

LAW OF TORTS

Distinguish Between Law of Tort, Criminal Law and Contract Act

1. INTRODUCTION:

Tort is breach of some civil duty independent of contract for which compensation may be recoverable. If there is an injury for which no compensation is recoverable is not tort. The law of tort is based on common law. It is still growing. It is not the part of statute law.

2. MEANING:

The word tort is derived from Latin word "Tortum" which means to twist or 'conduct' which is twisted.

3. DEFINITION:

> Salmond:

According to Salmond Tort is a civil wrong for which the remedy is a common law action for Unliquidated damages, and which is not exclusively the breach of a trust or other merely equitable obligation.

> Oxford Dictionary:

Tort is a private or civil wrong.

> Philip James:

Tort is a private or civil wrong independent of contracts for which appropriate remedy is an action for unliquidated damages.

4. DISTINGUISH BETWEEN TORT AND CONTRACT:

I. AS TO RIGHTS:

> Law of tort protects right in rem available against the whole world.

> Law of contract protects rights in personam which means against a particular individual.

II. AS TO DAMAGES:

> In tort, damages are unliquidated.

> In contract damages are liquidated.

III. AS TO CONSENT:

> Tort is always inflicted against consent of the person.

> Contract is always founded on consent of a person.

IV. AS TO CODIFICATION:

> Law of tort is not codified.

> Law of contract is codified.

V. AS TO FIXATION OF RIGHT AND DUTIES:

> Rights and duties are fixed by law in law of tort. > Rights and duties are fixed by parties in contract.

VI. AS TO DEFENCE:

> In law of tort necessity is a defence. > In contract, necessity is no defence.

VII. AS TO DOCTRINE OF VICARIOUS LIABILITY:

> Principle or doctrine of vicarious liability applies.

> Principle or doctrine of vicarious liability does not apply.

VII. AS TO LIMITATION:

> Limitation of time is one year in tort. > Limitation of time is three years in contract.

IX. AS TO POSITION OF MINOR:

> In law of tort a minor person can sue and can be sued.

> In contract a minor person can not sue and can not be sued.

5. DISTINGUISH BETWEEN LAW OF TORT AND CRIMINAL LAW:

I. AS TO PARTIES:

> In tort parties are known as plaintiff and defendant.

> In criminal law, parties are known state and accused.

II. AS TO PUNISHMENT:

> Tortfeasor has to pay damages.

> Criminal are sent to prison.

III. AS TO PROCEDURE:

> In tort, proceedings are regulated by civil procedure code 1908.

> Proceeding are regulated by the criminal procedure code 1898.

IV. AS TO INTENTION:

> Intention is not relevant in tortious act.

> Intention is always relevant in criminal act.

V. AS TO DEFENCE:

> Necessity is a defence in tortious act.

> Necessity is not a defence in criminal act.

VI. AS TO COMPROMISE:

> In tort, compromise is permissible.

> Compromise is not permissible in criminal law.

VII. AS TO PROCEEDINGS:

> Proceedings are conducted by injured person in law of tort.

> Proceeding are conducted by the state in criminal law.

VIII. AS TO CODIFICATION:

> Law of tort is not codified.

> Codified in Pakistan penal code.

IX. AS TO POSITION OF MINOR:

> A person under seven year is tortuously liable in tort.

> A person under seven year is not criminally liable

Tort law is a streamline of law which covers issues of civil wrongs like defamation, trespassing and the other actions involving law violations. In case a person has undergone a physical, legal or any economic harm then he can file a suit under the tort law. If the suit is valid and the defendant of the case loses the case then in such a case the complainant can be compensated with the damages for the loss which he has faced. The majority of the tort cases are handled with the regional, state civil codes and these laws specify the limits on the damages and the limitation of the tort cases. The tort laws are categorized on three broad classes viz: negligent torts, intentional torts and the strict liability torts. Negligent torts are the cases which occur due to negligent behavior and the failure to perform any task with due diligence. An example of the negligent tort can be when a person in the course of playing cricket cracks down the glass of the living room of an apartment. The unethical medical practices and any other forms of professional negligence fall under the category of negligent torts. The second categorization of tort law viz intentional tort is the wrong which have an intentional attempt to harm the other person. Examples of the intentional tort are defamation, fraud and false imprisonment. The strict liability torts are the wrongs specific to the products offered by a company, for example consider the fact if you have purchased a peeler and operated it according to the instructions as give and on operation the peeler has cut down your hand, this is an example of the strict liability tort. The tort law encompasses issues like misbehavior such as noise pollution, etc. In some places the issues which are considered very important these days that is the industrial pollution and the release of toxins are also covered under the tort laws, these cases are referred to as "toxic torts". These toxic torts are used to file cases against the companies and the industrial units who are not adhering to the emission of pollution levels. The other kind of tort is the nuisance torts which are quite challenging cases to handle as the word nuisance and its definition varies from person to person. It can be understood from the above definition that the tort law do not necessarily cover the physical damages caused to person but they also cover cases of economic nature for which the opposite party has to pay the compensation based on the damages which had occurred. It also covers issues which have been causing damage to the reputation of the people.

