



Session 8

## Comparative Studies in Tort Law (7): Grounds for Excuse from Illegality & Principle of Economic Loss

Subject: Tort Law

For English Language Based Bachelor of Law Program (ELBBL)

Lecturer: Dr. Phalthy Hap

1

## Outline

---

- Grounds for Excuse from Illegality
- Principle of Economic Loss

2

## Cambodian Civil Code, Art. 756

1. A tortfeasor shall be excused from responsibility for harm caused by the tortfeasor where the injured party consented to or assumed the risk of such harm. However, this shall not apply where such consent or assumption of risk contravenes prevalent social standards.
2. A person who causes harm while engaged in justifiable self-defense or emergency escape shall not be held responsible for harm that results therefrom. In this case, the person committing the unlawful conduct that gave rise to such justifiable self-defense or emergency escape shall be held responsible for the resulting harm.
3. A person who commits an act that is deemed reasonable and acceptable under prevalent social standards shall not be held responsible for the harm caused thereby.

3

## Japanese Civil Code, Art. 720

1. A person who, in response to the tortious act of another, unavoidably commits a harmful act to protect himself/herself, the rights of a third party, or any legally protected interest, shall not be liable for damages; provided, however, that the victim shall not be precluded from claiming damages against the person who committed the tortious act.
2. The provisions of the preceding paragraph shall apply mutatis mutandis to cases where a Thing belonging to others is damaged to avoid imminent danger arising from that Thing.

4

## Activity (1)

Think of any examples of grounds for excuse from illegality.

5

## Discussion of Grounds for Excuse from Illegality (1)

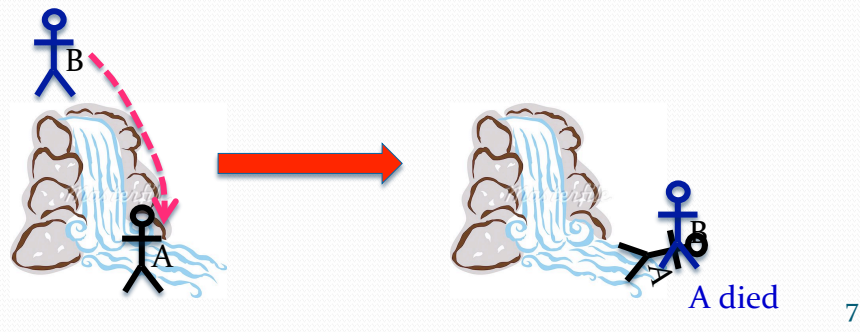
- *A* asked *B* to carry his son to school. *A* said that although the motorbike is full, he still allows his son to go with *B* regardless of any mistakes. Unfortunately, *B* went across the hole and *A*'s son got injured. Discussed the liability for the damages?



6

## Discussion of Grounds for Excuse from Illegality (2)

- A agreed that B could jump on his shoulder and carry him for another 10 meters. But unfortunately, when B jump on A's shoulder, A fell down and got injured until A died.



7

## Discussion of Grounds for Excuse from Illegality (3)

- A walked on the flooding road. B rode a motorbike in a normal speed and then he splattered water on A. Discuss the liability for damages of A.



8

## Principle of monetary damages; exceptions , CCC. 757

---

1. Damages shall be paid in money in principle.
2. Where money would not provide an appropriate remedy, the injured party may demand restitution or injunctive relief.
3. A person who suffers harm to their honor or reputation may demand, in addition to damages, that the tortfeasor take measures to restore the injured party's honor or reputation, such as a published apology.

9

## Japanese Civil Code

---

Art. 720:

1. The provisions of Article 417 shall apply *mutatis mutandis* to compensation for damages in tort.
2. If a victim is negligent, the court may determine the amount of compensation by taking that factor into consideration.

Art. 723: The court may, at the request of the victim, order a person who defamed others, to effect appropriate measures to restore the reputation of the victim in lieu of, or in addition to, damages.

10

## French Civil Code, Art. 1382

Any act whatever of man, which causes damage to another, obliges the one by whose fault it occurred, to compensate it.

11

## Principles of Economic Loss, CCC. 758

1. When calculating the economic loss caused by a tortious act, the difference between the economic situation that would be presumed to exist had the tortious act not occurred and the actual economic situation after the tortious act occurred shall be calculated using statistics and other materials to the extent possible.
2. When calculating the mental or emotional distress caused by a tortious act, [the amount of damages] shall be determined taking into account such factors as the degree of culpability of the tortious actor, the type and degree of harm, and the tortious actor's conduct after committing the tortious act.

12

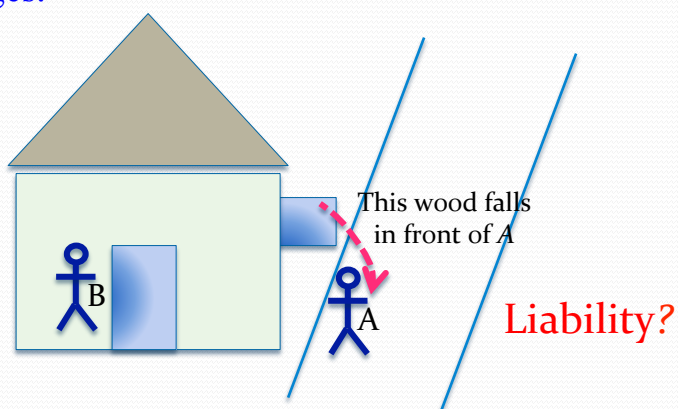
## Activity (2)

Give your own examples with regard to calculation of economic loss?

13

## Discussion of Economic Loss (1)

B wood attached to the house fell down and tore A's expensive shirt. A claims for the compensation of the damages.



14

## Discussion of Economic Loss (2)

B is a successful business man. A wants to compete with B. A said to the public that B cheats around 50 people and he never paid money to them. When B knows this, he got mental distress. Discuss the liability for the compensation of B's mental distress.

15

**Thank you!!!**

**Questions and Answers**

**Contact:**

[hphalthy@yahoo.com](mailto:hphalthy@yahoo.com)

[www.phalthy.wordpress.com](http://www.phalthy.wordpress.com)

16