the basic concepts and principles of private law, establishing an authentic discipline of special jurisprudence. Within this topic, there are articles from different approaches. For instance, the volume has analytic perspectives related to some fundamental private law concepts, such as the concept of property on Adriano Zambon's text, the concept of damage on Lucila Fernández Alle's article, the concept of liberty on Cristián Aedo Barrena's paper, or the concept of risk on Alexander Vargas Tinoco's article. While other some other articles tackle the foundations of some legal concepts more directly, such as the concept of good faith on Esteban Pereira Fredes' contribution or the concept of just price on Joaquín Reyes Barros' article. Regarding the topics, the papers deal with different subjects within the private area, from more general perspectives such as

Claudio Michelin's analysis on the public nature of private law, or the discussions between Law & Economics approaches and philosophical perspectives of Fabrizio Esposito's article, to the applied analysis on property law, contract law and the law of torts.

Why are these reflections important? I can provide here two reasons. In 1995, the notorious Toronto's professor Ernest J. Weinrib held in his *The Idea of Private Law* (Harvard University Press) that there are two aspects that characterize private law, features that make it private law rather than something else: the institutional aspects and the conceptual aspects. The articles included on this volume analyze several of the conceptual aspects that according to Weinrib's terminology constitute the "internal structure" of private law. The importance of these articles therefore is shown, for (if Weinrib is right) it is necessary to analyze and comprehend the concepts that are part of the structure of private law, a structure that makes the practice intelligible, regardless of the jurisdiction in which the reader is.

The second reason why it seems to me that the questions analyzed on this volume are relevant is related to the implications that these reflections have to legal scholarship or the practical problems that arise applying these concepts. In this sense, for example, to solve the problems related to the good faith principle, typically in the context of precontractual liability or during the contractual performance, it is necessary to understand the normative foundations of the good faith principle. The philosophical reflections upon open concepts such as good faith can provide with some guidelines to solve their problems of application, problems that cannot be solved using exclusively the discipline of legal interpretation. The same applies, for instance, with the notion of "just price" and its application to *laesio* or unconscionability, or the notion of "liberty" as a requirement to hold a particular subject responsible.

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ALBERTO PINO EMHART  
*Latin American Legal Studies General Editor*  
*Universidad Adolfo Ibáñez*