tort is civil wrong which prejudicially affect a person in some legal or private right(ratan lal)

simply tort means wrong or mistake which is done without contract.

for example you are going in a market , in your hand there is some things whose are made of glass, suddenly a person touch your hand and at the result of this act the glass make things broken, in this case you can apply to court and get suitable relief which may be two types ,you get original thing, you get money equal to loss

tort in islam: islam is in favoure of tort

islam religion base on tit for tat

islam says eye for eye , nose for nose, lose for lose, money for money

remember tort link civil cases not criminal cases

basic purpose of tort is to make situation in which the loss of affeted person is recover by giving suitable compention

the world suffers a lot. not because of the violence of bad people, but because of the silence of good people(napoleon)

torts is basically civil wrong and not a crime and is different from breach of contract. it affects right in rem and not in personam. it usually results in damage for which damages are rewarded... keep one thing in mind that damage here means voilation of some legal right and not any other, though a person might not have suffered any physical injury and just legal right is violated so here it will be falling within the category of torts.....

TORT...

A tort (originally from the Old French, meaning "wrong", from medieval Latin tortum, also meaning "wrong", past participle of torquere "to twist") is a wrong that involves a breach of a civil duty owed to someone else. It is differentiated from criminal wrongdoing which involves a breach of a duty owed to society, and also does not include breach of contract.

Tort cases may comprise such topics as auto accidents, false imprisonment, slander and libel, product liability (such as defectively designed consumer products), and environmental pollution (toxic torts).

A person who suffers legal damage may be able to use tort law to receive damages (usually monetary compensation) from someone who is responsible or liable for those injuries. Generally speaking, tort law defines what a legal injury is and what is not. A person may be held liable (responsible to pay) for another's injury caused by them. Torts can be classified in a number of different ways, one is to distinguish according to degree of fault, so that there are intentional torts, negligent torts, and strict liability torts.

For example, Alice throws a ball and accidentally hits Brenda in the eye. Brenda may sue Alice for losses occasioned by the accident (such as the cost of medical treatment and lost pay due to missing work), as well as for punitive damages. Whether or not Brenda wins her lawsuit depends on whether she can prove Alice engaged in tortious conduct. Here, Brenda would try to prove that Alice had a responsibility not to harm people and failed to exercise the responsibility which a reasonable person would render in throwing the ball. This is an example of the negligence.

In much of the Western world, the measure of tort liability is negligence. If the injured party cannot prove that the person believed to have caused the injury acted with negligence (lack of reasonable care), at the very least, tort law will not compensate (pay) the victim. However, tort law also recognizes intentional (purposeful) torts and strict liability torts, which apply when the person accused of committing the tort satisfied certain standards of intent (meaning) and/or performed certain

types of conduct.

In tort law, injury is defined broadly. Injury does not just mean a physical injury, such as where Brenda was struck by a ball. Injuries in tort law reflect any invasion of any number of individual interests. This includes interests recognized in other areas of law, such as property rights. Actions for nuisance (annoying or hurting) and trespass (unlawful entering) of land can arise from interfering with rights in real property. Conversion law and trespass to chattels (personal property) can protect interference with movable property. Interests in prospective (possible future) economic advantages from signed agreements can also be injured and become the subject of tort actions. A number of situations caused by parties in a contractual (written agreement) relationship may still be tort rather than contract claims, such as breach of duties.

