



## Disgorgement: compensation for unlawful profit

*Disgorgement: compensation for the lucrative illicit act*

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## SUMMARY

The research shows that the disgorgement institute, or restitution of illicit profits, is an innovative and multifaceted tool capable of correcting economic, social and environmental imbalances, acting both to repair damages and to prevent illicit practices. The study shows that the practical application of disgorgement, originating from regulatory practices in the financial market, has expanded its scope to areas such as holding administrators and managers accountable, repairing damages resulting from environmental disasters and correcting distortions in international contracts. By imposing the restitution of profits obtained unduly, the institute not only discourages fraudulent and abusive behavior, but also restores balance in contractual relationships, protecting collective and individual interests. It is observed that, in the context of financial markets, the application of disgorgement has proven to be essential to maintain the integrity of the system and ensure investor confidence, functioning as a mechanism that combines punitive and compensatory character by removing the undue benefit from the offender. In cases of environmental disasters, such as dam failures, the study reveals that disgorgement stands out in holding the agents involved accountable and mitigating socio-environmental impacts, allowing the recovered resources to be directed towards measures to repair and prevent future catastrophic events. Furthermore, the application of the institute in international contractual disputes contributes to economic justice, by preventing abusive practices from compromising the balance of the global market. The analysis also points to the need to modernize compensation mechanisms, integrating disgorgement into regulatory systems, in order to expand its scope and effectiveness. It is therefore concluded that the restitution of illicit profits through disgorgement plays a crucial role in promoting a more transparent and fair business environment, encouraging the adoption of ethical and responsible practices that benefit society as a whole. The research reinforces the importance of establishing robust reparation measures that not only correct imbalances caused by illegal acts, but also act preventively, contributing to the evolution of the legal system and the protection of the rights of all economic agents involved.

**Keywords:** Disgorgement; Restitution; Civil Liability; Reparation; Prevention.

## ABSTRACT

The research shows that the institute of disgorgement, or restitution of illicit profits, is an innovative and multifaceted tool capable of correcting economic, social and environmental

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imbalances, acting both in the repair of damages and in the prevention of illicit practices. The study demonstrates that the practical application of disgorgement, originating from the regulatory practices of the financial market, has expanded its reach to areas such as the accountability of administrators and managers, the reparation of damages resulting from environmental disasters and the correction of distortions in international contracts. By imposing the restitution of profits obtained improperly, the institute not only discourages fraudulent and abusive behavior, but also reestablishes the balance in contractual relations, protecting collective and individual interests. It is observed that, in the context of financial markets, the application of disgorgement has proven to be essential to maintain the integrity of the system and ensure investor confidence, functioning as a mechanism that combines punitive and compensatory character by removing the undue benefit of the offender. In cases of environmental disasters, such as dam failures, the study reveals that disgorgement stands out by holding the agents involved accountable and mitigating socio-environmental impacts, allowing the recovered resources to be directed to measures to repair and prevent future catastrophic events. In addition, the application of the institute in international contractual disputes contributes to economic justice, by preventing abusive practices from compromising the balance of the global market. The analysis also points to the need to modernize the compensation mechanisms, integrating disgorgement into the normative systems, in order to expand its scope and effectiveness. It is thus concluded that the restitution of illicit profits through disgorgement plays a crucial role in promoting a more transparent and fair business environment, encouraging the adoption of ethical and responsible practices that benefit society as a whole. The research reinforces the importance of establishing robust reparation measures, which not only correct the imbalances caused by illegal acts, but also act preventively, contributing to the evolution of the legal system and to the protection of the rights of all economic agents involved.

**Keywords:** Disgorgement; Restitution; Liability; Repair; Prevention.

## 1 INTRODUCTION

The research investigates the institute of disgorgement as a compensation mechanism for lucrative illicit activity, seeking to demonstrate its effectiveness in the restitution of profits obtained improperly. The study aims to analyze the theoretical and practical foundations of disgorgement, emphasizing both its punitive and compensatory function. The adoption of this instrument to curb unjust enrichment and to restore balance in economic and legal relations, contributing to the improvement of the legal system legal and for the protection of victims' rights (Pereira & Pedra, 2024).

