

INTRODUCTION TO THE LAW OF TORTS

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Definition of the Law of Torts

The word 'tort' originates from the latin word *tortus* which means 'twisted'. It later evolved to mean wrong as it is still been used in the French language: *J'ai tort* which means 'I am wrong'. In English law, the word has a technical meaning that translates to mean a legal wrong for which the law provides remedy. There have been numerous attempts to define tort by various academics. Some of such definitions will be considered.

According to Winfield:

'Tortious liability arises from the breach of a duty primarily fixed by law; this duty is towards persons generally and its breach is redressible by an action for unliquidated damages.'

Prof Sir John W. Salmond in his book *Law of Torts* defines torts as:

'A civil wrong for which the the remedy is a common law action for unliquidated damages, and which is not the breach of contract or the breach of trust or other merely equitable obligations.'

Kodinliye in his book *The Nigerian Law of Torts* defined torts as:

A civil wrong involving the breach of duty fixed by law, such duty being owed to persons generally and its breach being redressible primarily by an action for damages.'

From the above definitions we can deduce that a tort is a breach of civil duty fixed by law and owed to all persons generally. It is distinct from other beaches of law like contract, trust, criminal law and so on. It is usually remedied by an award of unliquidated damages, injunction, or any other appropriate remedy.

In order to understand the law of torts better, it would be best if a step is taken back in order to assess the purpose and objective of the law of torts.

The Purpose of the Law of Torts

The law of torts serves important purposes in the society. The major purpose of the law of torts is to prevent an individual from doing wrong to another person. And where that wrong is eventually committed, the law of torts is there to provide a remedy for the wrongdoing.

The two most popular remedies in the law of torts are damages and injunction. Damages are monetary compensation charged against the tortfeasor (the person that committed the tort) to compensate the party that has been affected by the wrong done. An injunction is an order of the court which instructs the tortfeasor to desist from the tortious act that is affecting the plaintiff.

Although the purpose of the law of torts is to prevent wrongdoing, not all wrongs will be considered torts by the law of torts. For a wrong to be a tort, it has to be one that has been prescribed by the law to be a tort.

Objectives of The Law of Torts

The following can be regarded as the objectives of the Law of Torts:

- **Protection of Interests:** The law of torts serves to protect a person's interest in his property and his integrity. For example, the tort of trespass protects a person's interest to his land while the tort of defamation protects a person's interest in keeping his integrity.
- **Deterrence:** The law of torts also makes people act with extra care. This is due to the fact that they wouldn't want to bear the consequences of their action if it violates a person's right. This explains the reason why manufacturers, employers, health providers etc usually take extra care in dealing with customers,
- **Compensation:** Compensation is one of the most obvious objective of the law of torts. The law of torts through the instrumentality of damages and other remedies, helps to compensate victims for their loss.
- **Retribution:** An element of retribution can be noticed in the tort system. People who have been offended are usually anxious to their day in court where they would see the offender squirming under cross examination.
- **Vindication:** The law of Tort provides an avenue for a person who sees himself as innocent to be proclaimed so by the court. An example is in the case of libel or slander where a party wants his own side of the story to be affirmed by the courts.
- **Loss Distribution:** Torts serves as a means to distribute the loss suffered by a complainant. For example, it takes the loss suffered by the claimant and places it on the defendant. If the defendant has an insurance company, the insurance company bears the loss. Thus, everyone who pays a premium at the insurance company ultimately bears the loss.
- **Punishment for misconduct:** Although this can be said to be in the realm of criminal law, it could also be applied in the law of torts. The payment of compensation to the claimant serves as a way of punishing the tortfeasor for the wrong committed.

SOURCES

1. [National Open University](#)
2. Winfield and Jolowicz on Torts
3. Professor John Salmond: Law of Torts