

The Chronicle of Indian Tort Law: Dharmic Resignation, Colonial Subjugation and Legislative Development

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Journal of Law of Torts & Consumer Protection Law



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Keywords:

English Tort Law, Identification of Negligence, Hindu Private Law, Dharmashastras

Abstract

Tort law is the field of law in which courts give a remedy for private or civil wrongs or injuries by enabling a lawsuit for (often monetary) damages. Thus, the objective is to return the sufferer to his or her pre-injury state. It has been stated that India, the world's biggest democracy, has a very undeveloped tort law. The majority of Indian tort law emerged after British occupation. Nonetheless, Hindu law, in its varied manifestations and evolutions, is the world's oldest continuous legal system. For numerous millennia, Hinduism was India's exclusive religion and legal system; it coexisted with Muslim and Christian legal systems in the previous millennia, but it remained culturally dominant and continues to apply to the majority of Indians to some extent now. When we consider the lengthy history of Hindu law in conjunction with India's tremendous variety of culture, language, and even governmental systems throughout history, the issue becomes even more perplexing. Furthermore, the persistent underdevelopment of Indian tort law is unexpected in light of the Indian constitution's strong dedication to both compassion and comprehensiveness, which was passed in 1950 (three years after independence from Britain). Tort law is supposed to have evolved from the ancient maxim *Ubi jus ibi remedium* (Every right needs a remedy). This paper examines whether Indians are endowed with less rights in this critical area and what are we to make of this underdevelopment in relation to a central issue in practically all legal systems i.e. how to restore the victim's dignity and grant reparation, where any component of Indian civilization or culture that elucidates on this lacuna.