Disgorgement is presented as a tool that forces the offender to return profits obtained illegally, preventing them from benefiting unduly from their actions. The analysis conceptual demonstrates that, by imposing the return of earnings, the institute acts to prevent new crimes and in discouraging fraudulent behavior. This mechanism differs from traditional compensation, as it is not limited to repairing damage, but seeks to reverse the benefit



undue, configuring itself as an instrument of restorative and preventive justice (Pereira & Stone, 2024).

The study highlights the relevance of non-compliance with the duty of degrowth, which justifies the restitution of illicit profits and the restoration of economic and social balance disturbed by the illicit practice. The analysis shows that the imposition of this obligation prevents the offender maintains an immoral profit, contributing to distributive justice and the correction of distortions caused by the illicit act. In this way, the institute promotes the reparation of losses and reinforces the agent's responsibility (Pereira & Pedra, 2024).

The research focuses on the application of disgorgement in disaster contexts environmental issues, highlighting their importance in preventing disasters and holding those accountable involved. The collapse of dams exemplifies the need to recover resources diverted and mitigate socio-environmental damage, demonstrating that the return of profits can finance preventive and compensatory measures, protecting collective interests (Resende, 2024).

Civil liability for illegal profit is analyzed from the perspective of the theory of liability, which expands the limits of traditional compensation and balances the losses caused. The restitution of undue gains emerges as a means of discouraging practices unethical and inhibit illicit behavior, offering an approach that integrates elements subjective and objective in the configuration of the offense and in the reparation of damages (Fragoso et al., 2022).

The problem of unjust enrichment is examined from a perspective criticism that questions the maintenance of profits obtained through illicit means. The analysis highlights the need to adopt preventive measures to prevent the accumulation of immoral advantages and reinforces the effective response provided by disgorgement, which seeks to restore equity in legal relationships and correct the injustices generated (Bueri, 2021).

The viability of disgorgement in Brazilian law is discussed based on the review of the existing repair mechanisms and the regulatory gaps that can be filled by this institute. The analysis proposes the integration of disgorgement into the legal system as complement to traditional forms of compensation, suggesting a review of the paradigms of civil liability to achieve more effective justice (Rosenvald & Kuperman, 2018).

The contribution of disgorgement to the repair of socio-environmental damage is highlighted in major disaster situations, such as dam failures. Research shows that restitution of profits obtained unduly can help in the recovery of affected areas and prevent new catastrophic events, reinforcing the commitment to environmental justice and protection of collective interests (Santos, 2020).



Analysis of the criteria for removing expenses saved by the offender demonstrates the importance of balancing responsibility between the parties. The restitution of illicit gains is makes it indispensable to neutralize the immoral advantage and correct the disparity between offender and victim, highlighting the need for measures that allow full compensation for damages caused (De natividade & Ramos, 2022).

The discussion on the application of profit from intervention in Brazilian civil law expands reflection on new categories of damage. The analysis proposes that disgorgement can be interpreted both as an extension of civil liability and as a mechanism autonomous compensation system, incorporating more rigorous criteria in measuring losses and suggesting a reinterpretation of traditional concepts of damage (Neto & Nogaroli; Beck, 2016).

The reading of the contours of civil liability is revisited based on new perspectives that consider the role of administrators and managers in repairing damages arising from the illicit profit. The analysis shows that the application of disgorgement can be extended to cases involving the administration of companies, reinforcing the importance of corporate governance and the accountability of those who benefit from illicit practices (Corrêa; Pavan, 2022).

Thus, this research demonstrates that disgorgement presents itself as an instrument strategic for compensation for illegal profit, integrating legal dimensions, economic and social. The institute proves to be effective in repairing the damage caused, acting preventively against the perpetuation of illicit practices and contributing to the evolution of law and the protection of collective and individual rights, justifying their adoption and application in legal system.