Tort law may also be used to compensate (pay) for injuries to a number of other individual interests that are not recognized in property or contract law. This includes an interest in freedom from emotional distress, privacy interests, and reputation. These are protected by a number of torts such as Intentional infliction of emotional distress, privacy torts, and defamation/slander (destruction of a reputation). Defamation and privacy torts may, for example, allow a celebrity to sue a newspaper for publishing an untrue and harmful statement about him. Other protected interests include freedom of movement, protected by the intentional tort of false imprisonment which is when you are arrested without cause.

The equivalent of tort in civil law jurisdictions is delict. The law of torts can be categorised as part of the law of obligations (duties), but unlike voluntarily assumed obligations (such as those of contract, or trust), the duties imposed by the law of torts apply to all those subject to the relevant jurisdiction. To behave in tortious manner is to harm another's rights, body, property or other rights. One who commits a tortious act is called a tortfeasor

tort law: an overview

Torts are civil wrongs recognized by law as grounds for a lawsuit. These wrongs result in an injury or harm constituting the basis for a claim by the injured party. While some torts are also crimes punishable with imprisonment, the primary aim of tort law is to provide relief for the damages incurred and deter others from committing the same harms. The injured person may sue

for an injunction to prevent the continuation of the tortious conduct or for monetary damages.(See [Damages](#))

Among the types of damages the injured party may recover are: loss of earnings capacity, pain and suffering, and reasonable medical expenses. They include both present and future expected losses.

There are numerous specific torts including [trespass](#), [assault](#), [battery](#), [negligence](#), [products liability](#), and [intentional infliction of emotional distress](#).

Torts fall into three general categories: [intentional torts](#) (e.g., intentionally hitting a person); [negligent torts](#) (e.g., causing an accident by failing to obey traffic rules); and [strict liability torts](#)(e.g., liability for making and selling defective products - See [Products Liability](#)). Intentional torts are those wrongs which the defendant knew or should have known would occur through their actions or inactions. Negligent torts occur when the defendant's actions were unreasonably unsafe. Strict liability wrongs do not depend on the degree of carefulness by the defendant, but are established when a particular action causes damage.

There are also separate areas of tort law including [nuisance](#), [defamation](#), [invasion of privacy](#), and a category of [economic torts](#).

Tort law is state law created through judges (common law) and by legislatures (statutory law). Many judges and states utilize the [Restatement of Torts \(2nd\)](#) as an influential guide. The Restatement is a publication prepared by the [American Law Institute](#) whose aim is to present an orderly statement of the general law of the United States.

Definition from Nolo's Plain-English Law Dictionary

An injury to one person for which the person who caused the injury is legally responsible. A tort can be intentional -- for example, an angry punch in the nose -- but is far more likely to result from carelessness (called "negligence"), such as riding your bicycle on the sidewalk and colliding with a pedestrian. While the injury that forms the basis of a tort is usually physical, this is not a requirement -- libel, slander, and the "intentional infliction of mental distress" are on a good-sized list of torts not based on a physical injury. A tort is a civil wrong, as opposed to a criminal wrong. Compare: [crime](#)

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civil duty owed to someone else. It is differentiated from criminal wrongdoing which involves a breach of a duty owed to society, and also does not include [breach of contract](#).

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One of the main topics within liability for negligence is determining the [standard of care](#)—a legal phrase that means deciding between when conduct is or is not of the kind which may give rise to a wrong. Put another way, the main issue is whether a person must cope with the loss suffered on his or her own, or whether the loss will be compensated (paid for) by another party.

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from interfering with rights in real property. Conversion law and trespass to chattels (personal property) can protect interference with movable property. Interests in prospective (possible future) economic advantages from signed agreements can also be injured and become the subject of tort actions. A number of situations caused by parties in a contractual (written agreement) relationship may still be tort rather than contract claims, such as breach of duties.

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Etymology

The word 'tort' is derived from French word of the same spelling which means "mischief, injury, wrong, or calamity", from the Latin *tortus*, meaning twisted.

[\[edit\]](#) Categories of torts

Torts may be categorised in a number of ways: one such way is to divide them into Negligence Torts, and Intentional Torts.

The standard action in tort is negligence. The tort of negligence provides a cause of action leading to damages, or to relief, in each case designed to protect legal rights, including those of personal safety, property, and, in some cases, intangible economic interests. Negligence actions include claims coming primarily from car accidents and personal injury accidents of many kinds, including clinical negligence, workers negligence and so forth. Product liability (warranties and

the like) cases may also be considered negligence actions, but there is frequently a significant overlay of additional lawful content.

