

Synopsis 3

Law



The Law of Tort The Oxford Introductions to U. S. Law refers to ‘tort’ as a legal wrong whose interpretations are determined by judges when resolving particular lawsuits, statutes or agency regulations (1). If a tort lawsuit is successful, the wrongdoer is obligated to compensate the victim. A tort must be: legal wrong - recognized by law; relational wrong - committed towards a person(s) who have the only right to invoke the tort law; injurious wrong - there must be a victim who suffers bodily harm or damage to property, and a civil wrong - a violation of a norm of conduct (2 - 4). Tort law enables ordinary citizens to hold “political actors and multinational corporations” answerable to the harmful effects of their actions (5). Other reasons suggested by the proponents of this law include “compensating the injured party, discouraging undesirable behavior in society, reinforcing acceptable social norms, redistribution of wealth and expression of political protest” (7). However, opponents of this law argue that it is “arbitrary, impinges on economic productivity, erodes notions of personal responsibility, is partly responsible for a ‘compensation’ culture, and, gives undeserving claimants and greedy plaintiffs’ lawyers a leeway to exploit defendants” (5).

Forms of tort can be categorized based on the following elements: bodily integrity, personal space, possessory interests, freedom of choice and contract, and one’s standing in the eyes of others (30 - 42). Torts violating bodily integrity include battery - intentional physical touching of another’s body that is harmful or offensive such as hitting, kicking, or stabbing; negligence - carelessly inflicting physical injury on another person; defective products; and strict liability for abnormally dangerous activities - liability incurred on the defendant irrespective of fault for activities that cause physical injuries to passive bystanders such as blasting or transportation of

radioactive materials (30-33). Torts violating personal space are those that do not require personal injury for them to be admissible in court such as assault – intentionally acting towards another in a way that causes them to anticipate an imminent harmful/offensive touching; false imprisonment – intentionally confining a person or cause one to perceive herself as being confined; intentional infliction of emotional distress (sheer outrageousness of defendant's conduct); and workplace harassment (discrimination based on gender, race, religion or sexual harassment) (34-35).

Torts violating possessory interests infringe upon the interest in ownership of another person such as trespass to land, nuisance (unreasonable interference with landowner's right to use/enjoy one's property) and conversion (temporary/permanent seizure of property of another) (36-37).

Torts violating the freedom and choice of contract include fraud and tortious interference (38-39). Lastly, torts violating one's standing in the eyes of others include defamation and privacy torts (39-42).

The tort of negligence is the most common tort in modern society. The defenses for negligence that can be adopted by the defendant include statute of limitation - bars claims for being brought too late; comparative fault - any fault on the part of plaintiffs in causing injury disqualifies them from getting compensation; pure comparative fault - plaintiffs get compensation corresponding to their percentage of fault assigned to them; modified comparative fault - if plaintiffs are found to be more at fault than defendants, they recover no damages; and an assumption of risk - express/implied conduct of the plaintiff to waive their right to recover damages under tort law (110-112).