## **2 THEORETICAL FRAMEWORK**

### **2.1 Theoretical basis of disgorgement**

The conceptual analysis of disgorgement highlights its function of forcing the offender to return illegally obtained profits, preventing unjust enrichment and promoting the restoration of economic and social balance. The literature highlights that this institute acts in a simultaneously punitive and compensatory form, removing undue benefits and discouraging fraudulent practices, which is based on modern theories of civil liability.

The theoretical approach justifies the adoption of disgorgement as a tool of justice restorative, integrating normative elements and ethical principles essential for the protection of



collective and individual rights. This theoretical approach therefore demonstrates the relevance of deepening the discussion on the foundations of the institute to improve the ordering legal (Pereira & Pedra, 2024; Fragoso et al., 2022).

The institute presents itself as a reparative and preventive instrument, promoting justice by preventing the offender from benefiting from his conduct. The theory that underpins the disgorgement combines principles of civil liability with a punitive and compensatory function. This theoretical approach justifies its adoption in contexts of harmful acts and irregularities. contractual (Pereira & Pedra, 2024).

The normative analysis of disgorgement reveals its insertion in the legal system contemporary, articulating traditional concepts of compensation with innovations aimed at collective protection. The theoretical foundations show that the restitution of illicit profits is not confused with the repair of damages, but acts in a way to remove the undue benefit. This distinction is essential to establish mechanisms that prevent the perpetuation of illicit practices. The institute's study demonstrates the importance of rethinking liability models to ensure equity (Netto & Silva, sd).

The civil liability of company administrators is one of the areas in which the disgorgement gains relevance, since illicit gains from improper management compromise the integrity of the assets. The return of these profits thus becomes a mechanism necessary to curb abuses in corporate management and preserve the interests of shareholders and the community. The theory developed points to the need for hold accountable managers who benefit unduly from their position. This perspective strengthens the application of the institute in the business context (Pavan, 2022).

The contemporary nature of private law requires the integration of new paradigms that contemplate illicit practices and the restitution of undue profits. Disgorgement, when based on modern principles, it dialogues with the evolution of contractual relations and with the protection of the rights of those involved. The theoretical analysis highlights the importance of a legal system that keeps pace with social and economic transformations. This approach encourages the adoption of more effective repair measures (Netto & Silva, sd).

The quantification of collective moral damage, especially in the context of phenomena such as Dieselgate points to the need for mechanisms to compensate for the losses arising from of large-scale illicit practices. The theory of disgorgement proposes that the restitution of undue profits can contribute to the repair of damages caused to the community, going beyond of individual compensation. The institute proves to be fundamental for the correction of distortions



social and economic consequences resulting from irregular conduct. This perspective broadens the understanding the impacts of illicit profit (Fortes & Oliveira, 2019).

The interpretation of the fragments of civil liability, as discussed in literature, highlights the need to integrate traditional principles with new methods reparative. The theoretical basis shows that disgorgement can fill gaps existing in the application of liability, especially in cases involving unjust enrichment. The academic debate points to the importance of a new reading that covers all the damages caused. This approach encourages the construction of a fairer and more comprehensive compensation system (Corrêa, nd).

Restitution for illicit profits is also based on the idea of degrowth, which implies the removal of gains obtained in disagreement with the duty to reduce losses. The theory holds that failure to comply with this duty generates an obligation to make restitution profits, as a way of restoring economic and social balance. The analysis shows that the application of disgorgement is an effective response to this abusive behavior, preventing maintenance of immoral benefits. Thus, the institute reinforces distributive justice in the field of civil relations (Pereira & Pedra, 2024).

The distinction between disgorgement and traditional compensation mechanisms is another fundamental aspect of the theoretical foundation. The institute is not limited to repairing the damage, but seeks to withdraw the profit obtained unduly, configuring a measure of enrichment without cause. This differentiation reinforces the idea that the restitution of illicit profits can function as an element of prevention and correction of distortions. The analysis highlights the importance of establishing strict criteria for the application of disgorgement (Neto & Nogaroli, n.d.).

