

International Encyclopaedia of Laws, Tort Law (International Encyclopaedia of Laws)



In an international encyclopedia, a proper place is definitely to be devoted to the Law on Tort. This legal area is important for lawyer and citizen alike. The problems of prevention of harm and loss allocation are not only extremely diverse but also universal and fundamental. This traditional branch of law not only tackles questions which concern every lawyer, whatever is his legal expertise, but it also concerns on a worldwide scale each persons most fundamental rights, such as his right to bodily integrity, his right to a manworthy existence and his property rights. The way a legal system protects rights and interests through, among others, tort law co-determines the degree of civilisation and the development of a given society.

However, no matter how fundamental tort issues may be, it is striking how the solutions offered in one system can be very different and sometimes quite diverse from those in another. There are basic differences in approach between the legal systems and the dividing line does not always match the classic divide between the countries of the Civil Law tradition and those belonging to the Common Law tradition. In the General Introduction, particular attention will be paid to the aims of the law of Torts and to the distinction between tort and crime and to the relationship between tort and contract (is concurrence between tortious liability and contractual responsibility permitted or not? what about precontractual liability?). For each country, the scope of protection will be tackled as well (are all interests equally protected?). The monograph is then divided into six Parts: Liability for Ones Own Act; Liability for Acts of Others; Forms of Strict Liability; Defenses and Exemption Clauses; Causation; Remedies. Each Part in its turn is divided into Chapters. Thus, the first part devotes a chapter to Specific Cases of Liability, such as professional liability and liability

of public bodies, abuse of rights and injury to reputation and privacy. The authors may feel free to add other specific cases which are peculiar to their legal system. The first chapter attempts to give a general overview of the delicate concepts of fault and unlawfulness, duty of care and negligence, subjects on which civil and common law are on the same lines. The second part deals with the various cases of vicarious liability, liability of parents, teachers and instructors, as well as with liability for handicapped persons. It is possible to deal with liability for things and animals in a separate chapter. In Part III each national monograph will touch on the most important groups of cases in the area of strict liability, as for example a chapter on product liability, environmental liability and road and traffic accidents. If a legal system does not consider one of those groups as falling in the category of strict liability, it has to be signalled in each monograph and followed by a reference to the relevant chapter on this issue. The fourth part considers rules on limitations of recovery and grounds of justification like self help and consent. The fifth part about Causation will be confined to some general principles (concept, joint and several liability, interferences). Finally, the sixth part explains the major questions on remedies. The different types of damages, their assessment and compensation will be treated, with a special focus on personal injury and death. This part also discusses the role of private insurance and social security in each system. For detailed information on all volumes of the Encyclopaedia, please visit: www.IELaws.com

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