Among intentional torts may be certain torts coming out of the occupation or use of land. One such is the tort of nuisance, which involves strict liability for a neighbor who interferes with another's enjoyment of his real property. Trespass allows owners to sue for entrances by a person (or his structure, for example an overhanging building) on their land. There is a tort of false imprisonment, and a tort of defamation, where someone makes an unsupportable reason for arrest or their speech is not represented to be factual which damages the reputation of another.

Workers' compensation laws were a legislative response to the common law torts order placing limits on the extent to which employees could sue their employers in respect of injuries sustained during employment.

[\[edit\]](#) Negligence

Negligence is a tort which depends on the existence of a breaking of the duty of care owed by one person to another. One well-known case is *Donoghue v. Stevenson* where Mrs. Donoghue consumed part of a drink containing a decomposed snail while in a public bar in Paisley, Scotland and claimed that it had made her ill. The snail had not been visible, as the bottle of beer in which it was contained was opaque. Neither the friend who bought the bottle for her, nor the shopkeeper who sold it, were aware of the snail's presence. The manufacturer was Mr. Stevenson, whom Mrs. Donoghue sued for damages for negligence. She could not sue Mr. Stevenson for damages for breach of contract because there was no contract between them. The majority of the members of the House of Lords agreed (3:2 ratio) that Mrs. Donoghue had a valid claim, but disagreed as to why such a claim should exist. Lord MacMillan thought this should be treated as a new product liability case. Lord Atkin argued that the law should recognise a unifying principle that we owe a duty of reasonable care to our neighbors. He quoted the Bible in support of his argument, specifically the general principle that "thou shalt love thy neighbor."

The elements of negligence are:

- **Duty** of care by the defendant to the plaintiff
- [Breach of that duty by the defendant](#)
- **Harm** in fact suffered by the plaintiff
- [Defendant's breach being a cause of that harm](#)

[\[edit\]](#) Statutory torts

A statutory tort is like any other, in that it imposes duties on private or public parties, however they are created by the legislature, not the courts. One example is in consumer protection, with the *Product Liability Directive* in the European Union, where businesses making defective products that harm people must pay for any damage resulting. Liability for bad or not working products is strict in most jurisdictions. The theory of risk spreading provides support for this approach. Since manufacturers are the 'cheapest cost avoiders', because they have a greater chance to seek out problems, it makes sense to give them the incentive to guard against product defects.

One early case was *Cooke v Midland Great Western Railway of Ireland*, where Lord Macnaughton felt that children who were hurt while looking for berries on a building site should have some compensation for their unfortunate curiosity. Statutory torts also spread across workplace health and safety laws and health and safety in food produce.

[\[edit\]](#) Nuisance

Legally, the term “nuisance” is traditionally used in three ways: (1) to describe an activity or condition that is harmful or annoying to others (example- indecent conduct, a rubbish heap or a smoking chimney); (2) to describe the harm caused by the before-mentioned activity or condition (example- loud noises or objectionable odors); and (3) to describe a legal liability (responsibility) that arises from the combination of the two. The law of nuisance was created to stop such bothersome activities or conduct when they unreasonably interfered either with the rights of other private landowners (example- private nuisance) or with the rights of the general public (example-public nuisance).

The tort of nuisance allows a claimant (formerly plaintiff) to sue for most acts that interfere with their use and enjoyment of their land. A good example of this is in the case of *Jones v Powell* A brewery made stinking vapors which wafted onto neighbors' property, damaging his papers. As he was a landowner, the neighbor sued in nuisance for this damage. But Whitelocke J, speaking for the [Court of the King's Bench](#), said that because the water supply was contaminated, it was better that the neighbor's documents were risked. He said "it is better that they should be spoiled than that the common wealth stand in need of good liquor." Nowadays, interfering with neighbors' property is not looked upon so kindly. Nuisance deals with all kinds of things that spoil a landowner's enjoyment of his property.

A subset of nuisance is known as the rule in *Rylands v. Fletcher*, where a dam burst into a coal mine shaft. So a dangerous escape of some hazard, including water, fire, or animals means strict liability in nuisance. This is subject only to a remoteness cap, familiar from negligence when the event is unusual and unpredictable. This was the case where chemicals from a factory seeped through a floor into the water table, contaminating East Anglia's water reservoirs.