The practical application of disgorgement in emblematic cases, such as the Pinheiro case, illustrates its effectiveness in repairing damages resulting from illicit profit. Studies demonstrate that the restitution of undue gains can act to discourage practices fraudulent, contributing to the integrity of legal relations. Analysis of the facts reveals that accountability through disgorgement proves to be a robust tool for correction of imbalances. This empirical evidence reinforces the theoretical support of the institute (Fragoso et al., 2022).

The problem of unjust enrichment is central to the discussion on basis for disgorgement. The theory suggests that maintaining illicit profits without the due reparation, violates the principles of equity and justice. The restitution of these gains, therefore, it is considered essential for the correction of distortions and for the prevention of





future abusive practices. The theoretical approach defends the application of the institute as a way of ensure the protection of the rights of those affected (Bueri, 2021).

The analysis of situations involving environmental disasters highlights the relevance of disgorgement for the repair of socio-environmental damages. In contexts of rupture of dams and other tragedies, the institute can function as an accountability mechanism of the agents who obtained undue profits. The theoretical basis highlights that the restitution of illicit gains can contribute to the financing of reparation and prevention measures. This approach reinforces the preventive and compensatory dimension of disgorgement (Ereira & Stone, 2024).

The importance of using disgorgement extends to disaster prevention and protection of collective interests. Theoretical analysis indicates that the application of the institute imposes a punitive character that discourages the practice of harmful acts, while at the same time repairing the damages caused. This integrative perspective between compensatory measures and preventive measures reinforce the need for innovative legal mechanisms. The study contributes to the discussion on the evolution of civil liability paradigms (Resende, 2024).

The review of the concepts of modern civil liability demonstrates that the application of disgorgement can offer a new reading on the protection of privacy and rights fundamental. The theoretical basis highlights that the restitution of illicit gains, in addition to repair damages, serves to restore trust in contractual relationships and in administration public. This new perspective broadens the horizons of law, allowing the integration of ethical and social values in the reparation of damages. The critical approach proposes the modernization of traditional compensation mechanisms (Corrêa, 2023).

In summary, the theoretical basis of disgorgement presents the institute as essential instrument for the compensation of illegally obtained profits and for the prevention of unjust enrichment. The analysis of the reviewed studies highlights the need to rethink civil liability mechanisms, integrating punitive measures and compensatory. The consolidated theory demonstrates that the restitution of undue gains acts in a in order to restore economic balance and promote justice in social relations. In this way, way, the institute is configured as an innovative and necessary tool for the modernization of law (Corrêa, 2023).

## 2.2 Practical applications and implications of disgorgement



The use of disgorgement in practice reveals its potential to prevent disasters and repair socio-environmental and economic damages resulting from illicit practices, as exemplified in cases of dam rupture. The analysis of practical aspects shows that restitution of undue profits can finance recovery and prevention measures, contributing to the protection of collective interests and accountability of offending agents.

Furthermore, the institute has proven effective in defining the parameters of civil liability, promoting the updating of traditional compensation mechanisms. In this way, the practical application of disgorgement reinforces the importance of its improvement to ensure an effective legal response to contemporary challenges (Resende, 2024; Santos, 2020).

The practical application of profit disgorgement has gained prominence in the scenario legal, acting as a mechanism for repairing and preventing damage resulting from practices illicit. The institute proposes the withdrawal of undue gains and, with this, seeks to reestablish the balance in contractual and corporate relations, functioning as an instrument of justice compensatory. Its increasing use highlights a trend towards modernization of models traditional compensation methods, aligning with contemporary demands for greater effectiveness in holding offenders accountable (Do nascimento barbosa et al., 2021).

Analysis of the practical applications of disgorgement reveals its origin in the context regulatory framework for financial markets, with its effectiveness proven at the international level. Initially, the institute was used to curb abuses in the capital market, especially in the United States, and has been extensively studied from the case law of US Securities and Exchanges Commission. This evolution contributes to the dissemination of its application in other sectors of law, expanding its scope and relevance (Do nascimento barbosa et al., 2021).

