



**UNIVERSITY OF NAIROBI**

**FACULTY OF LAW**

**GPR 3101: Torts I; LL.B. I, Credit hours: 45**

**First Semester, Academic Year 2025/2026**

**Lecture schedule: Thursday 5.30 – 8.30 pm (Virtual)**

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**COURSE DESCRIPTION**

**Purpose of the course:**

This course introduces learners to the law of torts, with a particular focus on the tort of negligence. The course provides students with an understanding of the origins of liability for causing harm, both under the African customary law and the common law. As such, the Course explores general principles of tortious liability, differentiates tort law from other legal branches, and offers a comprehensive coverage of the tort of negligence.

**Expected Learning Outcomes:**

At the end of the course, a learner should be able to;

1. Discuss the history and origin of liability for causing injury or harm
2. Apply the general principles of tort liability
3. Examine how the law of tort works, including its social purpose
4. Explain the objective of the law of tort
5. Assess the relationship between tort and certain other branches of law
6. Explain the different types of torts and how they are created
7. Evaluate the law of torts in negligence, its main elements, and application

**Content**

Meaning, nature and definition of tort; development of liability for injury or harm; Concept of civil liability under African Customary law; development of tort at common law; purpose of the law of torts; how torts are created; general principles of tort liability; and the distinction between tort, contract, crime and breach of trust; types of tortious liability; law of torts in negligence; history, principles, duty of care, standard of care, causation, remoteness of damage, defences, finding on defendant liability, remedies, negligence law reform.

## Mode of Delivery

The course will be conducted virtually for Evening learners.

## Instructional Materials

Textbooks, journal articles, bills, law reports, official gazettes, government reports, parliamentary reports, and e-journals (LexisNexis, HeinOnline, JSTOR). White boards, flip charts, LCD projector and screen, laptop, LAN, DVDs, CDs.

## Course Assessment:

Type	Weighting (%)
Continuous Assessment, Assignments:	30
Examination:	70
<b>Total</b>	<b>100</b>

## Core Reading Materials:

1. W. V. H. Rogers, Winfield and Jolowicz on Tort, (Sweet and Maxwell, 21<sup>st</sup> edition, 2025).
2. Clerk & Lindsell on Torts (Sweet and Maxwell, 24<sup>th</sup> edition, 2024).
3. J. Murphy, Street on Tort (Oxford University Press, 13th edition, 2012).
4. Michael A. Jones, Anthony M Dugdale, Mark Simpson (eds), Clerk & Lindsell on Torts (22 ed, Sweet & Maxwell, 2017).

## Recommended Reference Materials:

1. J. Glannon, Law of Torts: Examples & Explanations (Wolters Kluwer, 6th edition, 2020)
2. Catherine Elliot, Tort Law (Longman Publishers, 12th edition, 2019).
3. R. Kuloba, Measures of Damages for Bodily Injuries (Law Africa Publishing, 2007).
4. R. Kidner, Case book on Torts (Oxford University Press, 15th edition, 2019).
5. B. Harvey, Cases and Commentary on Torts (Oxford University Press, 6th edition, 2010).
6. Salmon & Heuston, The Law of Torts (Blackstone Press, 2000)
7. V. Bermingham & C. Brennan, Torts Law Direction (Oxford University Press, 2020).
8. Barbara Harvey and John Marson, Cases and Commentary on Torts, (Oxford University Press, 2010).
9. G. Samuel, Tort: Cases & Materials (Sweet and Maxwell, 2nd edition, 2008).

## A. INTRODUCTION TO TORTS

1. An Overview

- ❖ Meaning, nature, and definition of tort
  - ❖ Evolution of Tort Law
  - ❖ How torts are created - General principles of tort liability
  - ❖ Purpose of the law of torts
2. Types of Torts
  3. Relationship between tort and certain other branches of law
  4. Concepts of Civil Liability under African Customary Law
    - ❖ Customary Law Principles
    - ❖ Indigenous Approaches to Civil Wrongs

## **B. VICARIOUS LIABILITY**

### **C. GENERAL DEFENCES**

- 1) *Volenti non fit injuria or the defense of 'Consent'*
- 2) The wrongdoer is the plaintiff
- 3) Inevitable accident
- 4) Act of god
- 5) Private defense
- 6) Mistake
- 7) Necessity
- 8) Statutory authority

## **D. NEGLIGENCE**

### **1. Overview**

- Understanding Negligence
- Significance in Tort Law

### **2. Elements of Negligence**

- **Duty of Care**
  - Introduction to Duty of Care
  - Classical Neighbour Principle
  - Donoghue v. Stevenson
  - Evolution to Modern Duty of Care – Rule in Caparo v. Dickman (or Anns Test)
  - The 'Three-Stage' Test:
    - ✓ Foreseeability
    - ✓ Proximity

- ✓ Fair, Just, and Reasonable

### 3. Standard of Care

- Reasonable Person Test
- Special Standards of Care
  - In Relation to Children
  - Professions of Special Skill

### 4. Causation and Damages

- **Causation**
  - The “But For” Test
  - Exceptions to the “But For” Test
- **Damages**
  - Types of Damages
  - Assessment of Damages
- **Remoteness of Damage**
  - Foreseeability vs. Directness
  - The Foreseeability Test
  - Modifications to the Foreseeability Test
    - ✓ Thin Skull Plaintiff Rule
    - ✓ Kind of Injury
    - ✓ The Possibility of Injury

### 5. Defences and Special Considerations

- **Defences**
  - Volenti Non-Fit Injuria
    - ✓ Agreement
    - ✓ Knowledge
    - ✓ Voluntariness
    - ✓ Rescue Cases
  - *Ex Turpi Causa*
  - Contributory Negligence
    - ✓ The Common Law Approach
    - ✓ The Statutory Regime
    - ✓ Fault of the Claimant
    - ✓ Causation

- ✓ Apportionment

- Inevitable Accident

## **6. Contemporary Issues and Case Studies**

- Landmark Cases and their impact

- Emerging trends and legal challenges

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