[Free market environmentalists](#) would like to expand tort damage claims into pollution (example-toxic torts) and environmental protection.

[edit] Defamation

Defamation In the "[McLibel case](#)" two were involved in the second-longest case in UK history for publishing an article criticizing McDonald's restaurants.

Defamation is tarnishing the reputation of someone; it is in two parts, *slander* and *libel*. Slander is spoken defamation and libel is printed and broadcast defamation, both share the same features. Defaming someone entails making a factual assertion for which evidence does not exist. Defamation does not affect or hinder the voicing of opinions, but does occupy the same fields as rights to free speech in the First Amendment to the Constitution of the United States, or the European Convention of Human Rights's Article 10. Related to defamation in the U.S. are the actions for misappropriation of publicity, invasion of privacy, and disclosure. Abuse of process and malicious prosecution are often classified as dignitary torts as well.

[edit] Intentional torts

Intentional torts are any intentional acts that are reasonably foreseeable to cause harm to an individual, and that do so. Intentional torts have several subcategories, including torts against the person, including assault, battery, false imprisonment, intentional infliction of emotional distress, and fraud. Property torts involve any intentional interference with the property rights of the claimant(plaintiff). Those commonly recognized include trespass to land, trespass to chattels(personal property), and conversion.

[\[edit\]](#) Economic torts



[Strikers](#) gathering in [Tyldesley](#) in the 1926 General Strike in the U.K.

Economic torts protect people from interference with their trade or business. The area includes the doctrine of restraint of trade and has largely been submerged in the twentieth century by statutory interventions on collective labour law and modern antitrust or competition law. The "absence of any unifying principle drawing together the different heads of economic tort liability has often been remarked upon."

Through a recent development in common law, beginning with "*Hedley Byrne v Heller in 1964, a victim of negligent misstatement may recover damages for pure economic loss caused by detrimental reliance on the statement. Misrepresentation is a tort as confirmed by Bridge LJ in Howard Marine and Dredging Co. Ltd. v A Ogden & Sons*

Modern competition law is an important method for regulating the conduct of businesses in a market economy. A major subset of statutory torts, it is also called 'anti-trust' law, especially in the United States, articles 101 and 102 of the Treaty on the Functioning of the European Union, as well as the Clayton and Sherman Acts in the U.S., which create duties for undertakings, corporations and businesses not to distort competition in the marketplace. Cartels are forbidden on both sides of the Atlantic Ocean. So is the abuse of market power by Monopolists (rich business owners) or the substantial lessening of competition through a merger, takeover, acquisition or concentration of enterprises. A huge issue in the EU is whether to follow the U.S. approach of private damages actions to prevent anti-competitive conduct.

[\[edit\]](#) Liability, defenses, and remedies

[edit] Vicarious liability

The word 'vicarious' derives from the Latin word for 'change' or 'alternation' or 'stead' and in tort law refers to the idea of one person being liable for the harm caused by another, because of some legally relevant relationship. An example might be a parent and a child, or an employer and an employee. You can sue an employer for the damage to you by their employee, which was caused "within the scope of employment." This is called *respondiat superior*. For example, if a shop employee spilled cleaning liquid on the supermarket floor, and you slipped and fell, suffering injuries, you could sue the employee who actually spilled the liquid, or sue the employers. In the aforementioned case, the latter option is more practical as they are more likely to have more money. The law replies "since your employee harmed the claimant in the course of his employment, you bear responsibility for it, because you have the control to hire and fire him, and reduce the risk of it happening again." There is considerable academic debate about whether vicarious liability is justified on no better basis than the search for a solvent defendant, or whether it is well founded on the theory of efficient risk allocation.

[edit] Defenses

A successful defense absolves the defendant from full or partial liability for damages.

Apart from proof that there was no breach of duty, there are three principal defences to tortious liability.

[edit] Consent

Main article: [Consent](#)

Typically, one cannot hold another liable in tort for actions to which one has consented. This is frequently summarized by the phrase "*volenti non fit injuria*" (Latin: "to a willing person, no injury is done" or "no injury is done to a person who consents"). It operates when the claimant either expressly or implicitly consents to the risk of loss or damage. For example, if a spectator at an ice hockey match is injured when a player strikes the puck in the ordinary course of play, causing it to fly out of the rink and hit him or her, this is a foreseeable event and spectators are assumed to accept that risk of injury when buying a ticket. A slightly more limited defence may arise where the defendant has been given a warning, whether expressly to the claimant or by a public notice, sign or otherwise, that there is a danger of injury. The extent to which defendants can rely on notices to exclude or limit liability varies from country to country. This is an issue of policy as to whether (prospective) defendants should not only warn of a known danger, but also

take active steps to fence the site and take other reasonable precautions to prevent the known danger from befalling those foreseen to be at risk.