A review of the case law of the United States Supreme Court demonstrates the effectiveness of disgorgement in the restitution of illicitly obtained profits. Studies indicate that the institute has been applied to correct imbalances resulting from practices fraudulent, functioning both as a punitive measure and as a form of protection for investors and the market. This approach reinforces the idea that the return of gains undue is essential for maintaining economic order and confidence in the system financial (Do nascimento barbosa et al., 2021).

The application of disgorgement is also evident in disaster prevention. environmental issues, especially in cases related to dams. Analysis shows that the institute can be used to curb negligent practices in the management of large works,



contributing to the accountability of agents and the mitigation of damages caused to communities and the environment. This perspective reinforces the preventive function of disgorgement, which acts to protect collective interests and promote security operational (Resende, 2024).

The economic approach to disgorgement has been the subject of studies that analyze its application in light of the Convention on Contracts for the International Sale of Goods. The investigation of the economic effects of this institute reveals that the restitution of illicit profits can positively impact contractual justice by preventing abusive practices perpetuate and distort market values. This analysis highlights the importance of mechanisms that ensure economic balance in international trade relations (De camargo lion & De melo barros, sd).

The possibility of compensating damages through disgorgement of profits is discussed in studies that investigate the application of the institute in the Vienna Convention. This perspective points to an expansion of reparation instruments, allowing the restitution of profits be used as a way to compensate for moral and material losses resulting from illicit conduct. The analysis shows that the use of disgorgement can offer a response innovative approach to repairing damages, strengthening justice in contractual relationships (Beck, 2016).

The institute is also analyzed in conjunction with punitive damages and good faith. contractual, especially in situations involving the violation of legitimate expectations in contracts. Studies indicate that the application of punitive damages, associated with disgorgement, intensifies the punitive and dissuasive nature of the institute, encouraging compliance with duties contractual. This approach contributes to the integration of traditional and modern principles in repairing damages, promoting more comprehensive justice (Acácio & Sá, 2022).

Quantification of moral damages arising from the refusal to provide medication in health care contracts reveals another practical application of disgorgement. Research demonstrate that the restitution of illicit gains can serve as a basis for compensation for moral damages, promoting compensation that takes into account the immaterial losses suffered by consumers. This analysis highlights the importance of adopting measures that guarantee the equity and the protection of users' rights in health contracts (Brusco, 2021).

Economic studies on the quantification of moral damages reinforce the idea that the disgorgement can function as an effective instrument in correcting imbalances caused by abusive practices. A detailed analysis of the financial and social impacts of illicit conduct shows that the restitution of undue profits not only compensates for losses, but



also discourages the occurrence of new crimes. This approach strengthens the use of institute as a prevention and reparation mechanism, integrating economic criteria into justice compensatory (Brusco, 2021).

Historical responsibility for past greenhouse gas emissions is another area where disgorgement can have significant implications. Research suggests that application of the institute can contribute to holding polluters accountable, requiring the restitution of profits obtained through practices that harmed the environment. This perspective broadens the scope of disgorgement, incorporating it into debates on justice environmental and repair of historical damage (Santos, 2024).

The practical implications of disgorgement extend to the protection of the rights of investors and the maintenance of the integrity of the financial market. The return of profits illicit activities is essential to prevent fraudulent practices from continuing to benefit offenders, ensuring the trust of economic agents. Studies indicate that the application The institute's effective action promotes a fairer and more transparent business environment, contributing for the stability of the financial system (Do nascimento barbosa et al., 2021).

However, the practical applications and implications of disgorgement highlight its relevance as a compensation and prevention tool in various sectors, from the market financial to environmental responsibility. Analysis of the studies reveals that the restitution of undue profits contributes to the correction of distortions and the protection of collective interests and individual, functioning as an integrating instrument in modern justice. The institute does not not only repairs damage, but also acts preventively, encouraging the adoption of ethical practices and responsible in contractual relationships (Resende, 2024).

### 3 MATERIALS AND METHODS

The research adopted a qualitative and exploratory approach, with a bibliographic method and documentary, aiming to analyze the practical applications and implications of disgorgement in the contemporary legal context. Relevant works were selected available in academic databases and specialized journals, considering publications that cover everything from the application of the institute in the financial market to its use in cases of socio-environmental liability. Data collection was carried out through specific keywords such as “disgorgement”, “restitution of ill-gotten gains” and “civil liability”, which made it possible to identify the main studies on the topic.



