

Conceptualising the Interaction Between Tort and Crime

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For a given set of facts there are often a range of legal outcomes. Of particular regularity and importance are facts which trigger both tortious and criminal liability. This paper is a first attempt to systematise the interaction between tort and crime as an example of the interaction across legal domains. In this way the paper builds a framework of factual, institutional, normative, substantive and procedural levels on which tort and crime interact. Examples of this interaction touched upon include the terms on which criminal courts award compensation, bars to later civil actions after a criminal trial or the admissibility of a criminal conviction as evidence in a later civil case on the same facts and the defence of illegality in tort law. The paper proposes a blend of functional and institutional analysis for the legal rules governing the interaction between tort and crime.