




Introduction to the English Legal System

Tort







Introduction to the English Legal System

General Principles

- Tort = civil wrong
- 'Law of tort' or 'law of torts'?
- Basic elements
 - Act (or (rarely) omission)
 - Causation
 - Fault
 - Protected interest
 - Personal security
 - Interests in property
 - Economic interests
 - damage




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General Principles

Fault

- Strict liability if no fault required
- Malice: act with some collateral or improper motive (intentional act)
- Intention: depending on context
 - Trespass: desire, foresee forbidden result and carry on regardless (intention to act, not necessarily cause harm)
 - Fraud/injurious falsehood: knowingly making untrue statement
 - Conspiracy: several combine to act together to cause damage, if that's their prime motive
- Negligence: careless behaviour (obj.: what would a reasonable man have done?)



The Royal Courts of Justice

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General Principles

- Purpose: protect reliance/status quo
- Minors:
 - can be victims, sue via next friend
 - Can be tortfeasor (in principle), no strict age limit




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Trespass to Person

- Battery, assault, false imprisonment
- actionable *per se* (no damage!)
- direct and physical
- Battery: direct and intentional application of force to another person
- Assault: cause another to apprehend infliction of immediate, unlawful force
- False imprisonment: unlawful imposition of constraint on another's freedom



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Defamation

- Libel and slander
- Libel: defamatory meaning conveyed in permanent form (actionable *per se*)
- Slander: defamatory meaning conveyed in non-permanent form
- Defamatory meaning
- Defences:
 - Justification (it is true)
 - Fair comment (protected opinion)
 - Privilege, absolute and relative
- Extended to privacy



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Deceit, malicious falsehood and passing off

- Deceit: false statement (knowingly or recklessly) with intention that victim acts on it and suffers damage
- Malicious falsehood: false statement that infringes victims economic interests
- Passing off: passing off one's goods as somebody else's with view to cause financial damage




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Torts relating to land

- Trespass to land: unjustifiable interference with the possession of land
- Nuisance: unlawful interference with a person's use or enjoyment of land (disputes between adjacent landowners)
- *Rylands v Fletcher* (1865/1868)




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Negligence

- Elements of the tort
 - Defendant owes claimant a duty of care
 - Defendant was in breach of duty
 - Claimant suffered damage
- Protects various interests
- Most important modern tort



Negligence
Donoghue v Stevenson (1932)

- End of privacy fallacy
- New duty: producers to ultimate consumers (narrow rule)
- Neighbour test for establishing duty of care (Lord Atkin) (wider rule)
"You must take reasonable care to avoid acts or omissions which you can reasonably foresee to injure your neighbour. Who then in law is my neighbour? The answer seems to be... persons who are so closely and directly affected by my act that I ought reasonably to have them in contemplation as being so affected when I am directing my mind to the acts or omissions which are called in question"

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Negligence
Expansion and restriction

- *Hedley Byrne & Co Ltd v Heller & Partners Ltd* (1964) – pure economic loss
- *Anns v Merton London Borough Council* (1978)
- *Junior Books Ltd v Veitchi Ltd* (1983)
- *Caparo Industries plc v Dickman* (1990)


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Negligence
Problem areas

- Nervous shock
 - Traditionally not accepted
 - Primary/secondary victims
- Economic loss
- Omissions
 - Traditionally no liability; 4 exceptions
 - Special relationship
 - Special relationship to third party
 - Defendant negligently causes or permits source of danger to be created
 - Defendant knew that third party created danger on his property

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 <p>The Royal Courts of Justice</p> <p>Introduction to the English Legal System</p>	<p>Negligence Breach of Duty</p> <ul style="list-style-type: none">• Reasonable man test <p>Causation</p> <ul style="list-style-type: none">• But for test• Remoteness: resonably foreseeable
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