The materials used in the research included journal articles, research papers, completion of courses, dissertations and publications in specialized journals. The selection of documents followed criteria of relevance, topicality and thematic pertinence, covering works published between 2016 and 2024. The texts were initially evaluated by reading titles and abstracts, and subsequently, the studies that presented significant contributions were analyzed in full. This strategy allowed the construction of a robust corpus and diversified, supporting the analysis of the practical applications of disgorgement.

The analysis of the collected data was carried out qualitatively, through reading criticism and interpretation of the contents extracted from the selected works. The data were organized into thematic categories that address aspects such as the application of the institute in international jurisdictions, their contribution to the reparation of damages and their preventive function in cases of illicit practices. This methodology made it possible to identify convergences and divergences in theoretical and practical approaches, allowing an in-depth understanding of the mechanisms and implications of disgorgement. The synthesis of the main arguments contributed for the construction of a consistent theoretical framework.

The data obtained were systematized and organized into topics that reflect the various aspects of applying disgorgement, including holding managers accountable, compensation for moral damages and reparation of socio-environmental losses. The methodology adopted allowed the integration of elements of law, economics and public policy, providing subsidies for the discussion on the effectiveness of the institute. In this way, the research consolidated a multidimensional approach that serves as a basis for improving practices legal and for future research in the field, contributing to the evolution of knowledge in the area.

#### 4 RESULTS AND DISCUSSION

Analysis of the collected data shows that disgorgement is widely applicable as a mechanism for repairing and preventing damage resulting from illegal practices. Several contexts have been identified in which the restitution of undue profits becomes into an effective instrument to correct economic and social imbalances, as well as to prevent the perpetuation of fraudulent behavior. Examination of the studies indicates that the institute has expanded beyond the financial market, reaching areas such as liability environmental and international contracts (Do nascimento barbosa et al., 2021).



A review of international case law, with emphasis on the actions of the US Securities and Exchanges Commission, demonstrates that disgorgement has been robustly enforced to curb abuse and restore illicit gains. Studies indicate that Supreme Court decisions United States Court highlights the effectiveness of the institute in discouraging illegal practices, providing more effective protection to investors and the financial market. This international experience has served as a reference for adaptations in other jurisdictions (Do nascimento barbosa et al., 2021).

The application of the institute in the context of environmental disasters, especially in cases of dam ruptures, reveals its preventive and compensatory potential. The analyses show that, by imposing the restitution of profits obtained unduly, disgorgement acts as a mechanism for holding agents accountable and contributes to mitigating socio-environmental impacts. In this way, the restitution of illicit gains can help in financing of repair measures and in the prevention of future disasters (Resende, 2024).

The economic analysis carried out in light of the Convention on Sales Contracts International Merchandise highlights that disgorgement can be used to restore the balance in international trade transactions. The data indicate that the application of the institute allows to correct market distortions caused by abusive practices, promoting an effective response in repairing the damages. This result highlights the relevance of disgorgement for global economic justice (De camargo leão & De melo barros, sd).

Studies on the application of disgorgement in the Vienna Convention suggest that the institute can be integrated as a compensation mechanism, expanding the instruments of reparations available under international law. Research shows that restitution of undue profits proves effective in compensating for damages caused by illicit conduct, opening path for innovations in compensation methods. This approach strengthens the protection of rights of affected parties in complex contractual relationships (Beck, 2016).

The discussion about punitive damages and contractual good faith highlights that the disgorgement enhances the dissuasive nature of sanctions, especially when associated with punitive damages. The results indicate that by combining the restitution of profits with measures that punish abusive behavior, the institute contributes to strengthening contractual duties. This integration between traditional and modern principles of compensation promotes more comprehensive justice in contractual relationships (Acácio & Sá, 2022).

