

Departmental Seminar on Wednesday, 26 April 2023

David Kelsey, Nottingham (Host: Jürgen Eichberger)

Title: **Tort Liability and Unawareness**

Abstract

We explore the implications of unawareness for tort law. We study cases where injurers and victims initially are unaware that some acts can yield harmful consequences, but later become aware. Alternatively they are unaware that some acts or consequences are even possible. Following Karni 2013 we model unawareness by Reverse Bayesianism. We compare the two basic liability rules of Anglo-American tort law, negligence and strict liability, and argue that negligence has an important advantage over strict liability in a world with unawareness---negligence, through the stipulation of due care standards, spreads awareness about the updated probability of harm.