

Faculti Summary

<https://faculti.net/public-nuisance-for-private-persons/>

This video discusses the concept of public nuisance within tort law, particularly in the common law context. It begins by outlining the structure of tort law, characterized by discrete torts where victims assert rights against wrongdoers. Public nuisance is highlighted as a complex area, often tied to public rights, but the meaning of these rights is debated among legal scholars.

The author suggests that traditional views of public nuisance maintain a strict boundary between public and private spheres, with public rights defined as collective interests. However, the author critiques this perspective, arguing that the concepts of exclusion and inclusion do not cleanly divide public and private realms. They propose that public rights should be viewed as the rights of individuals to use and enjoy public spaces.

Two main interpretations of public nuisance are presented: one sees it as a private law action, while the opposing view considers it a tool for public officials to address social issues. The author notes significant jurisdictional differences, citing the conservative view in England versus the broader application seen in the US, where public nuisance has been invoked in various social issues, including tobacco and climate litigation.

Furthermore, the author concludes with three main points: individuals have rights to public spaces independent of citizenship; they possess responsibilities and entitlements that transcend ownership; and public nuisance can serve as a mechanism for ensuring a safe and healthy environment without requiring ownership claims. The paper seeks to clarify and justify the notion of public rights and their implications for public nuisance as a legal instrument.