

ISLAMIC LAW OF TORTS:

Islam protects the rights of every person. Allah has prohibited from doing tort. Islamic law of torts is taken from the Quran and the Sunnah as opposite to English law of tort which is man-written. Islamic law of torts refers to the offences of *ghasb* (usurpation, misappropriation) and *italaf* (destruction of property).

In Islamic perspective, tort is an injury to the person (nafs) or property (mal). It is mentioned in Quran that: "the recompense for an injury is an injury equal thereto." (Surah-As-Shuraa Ayat No. 40).

If a person commits tort, the punishment award must be equal and not exceeding from the committed tort. Islamic law of torts derives authority from the Quran and the Sunnah.

Tort of defamation: Two kinds of tort of defamation i.e. slander and libel, were first described and restricted by Imam Ghazali. Slander is committed by way of words spoken while libel is a defamation made by way of writing, thus damaging the honour of others.

Tort of Trespass: Islam restricts to enter another's house without his permission; or to take or use the thing belonging to another without prior permission. Trespass to person's life is also prohibited, if a person commits murder or causes injury to another, then he is punished by way of Qisas unless victim or his heirs pardon the culprit and demand Diyat i.e. compensation, for injury or murder.

Assault and Battery: Islamic law expressly prohibits assault and battery. Assault has been expressly condemned by the Holy Prophet Muhammad (PBUH): "He (who) pointed at us with a weapon is not from us."

Vicarious Liability: Vicarious liability is the liability of a person for the act of another, even if he has not done it himself. The real owner of the things or goods will be responsible for the act done by his employee. Even animal's liability will be borne by his owner.

Tort of Negligence: Tort regarding careless conduct or neglect of some care, which we are bound to exercise towards anybody else is known as tort of negligence. In Arabic the term of negligence may be rendered as "al-tafrif" or "al-taqsir". According to Joseph Schacht, the concept of negligence is unknown to Islamic law, but conclusion is that the tort of negligence in "Fiqh" is older than English law. The Holy Prophet (PBUH) says: "He who does medical practice and does not know his medical profession is liable to pay compensation for wrongful treatment".