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硕 士 学 位 论 文

完全民事行为能力人的无意识侵权

The Unconscious Tort of a Person with Full Capacity for  
Civil Conduct

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## 内容摘要

随着人们生活的日渐复杂多样，因疾病、吸毒以及其他原因导致自然人的暂时丧失意识并造成他人损害的事件越来越多。暂时无意识行为的问题不仅关系到受害人的损害赔偿，还影响到双方当事人的和谐关系。因而暂时无意识行为问题不仅是一个需要严肃对待的法律问题，也是一个关乎社会和谐稳定的社会问题。然而理论界对该问题的研究还非常不足。就完全行为能力人的暂时无意识行为问题，笔者在总结前人研究的基础上进行了比较深入的探讨，希望对我国司法实践和理论研究有所帮助。

本文共分为四章。

第一章主要考察了国外规范暂时无意识行为问题的立法情况，指出了大多数国家在暂时无意识行为致害问题处理上的相似性，即法律通常不会追究行为人的责任，但对于因过错致使自己处于无意识状态的，法律则要求行为人承担责任。

第二章则主要分析了暂时无意识行为人的意识状况和行为人的民事行为能力及责任能力问题。本文经分析后认为，自然人在实施暂时无意识行为时的意识虽然丧失，但其抽象的意思能力和民事行为能力、民事责任能力并没有丧失。

第三章是关于暂时无意识行为人的主观状态问题。本文认为，暂时无意识行为人的过错在于其引起了暂时无意识行为的发生，而完全行为能力人无过错的暂时无意识行为属于不依人的意志为转移的意外事件。

第四章主要论述了暂时无意识行为人致人损害的责任问题。本文认为，应根据行为人是否有过错而承担不同的责任，有过错的暂时无意识行为人应当承担侵权责任，而无过错的应当承担公平责任。

在结论中，根据对无意识行为问题的研究，本文认为行为人因为暂时无意识致人损害的责任问题，既有法律上的依据，也有法理上的根据。

**关键词：**行为能力人；暂时无意识；侵权责任

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## ABSTRACT

As further diversity of people's lives, the temporary loss of consciousness from illness, drug abuse and other reasons cause much damage to others. This not only relates to the compensation of the victims, but also affects the harmonious relationship between the parties, which is a serious legal issue, as well as a social problem relating to social harmony and stability, which has aroused concern of the community. But the theoretical research on this problem is still very insufficient. On the basis of the previous studies about the full civil capacity person temporarily unconscious behavior problems, I have conducted some research. I hope to provide help to the judicial practice of our country.

This thesis is divided into four chapters.

The first chapter mainly introduces the legislations about temporarily unconscious behavior problems of some relevant states. The chapter pointed out, in many countries, there are some similarities in handling the problems about temporarily unconscious damage. Namely, the law usually does not investigate the perpetrators responsibilities. But if his consciousness is from his own fault, the law requires the behavior person to assume responsibility.

The second chapter mainly analyzes the issues of the state of consciousness, the capacity for civil conduct and the responsibility of human who conducts the temporarily unconscious behavior. I think, although the consciousness of natural person who carries out temporarily unconscious behavior is lost, but his abstract mental capacity isn't lost. The overall capacity for civil conduct and the capacity for civil liability is not lost.

The third chapter is about the problem of subjective state of person who is temporarily unconscious. Temporarily unconscious behavior's fault exists in the fault leading to the unconscious behavior, while the temporarily

unconscious behavior which is not conducted by people under fault is an accident independent of man's will.

The fourth chapter mainly discusses the responsibility caused by temporarily unconscious behavior. And in my own view, he should take different responsibilities according to the person who is at fault or not. People who conduct temporarily unconscious behavior with fault shall bear liabilities for tort, and the others with no fault shall bear equitable liability.

In conclusion, according to the issue of the unconscious behavior, this thesis argues that there is legal basis, as well as legal theory basis about the issue of the responsibility caused by temporarily unconscious.

**Key Words:** Capacity for Action; Temporary Loss of Consciousness; Liability for Damage

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