Cees van Dam's 2011 study: tort law and human-rights remedies

Journal year: 2011

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A reading note on Cees van Dam's 2011 journal article, its account of tort law as a possible human-rights remedy and the procedural limits on cross-border claims.

Article and bibliographic record

Cees van Dam's article appeared in 2011 in volume 2 of the Journal of European Tort Law, pages 221–254. The Erasmus University record gives the title as "Tort Law and Human Rights. On the role of tort law in the area of business and human rights"; the author-hosted article uses the variant "Tort Law and Human Rights—Brothers in Arms." The bibliographic record verifies the journal details, while van Dam's hosted article provides the scholarly text.

Tort as a possible route

The article explores how tort law may connect protected human interests with private-law remedies in cases involving business activity. In broad terms, a tort claim requires attention to a protected interest, the relevant duty and breach, and a causal connection to harm. These concepts provide a legal framework for assessing a claim; the article does not establish automatic corporate liability or create a statutory cause of action.

Our analysis: The article's contribution is to make the relationship between human-rights protection and private-law reasoning a subject for legal analysis. A claimant would still need a recognized basis for duty, evidence of breach and causation, and a forum able to hear the dispute. The paper is scholarship about that possibility, not an adjudication that those elements are met in any case.

Cross-border obstacles

Van Dam also considers barriers that can arise when a claim crosses national borders. Questions of jurisdiction and the practical structure of litigation can affect whether an alleged harm is heard and whether a remedy is available. These barriers complicate the use of tort law for business accountability even where the underlying protected interest is clear.

Our analysis: The cross-border point limits any simple equation between recognition of a right and access to compensation. Private-law doctrine may supply a route, but procedure and forum remain part of the remedy question. The article therefore helps frame corporate accountability as both a substantive and institutional problem.

A scholarly reading note

The 2011 article should be read as comparative legal scholarship, not as a statute, a court ruling or evidence that a particular company was liable. Its argument can inform analysis of duties and remedies while leaving the outcome of individual disputes to applicable law and adjudication. This newly written note identifies the article and its themes; it does not reproduce the source text or revive an earlier publication.

Original sources and reporting

Erasmus University: bibliographic record for Cees van Dam’s 2011 article
https://pure.eur.nl/en/publications/tort-law-and-human-rights-on-the-role-of-tort-law-in-the-area-of-/

Cees van Dam: Tort Law and Human Rights—Brothers in Arms, 2011
https://www.ceesvandam.info/_files/ugd/786cf6_e499512490fb41a3aa7a082ff0b9127c.pdf

HTML note: https://bhrinlaw.org/articles/cees-van-dam-tort-human-rights-2011/