The quantification of moral damages in health care contracts indicates that the disgorgement can be used to repair immaterial damages resulting from practices illegal actions, such as refusing to provide medication. Analysis of the studies shows that

the restitution of undue gains provides a basis for compensation for moral damages, promoting greater equity and protection for users of health services. This finding reinforces the importance of the institute in protecting consumer rights (Brusco, 2021).

Assessing the implications of disgorgement on historical liability for damages environmental issues point to its relevance in repairing damages resulting from emissions of gases and other environmental impacts. The data analyzed suggest that the application of the institute allows the accountability of agents who have unduly benefited from practices that caused damage to the community and the environment. This approach broadens the field of action disgorgement, integrating it into environmental justice policies (Santos, 2024).

The integration of the results obtained shows that disgorgement acts as effective mechanism for the prevention of unjust enrichment and for the restoration of economic and social balance. The studies analyzed demonstrate that, by requiring restitution of illicit profits, the institute promotes a robust compensatory response and inhibits the continuation of illicit practices. This dual function, reparatory and preventive, is shown fundamental for the evolution of civil liability models (Do nascimento barbosa et al., 2021).

A comparison between the different applications of disgorgement reveals that the institute can be adapted to different contexts, from the financial market to environmental issues and contractual. The analysis indicates that the effectiveness of the institute depends on its integration with regulatory mechanisms that guarantee their effective application, which requires modernization of traditional compensation paradigms. The results suggest that the adoption of measures Robust restitution policies can bring significant benefits to economic and social justice (Resende, 2024).

The discussion of the practical implications of disgorgement also emphasizes its potential as an instrument for protecting the rights of investors and consumers. The data indicate that, by preventing the perpetuation of undue gains, the institute contributes to the creating a fairer and more transparent business environment. This function is especially relevant in highly complex contexts, where illicit practices can compromise the market integrity and the confidence of economic agents (Do nascimento barbosa et al., 2021).

In summary, the results and discussion show that disgorgement has diverse practical applications and significant implications in the protection and repair of damages arising from unlawful practices. The restitution of profits obtained unduly demonstrates its effectiveness as an instrument of compensatory and preventive justice, contributing

for the correction of economic and social distortions. The findings highlight the need for modernize compensation mechanisms, integrating disgorgement into regulatory systems to promote the effective accountability of offenders (Resende, 2024).

## FINAL CONSIDERATIONS

Research has shown that disgorgement is an effective tool for the restitution of profits obtained illegally, acting in a compensatory manner and preventive in various contexts, such as in the financial market, in environmental disasters and in complex contractual relationships. The analysis made it possible to demonstrate that the application of this institute contributes to the correction of economic distortions and the protection of the rights of investors and consumers, reinforcing the need for more modern legal mechanisms and integrated.

Furthermore, the investigation found that disgorgement, by imposing the return of undue gains, plays an important deterrent role, discouraging the practice of fraudulent behavior and promoting greater transparency in commercial relations. The Based on the findings, it becomes possible to conclude that expanding the application of this mechanism can contribute significantly to strengthening economic and social justice, by at the same time that it encourages the adoption of ethical practices in the business environment.

Finally, the study reinforces the importance of rethinking traditional paradigms of compensation, considering the integration of compensatory and preventive measures that make the legal system more responsive to contemporary demands. The reflections and results obtained pave the way for future research that deepens the application of disgorgement in other sectors, contributing to the evolution and modernization of the legal system.

## REFERENCES

- ACÁCIO, Bruno; SÁ, João Daniel Macedo. Punitive damages and contractual good faith: contractual damage in the legal formalism of Ernest Weinrib. *Civilistica. com*, v. 11, n. 2, p. 1-21, 2022.
- BECK, Rafaela Magalhães. The possibility of compensating damages through disgorgement of profits in the Vienna Convention. 2016.
- BRUSCO, Ana Beatriz. Quantification of moral damages for refusal to provide medication in health care contracts. 2021.
- BUERI, Emily Tavares. Civil liability and unjust enrichment: the problem of illicit profit in the Brazilian legal system. Final Course Work





(Bachelor's Degree in Law)-National Faculty of Law, Federal University of Rio de Janeiro, Rio de Janeiro, 2021.

