

Subject Name: Law of Torts
Topic Name: Necessity

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Understanding Necessity

Necessity, as a legal concept, delineates instances where an action causing harm, if undertaken to prevent a greater evil, is not subject to legal action, even if harm is intentionally caused. It's crucial to distinguish necessity from private defence. While necessity involves the infliction of harm on an innocent party, private defence entails harm against the wrongdoer themselves.

Differentiating from Inevitable Accident

Necessity also differs from an inevitable accident. In necessity, harm is intended, whereas in an inevitable accident, harm occurs despite best efforts to avoid it. For instance, throwing goods overboard a ship to lighten it for rescue or demolishing a building to halt the spread of fire exemplify necessity in action.

Legal Precedents

Legal precedents further clarify the application of necessity. For instance, forcibly feeding a hunger-striking prisoner to save their life, as ruled in **Leigh v. Gladstone**, constitutes a valid defence against battery.

Similarly, in **Cope v. Sharpe**, entering another's land to prevent fire spread was deemed justified to protect valuable assets.

Liability in Necessity Cases

However, liability hinges on the reasonable necessity of the action. In **Carter v. Thomas**, a defendant entering premises in good faith to extinguish a fire already being addressed by firefighters was held liable for trespass.

Similarly, in **Kirk v. Gregory**, where jewellery was moved without reasonable necessity and subsequently stolen, the individual responsible faced liability for trespass.

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