[edit] Contributory negligence

This is either a mitigatory defence or, in the United States, it may be an absolute defence. When used as a mitigatory defence, it is often known in the U.S. as comparative negligence. Under comparative negligence a plaintiff/claimant's award is reduced by the percentage of contribution made by the plaintiff to the loss or damage suffered. Thus, in evaluating a collision between two vehicles, the court must not only make a finding that both drivers were negligent, but it must also apportion the contribution made by each driver as a percentage, e.g. that the blame between the drivers is 20% attributable to the plaintiff/claimant: 80% to the defendant. The court will then quantify the damages for the actual loss or damage sustained, and then reduce the amount paid to the plaintiff/claimant by 20%. While contributory negligence retains a significant role, an increasing number of jurisdictions, particularly within the United States, are evolving toward a regime of comparative negligence. All but four US states now follow a statutorily created regime of comparative negligence.

Contributory negligence has been widely criticised as being too draconian, in that a plaintiff whose fault was comparatively minor might recover nothing from a more egregiously irresponsible defendant. Comparative negligence has also been criticised, since it would allow a plaintiff who is recklessly 95% negligent to recover 5% of the damages from the defendant, and often more when a jury is feeling sympathetic. Economists have further criticised comparative negligence, since under the [Learned Hand Rule](#) it will not yield optimal precaution levels.

[edit] Illegality

Ex turpi causa non oritur actio is the illegality defence, the Latin for "no right of action arises from a despicable cause." If the claimant is involved in wrongdoing at the time the alleged negligence occurred, this may extinguish or reduce the defendant's liability. Thus, if a burglar is verbally challenged by the property owner and sustains injury when jumping from a second story window to escape apprehension, there is no cause of action against the property owner even though that injury would not have been sustained but for the property owner's intervention.

[\[edit\]](#) Remedies

The main remedy against tortious loss is compensation in 'damages' or money. In a limited range of cases, tort law will tolerate self-help, such as reasonable force to expel a trespasser. This is a defence against the tort of battery. Further, in the case of a continuing tort, or even where harm is merely threatened, the courts will sometimes grant an [injunction](#). This means a command, for something other than money by the court, such as restraining the continuance or threat of harm.^[1] Usually injunctions will not impose positive obligations on tortfeasors, but some [Australian](#) jurisdictions can make an order for [specific performance](#) to ensure that the [defendant](#) carries out their legal obligations, especially in relation to nuisance matters.^[2]

[\[edit\]](#) Theory and reform

Main article: [Tort reform](#)

Scholars and lawyers have identified conflicting aims for the law of tort, to some extent reflected in the different types of damages awarded by the courts: [compensatory](#), [aggravated](#) and [punitive](#). In *The Aims of the Law of Tort* (1951),^[3] [Glanville Williams](#) saw four possible bases on which different torts rested: appeasement, justice, deterrence and compensation.

From the late 1950s a group of legally oriented economists and economically oriented lawyers emphasized incentives and deterrence, and identified the aim of tort as being the efficient distribution of [risk](#). They are often described as the *law and economics* movement. [Ronald Coase](#), one of the movement's principal proponents, submitted, in his article *The Problem of Social Cost* (1960),^[4] that the aim of tort should be to reflect as closely as possible liability where [transaction costs](#) should be minimized.

Calls for reform of tort law come from diverse standpoints reflecting diverse theories of the objectives of the law. Some calls for reform stress the difficulties encountered by potential claimants. Because of all people who have accidents, only some can find solvent defendants from which to recover damages in the courts, [P. S. Atiyah](#) has called the situation a "damages lottery."^[5] Consequently, in [New Zealand](#), the government in the 1960s established a no-fault system of state compensation for accidents. Similar proposals have been the subject of [Command Papers](#) in the UK and much academic debate.

