

1. Record Nr.	UNINA9910786956703321
Titolo	Tort law and the legislature : common law, statute and the dynamics of legal change / edited by T.T. Arvind and Jenny Steele
Pubbl/distr/stampa	Oxford ; Portland, Oregon, : Hart Publishing, 2013
ISBN	1-4725-6124-4 1-78225-054-9
Edizione	[1st ed.]
Descrizione fisica	1 online resource (547 p.)
Disciplina	346.03
Soggetti	Torts Torts - Great Britain Law - Interpretation and construction
Lingua di pubblicazione	Inglese
Formato	Materiale a stampa
Livello bibliografico	Monografia
Note generali	"The papers in this book were initially presented at a workshop held at York Law School in May 2011" --pages [vii]
Nota di bibliografia	Includes bibliographical references (pages [471]-493) and index
Nota di contenuto	Introduction : legislation and the shape of tort law / TT Arvind and Jenny Steele -- Torts, courts and legislatures : comparative remarks on civil law codifications of tort law / Willem H. van Boom -- Statutes and tort defences / James Goudkamp -- The "compensation culture" and the politics of tort / Annette Morris -- A civil law for the age of statutes / James Lee -- Trade disputes legislation and the economic torts / Bob Simpson -- The Fatal Accidents Act 1846 / Donal Nolan -- Law Reform (Contributory Negligence) Act 1945 : collisions of a different sort / Jenny Steele -- Occupiers' liability : the enactment of "common law" principles / S.H. Bailey -- The Animals Act 1971 / Roderick Bagshaw -- Tort and personal injuries, 1850 to the present / Steve Hedley -- Tort law and workmen's compensation legislation : complementary or competing models? / Simon Deakin -- Legislating for economic loss / Keith Stanton -- Recovery of state benefits from tort damages : legislating for or against the welfare state? / Richard Lewis -- Tort law and compulsory insurance / Rob Merkin and Sheila Dziobon -- Tort law, regulation and river pollution : the Rivers Pollution Prevention Act and its implementation, 1876-1951 / Michael Lobban -- Tort law, actors in the "enterprise economy", and articulations of nineteenth-century capitalism with law : the Fraudulent Trustees Act 1857 in

context / Sarah Wilson -- Occupying the field : tort and the pre-emptive statute / Maria Lee -- Restraining the state through tort? : The Crown Proceedings Act in retrospect / T.T. Arvind -- The Human Rights Act and its impact on the law of tort / Hugh Tomlinson -- Bringing statute (back) onto the radar : implications / Jenny Steele

1. Introduction: Legislation and the Shape of Tort Law -- TT Arvind and Jenny Steele -- Part I: Courts and Legislatures -- 2. Torts, Courts and Legislatures - Comparative Remarks on Civil Law Codifications of Tort Law -- Willem H van Boom -- 3. Statutes and Tort Defences -- James Goudkamp -- 4. The 'Compensation Culture' and the Politics of Tort -- Annette Morris -- 5. A Civil Law for the Age of Statutes -- James Lee -- 6. Trade Disputes Legislation and the Economic Torts -- Bob Simpson -- Part II: Legislating Fundamental Principle -- 7. The Fatal Accidents Act 1846 -- Donal Nolan -- 8. Law Reform (Contributory Negligence) Act 1945: Collisions of a Different Sort -- Jenny Steele -- Part III: The Process of Reform -- 9. Occupiers' Liability: the Enactment of 'Common Law' Principles -- SH Bailey -- 10. The Animals Act 1971 -- Roderick Bagshaw -- Part IV: Compensation and Statutory Purpose -- 11. Tort and Personal Injuries, 1850 to the Present -- Steve Hedley -- 12. Tort Law and Workmen's Compensation Legislation: Complementary or Competing Models? -- Simon Deakin -- 13. Legislating for Economic Loss -- Keith Stanton -- 14. Recovery of State Benefits from Tort Damages: Legislating For or Against the Welfare State? -- Richard Lewis -- 15. Tort Law and Compulsory Insurance -- Rob Merkin and Sheila Dziobon -- Part V: Tort Law and Public Law -- 16. Tort Law, Regulation and River Pollution: the Rivers Pollution Prevention Act and its Implementation, 1876-1951 -- Michael Lobban -- 17. Tort Law, Actors in the 'Enterprise Economy', and Articulations of Nineteenth-century Capitalism with Law: the Fraudulent Trustees Act 1857 in Context -- Sarah Wilson -- 18. Occupying the Field: Tort and the Pre-emptive Statute -- Maria Lee -- 19. Restraining the State Through Tort? The Crown Proceedings Act in Retrospect -- TT Arvind -- 20. The Human Rights Act and its Impact on the Law of Tort -- Richard Clayton and Hugh Tomlinson -- Part VI: Conclusion -- 21. Bringing Statute (Back) onto the Radar: Implications -- TT Arvind and Jenny Steele

---

#### Sommario/riassunto

The study of the law of tort is generally preoccupied by case law, while the fundamental impact of legislation is often overlooked. At a jurisprudential level there is an unspoken view that legislation is generally piecemeal and at best self-contained and specific; at worst dependent on the whim of political views at a particular time. With a different starting point, this volume seeks to test such notions, illustrating, among other things, the widespread and lasting influence of legislation on the shape and principles of the law of tort; the variety of forms of legislation and the complex nature of political and policy concerns that may lie behind their enactment; the sometimes unexpected consequences of statutory reform; and the integration not only of statutory rules but also of legislative policy into the operation of tort law today. The apparently sharp distinction between judicially created private law principles, and democratically enacted legislative rules and policies, is therefore questioned, and it is argued that to describe the principles of the law of tort without referring to statute is potentially highly misleading. This book shows that legislation is important not only because of the way it varies or replaces case law, but because it also deeply influences the intrinsic character of that law, providing some of its most familiar characteristics. The book provides the first extended interpretation of legislative intervention in the law of tort. Each of the chapters, by leading tort scholars, deals with an aspect of the influence of legislation on the law of tort. While the nature,

sources and extent of legislative influence in personal injury law is an essential feature of the collection, other significant areas of tort law are explored, including tort in the context of commercial law, labour law, regulation and the welfare state. Essays on the Compensation Act 2006 and Human Rights Act 1998 bring the current state of the interplay between tort, politics and legislation to the forefront. In all of these contexts, contributors explore the deeper lessons that can be learned about the nature of the law of tort and its changing role and functions over time. Cited with approval in the Singapore Court of Appeal by VK Rajah JA in See Toh Siew Kee vs Ho Ah Lam Ferrocement (Pte) Ltd and others, [2013] SGCA 29

---