

PHILOSOPHY AND THE LAW OF TORTS

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CAMBRIDGE STUDIES IN
PHILOSOPHY AND LAW

Philosophy And The Law Of Torts

John Gardner



Philosophy And The Law Of Torts:

Philosophy and the Law of Torts Gerald J. Postema, 2001-11-19 When accidents occur and people suffer injuries who ought to bear the loss Tort law offers a complex set of rules to answer this question but up to now philosophers have offered little by way of analysis of these rules In eight essays commissioned for this volume leading legal theorists examine the philosophical foundations of tort law Amongst the questions they address are the following how are the notions at the core of tort practice such as responsibility fault negligence due care and duty to repair to be understood Is an explanation based on a conception of justice feasible How are concerns of distributive and corrective justice related What amounts to an adequate explanation of tort law This collection will be of interest to professionals and advanced students working in philosophy of law social theory political theory and law as well as anyone seeking a better understanding of tort law Philosophical

Foundations of the Law of Torts John Oberdiek, 2014-03-20 Contemporary philosophy and tort law have long enjoyed a happy union Tort theory today is an exceptionally active and wide ranging field within legal philosophy This volume brings together established and emerging scholars from around the world and from varying disciplines that bring their distinct perspective to the philosophical problems of tort law These ground breaking essays advance longstanding debates and open up new avenues of enquiry thus deepening and broadening the field Contributions cover the major problematic areas of tort law such as the relations between responsibility fault and strict liability the morality of harm compensation and repair and the relationship of tort with criminal and property law among many others **Philosophical Foundations of Tort Law** David

G. Owen, 1995 This exceptional collection of twenty two essays on the philosophical fundamentals of tort law assembles many of the world's leading commentators on this particularly fascinating conjunction of law and philosophy The contributions range broadly from inquiries into how tort law derives from Aristotle Aquinas and Kant to the latest economic and rights based theories of legal responsibility This is truly a multi national production with contributions from several distinguished Oxford scholars of law and philosophy and many prominent scholars from the United States Canada and Israel A provocative closing essay by one of the world's leading moral philosophers illuminates how tort law enables philosophers to observe the abstract theories of their discipline put to the concrete test in the legal resolution of real world controversies based on principles of right and wrong *The Philosophy of Tort Law* Izhak Englard, 1993 There are three pairs of concepts which dominate the contemporary discussion concerning tort law moral responsibility and social utility corrective and distributive justice and strict liability and fault This text analyzes these concepts and examines their use in the liability context

Philosophy of Private Law William Lucy, 2006-12-14 On what basis does tort law hold us responsible to those who suffer as a result of our carelessness Why when we breach our contracts should we make good the losses of those with whom we contracted In what sense are our torts and our breaches of contract wrongs These two branches of private law have for centuries provided philosophers and jurists with grounds for puzzlement This book provides an outline of and intervention in

contemporary jurisprudential debates about the nature and foundation of liability in private law After outlining the realm of the philosophy of private law the book divides into two Part I examines the various components of liability responsibility in private law including the notions of basic responsibility conduct causation and wrongfulness Part II considers arguments purporting to show that private law does and should embody a conception of either distributive or corrective justice or some combination of the two Throughout the book a number of distinctions between conceptual and normative argument between jurisprudential theory and private law practice between legal obligation and moral obligation are analyzed the aim being to give students an informed grasp of both the limits and possibilities of the philosophy of private law

Official Gazette of the United States Patent and Trademark Office, 2000 **Tort Liability in Warfare** Haim Abraham, 2024-11-07 In the turbulent arena of armed conflicts Tort Liability in Warfare States Wrongs and Civilians Rights emerges as a groundbreaking exploration of civilians legal recourse against states for losses to life bodily integrity and property With a fresh perspective informed by corrective justice the law of war and substantive rule of law principles Haim Abraham constructs a novel framework for understanding the moral and legal obligation of states to civilians in the aftermath of combat and proposes that existing domestic tort law could and should address wrongful losses in this context This book boldly confronts the prevailing academic and legal orthodoxy which dismisses the application of tort law in times of war and offers a framework that empowers individuals to vindicate their rights and acts as a bulwark against abuse of public power By reviewing and analyzing the applicability of tort law to peacekeeping urban warfare counter terrorism activities and long range warfare in Australia Canada England Israel and the United States the book offers real world insights on how tort liability can serve as a mechanism for reparations and accountability Tort Liability in Warfare is a clarion call for a shift in legal paradigms urging a path towards effective remedies for civilians caught in the crossfire of nations at war It is an essential read for legal scholars practitioners and anyone invested in the pursuit of justice in the complex landscape of armed conflict This is an open access title available under the terms of a CC BY NC ND 4 0 International licence

Justice, Rights, and Tort Law M.E. Bayles, Bruce Chapman, 2012-12-06 The essays in this volume are the result of a project on Values in Tort Law directed by the Westminster Institute for Ethics and Human Values We are indebted to the Board of Westminster College for its financial support The project involved two meetings of a mixed group of lawyers and philosophers to discuss drafts of papers and general issues in tort law Beyond the principal researchers whose papers appear here we are grateful to John Bargo Dick Bronaugh Craig Brown Earl Cherniak Bruce Feldthusen Barry Hoffmaster and Steve Sharzer for their helpful discussion and to Nancy Margolis for copy editing All of these papers except one have appeared before in the journal Law and Philosophy Vol 1 No 3 December 1982 and Vol 2 No 1 April 1983 Chapman's paper which was previously published in The University of Western Ontario Law Review Vol 20 No 1 1982 appears here with permission Westminster Institute for Ethics and Human Values M D B Westminster College London Canada B C vii INTRODUCTION The law of torts is society's primary mechanism

for resolving disputes arising from personal injury and property damage *Law, Economics, and Philosophy* Mark Kuperberg, Charles R. Beitz, 1990-07-25 To find more information about Rowman and Littlefield titles please visit www.rowmanlittlefield.com