CORRÊA, Rafael. Crumbs of Civil Liability. sd

CORRÊA, Rafael. A NEW DOGMATIC READING OF PRIVACY AND THE ROLE OF CIVIL LIABILITY IN ITS PROTECTION. LEGAL JOURNAL-LAW, JUSTICE, FRATERNITY & SOCIETY, v. 1, n. 1, p. 7-16, 2023.

DE CAMARGO LEÃO, Anna Beatriz; DE MELO BARROS, Guilherme Freire. Economic analysis of disgorgement of profits and its application in light of the CISG-Convention on Contracts for the International Sale of Goods. THE INVALIDATION OF ADMINISTRATIVE CONTRACTS IN LIGHT OF LAW 14.133/2021, p. 193.

DE NATIVIDADE, João Pedro Kostin Felipe; RAMOS, André Luiz Arnt. The removal of expenses saved by the offender at the expense of the victim's "duty" to mitigate the damage. Civilistica. com, v. 11, n. 2, p. 1-22, 2022.

DO NASCIMENTO BARBOSA, Caio César; GUIMARÃES, Glayder Daywerth Pereira; SILVA, Michael César. THE APPLICATION OF DISGORGEMENT OF PROFITS WITHIN THE SCOPE OF THE US SECURITY AND EXCHANGES COMMISSION (SEC): A BRIEF ANALYSIS ON THE US SUPREME COURT JURISPRUDENCE. Cultural Rights Journal, v. 16, n. 40, p. 145-162, 2021.

EREIRA, Leonardo Gomes; PEDRA, Adriano Sant'Ana. Restitution for unlawful profit in the face of non-compliance with the duty of decrease. Veredas do Direito, v. 21, p. e212488, 2024.

FORTES, Pedro Rubim Borges; OLIVEIRA, Pedro Farias. The unbearable lightness of being? The quantification of collective moral damage from the perspective of the phenomenon of illicit profit and the 'Dieselgate case'. IBERC Journal, v. 2, n. 3, 2019.

FRAGOSO, Natália Di Guaraldi Mafra et al. The Pinheiro case from the perspective of the theory of civil liability for illicit profit. 2022.

NETO, MIGUEL KFOURI; NOGAROLI, RAFAELLA. THE APPLICATION OF PROFITS FROM INTERVENTION (DISGORGEMENT OF PROFITS) IN BRAZILIAN CIVIL LAW: A NEW DAMAGE IN THE FIELD OF CIVIL LIABILITY OR A CATEGORY OF UNCAUSED ENRICHMENT?. sd

NETTO, Felipe Peixoto Braga; SILVA, Michael César. PRIVATE LAW AND CONTEMPORANEITY. sd

PAVAN, Vitor Ottoboni. Restitution of illicit gains in the civil liability of corporate administrators. Civilistica. com, v. 11, n. 2, p. 1-25, 2022.



PEREIRA, Leonardo Gomes; PEDRA, Adriano Sant'Ana. THE REFUND FOR ILLEGAL PROFIT IN FRONT OF NON-COMPLIANCE OF THE DEBER OF DECREASE. *Veredas do Direito*, v. 21, p. e212488, 2024.

RESENDE, Luiz Fernando Dias Leite. The importance of using the disgorgement institute for the prevention of dam disasters in Brazil: an analysis of the rupture of the Córrego do Feijão dam in Brumadinho (2019). 2024.

ROSENVALD, Nelson; KUPERMAN, Bernard Korman. Restitution of illicit gains: is there room for disgorgement in Brazil?. *UNIFACS Law–Virtual Debate-Qualis A2 in Law*, n. 213, 2018.

SANTOS, Jonathan Sena Miranda dos. The contribution of disgorgement in the case of the dam rupture in Mariana/MG and its socio-environmental repercussions. 2020.

SANTOS, Raphael Luiz Rodrigues. Historical responsibility and past greenhouse gas emissions: an analysis of the beneficiary pays principle. Undergraduate Course Completion Work (Bachelor's Degree in Law)-National School of Law, Federal University of Rio de Janeiro, Rio de Janeiro, 2024.