However, in the [U.S.](#) calls for reform have tended to be for drastic limitation on the scope of tort law, a minimisation process on the lines of economic analysis. [Anti-trust](#) damages have come

under special scrutiny,^[6] and many people believe the availability of [punitive damages](#) generally are a strain on the legal system.

Theoretical and policy considerations are central to fixing liability for [pure economic loss](#) and of public bodies.

[\[edit\]](#) Overlap with criminal law

There is some overlap between criminal law and tort, since tort, a private action, used to be used more than criminal laws in the past. For example, in [English law](#) an assault is both a crime and a tort (a form of trespass to the person). A tort allows a person, usually the victim, to obtain a remedy that serves their own purposes (for example by the payment of [damages](#) to a person injured in a car accident, or the obtaining of [injunctive relief](#) to stop a person interfering with their business). Criminal actions on the other hand are pursued not to obtain remedies to assist a person – although often criminal courts do have power to grant such remedies – but to remove their liberty on the state's behalf. That explains why [incarceration](#) is usually available as a penalty for serious crimes, but not usually for torts.

The more severe penalties available in criminal law also means that it requires a higher [burden of proof](#) to be discharged than the related tort. For example, in the [O. J. Simpson murder trial](#), the jury was not convinced beyond reasonable doubt that [O. J. Simpson](#) had committed the crime of [murder](#); but in a later civil trial, the jury in that case felt that there was sufficient evidence to meet the standard of [preponderance of the evidence](#) required to prove the tort of [wrongful death](#).^[7]

Many jurisdictions, especially the US, retain [punitive](#) elements in tort damages, for example in anti-trust and consumer-related torts, making tort blur the line with criminal acts. Also there are situations where, particularly if the defendant ignores the orders of the court, a plaintiff can obtain a punitive remedy against the defendant, including imprisonment. Some torts may have a public element – for example, [public nuisance](#) – and sometimes actions in tort will be brought by a public body. Also, while criminal law is primarily punitive, many jurisdictions have developed forms of monetary compensation or restitution which criminal courts can directly order the defendant to pay to the victim.^[8]

[\[edit\]](#) Tort by legal jurisdiction

Legal jurisdictions whose legal system developed from the [English common law](#) have the concept of tortious liability. There are technical differences from one jurisdiction to the next in proving the various torts. For the issue of foreign elements in tort see [Tort and Conflict of Laws](#).

- [Australian tort law](#)
- [Canadian tort law](#)
- [English tort law](#)
- [Scots Law of Delict](#) (equivalent)
- [United States tort law](#)
- [Irish tort law](#) (see [Irish Citizens Information Board](#))

In addition, other legal systems have concepts comparable to torts. See, for instance, the rabbinic category of [Damages \(Jewish law\)](#) (note though that while a few aspects of this law are incorporated into [Israeli law](#), tort law in Israel is technically similar to English tort law - as enacted by [British Mandate of Palestine](#) authorities in 1944 and taking effect in 1947, a year before Israel became a state).

[\[edit\]](#) See also

- [Civil law](#)
- [Criminal Law](#)
- [List of tort topics](#)
- [List of tort cases](#)
- [Tort reform](#)
- [List of basic tort law topics](#)
- [Breach](#)
- [Injury](#)

[\[edit\]](#) Notes

1. [^](#) Miller v. Jackson [1975]
2. [^](#) Currie, S., & Cameron, D. (2000), "Your Law", *Nelson Thomson Learning*, Melbourne, p. 225
3. [^](#) Williams, G. [1951] "The Aims of the Law of Tort", *Current Legal Problems* 137
4. [^](#) Coase, R. H. (1960). "The Problem of Social Cost". *The Journal of Law and Economics* **3**: 1–44. doi:[10.1086/466560](#)., reprinted in Coase, R. H. (1990). *The Firm, the Market and the Law*. Chicago: Chicago University Press. pp. pp95–156. ISBN 0-226-11101-6., [online version](#)
5. [^](#) Atiyah, P. S. (1997) *The Damages Lottery*
6. [^](#) see especially, Bork, R. (1971) *The Antitrust Paradox*
7. [^](#) *Rufo v. Simpson*, [86 Cal. App. 4th 573](#) (2001).
8. [^](#) See also Ronen Perry, [The Role of Retributive Justice in the Common Law of Torts: A Descriptive Theory](#), 73 [Tenn. L. Rev.](#) 177 (2006).