Causation and Responsibility Michael S. Moore, 2010-07-15 The concept of causation is fundamental to ascribing moral and legal responsibility for events Yet the relationship between causation and responsibility remains unclear What precisely is the connection between the concept of causation used in attributing responsibility and the accounts of causal relations offered in the philosophy of science and metaphysics How much of what we call causal responsibility is in truth defined by non causal factors This book argues that much of the legal doctrine on these questions is confused and incoherent and offers the first comprehensive attempt since Hart and Honor to clarify the philosophical background to the legal and moral debates The book first sets out the place of causation in criminal and tort law and outlines the metaphysics presupposed by the legal doctrine It then analyses the best theoretical accounts of causation in the philosophy of science and metaphysics and using these accounts criticises many of the core legal concepts surrounding causation such as intervening causation foreseeability of harm and complicity It considers and rejects the radical proposals to eliminate the notion of causation from law by using risk analysis to attribute responsibility The result of the analysis is a powerful argument for revising our understanding of the role played by causation in the attribution of legal and moral responsibility

Explaining Tort and Crime Matthew Dyson, 2022-07-21 Tracing almost 200 years of history Explaining Tort and Crime explains the development of tort law and criminal law in England compared with other legal systems Referencing legal systems from around the globe it uses innovative comparative and historical methods to identify patterns of legal development to investigate the English law of fault doctrine across tort and crime and to chart and explain three procedural interfaces criminal powers to compensate timing rules to control parallel actions and convictions as evidence in later civil cases Matthew Dyson draws on decades of research to offer an analysis of the field examining patterns of legal development visible as motifs in the law of many legal systems *Tort Law and Social Morality* Peter M. Gerhart, 2014-05-14 Develops a theory of tort law integrating deontic and consequential approaches by applying justificational analysis to identify its factors circumstances and values

Torts and Other Wrongs John Gardner, 2019-12-18 Torts and other Wrongs is a collection of eleven of the author's essays on the theory of the law of torts and its place in the law more generally Two new essays accompany nine previously published pieces a number of which are already established classics of theoretical writing on private law Together they range across the distinction between torts and other wrongs the moral significance of outcomes the nature and role of corrective and distributive justice the justification of strict liability the nature of the reasonable person standard and the role of public policy in tort adjudication Though focussed on the law of torts the wide ranging analysis in each chapter will speak to theorists of private law more generally

Agency, Negligence and Responsibility Veronica Rodriguez-Blanco, George Pavlakos, 2021-11-04 This collection of essays represents a ground breaking collaboration between

moral philosophers action theorists lawyers and legal theorists to set a fresh research agenda on agency and responsibility in negligence The complex phenomenon of responsibility in negligence is analysed from multi and interdisciplinary perspectives shedding light on key ethical and legal issues related to agency and negligence to impact substantive law and policy making in different jurisdictions The volume introduces new debates and questions old assumptions inviting the reader to rethink substantive law and practical ethical reflection Moral Puzzles and Legal Perplexities Heidi M. Hurd, 2019 Engages with the life and work of Larry Alexander to explore puzzles and paradoxes in legal and moral theory **The Laws of Robots** Ugo Pagallo, 2013-05-16 This book explores how the design construction and use of robotics technology may affect today's legal systems and more particularly matters of responsibility and agency in criminal law contractual obligations and torts By distinguishing between the behaviour of robots as tools of human interaction and robots as proper agents in the legal arena jurists will have to address a new generation of hard cases General disagreement may concern immunity in criminal law e.g. the employment of robot soldiers in battle personal accountability for certain robots in contracts e.g. robo traders much as clauses of strict liability and negligence based responsibility in extra contractual obligations e.g. service robots in tort law Since robots are here to stay the aim of the law should be to wisely govern our mutual relationships **The Supreme Court and the Decline of Constitutional Aspiration** Gary J. Jacobsohn, 1986 How should the U.S. Constitution be interpreted and upon what philosophical basis What were the intentions of its framers concerning judicial interpretation the doctrine of natural rights the finality of Supreme Court decisions To what extent are these intentions relevant to modern politics and jurisprudence These and other issues are given a balanced and fresh treatment in Professor Jacobsohn's timely study The Routledge Handbook of the Ethics of Consent Peter Schaber, Andreas Müller, 2018-06-14 While the importance of consent has been discussed widely over the last few decades interest in its study has received renewed attention in recent years particularly regarding medical treatment clinical research and sexual acts The Routledge Handbook of the Ethics of Consent is an outstanding reference source to this exciting subject and the first collection of its kind Comprising over thirty chapters by a team of international contributors the Handbook is divided into five main parts General questions Normative ethics Legal theory Medical ethics Political philosophy Within these sections central issues debates and problems are examined including the nature and normative importance of consent paternalism exploitation and coercion privacy sexual consent consent and criminal law informed consent organ donation clinical research and consent theory of political obligation and authority The Routledge Handbook of the Ethics of Consent is essential reading for students and researchers in moral theory applied ethics medical ethics philosophy of law and political philosophy This volume will also be very useful for those in related fields such as political science law medicine and social science **Private Wrongs** Arthur Ripstein, 2016-04-05 Tort law recognizes the many ways one person wrongs another Arthur Ripstein brings coherence to torts diversity in a philosophically grounded analytically powerful theory He shows that all torts violate the basic moral idea that each person is

in charge of his or her own person and property and never in charge of another s person or property
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