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# STATE LIABILITY IN TORT

A COMPARATIVE LAW STUDY

*Duncan Fairgrieve*

# State Liability In Tort A Comparative Law Study

**Paula Giliker**



## **State Liability In Tort A Comparative Law Study:**

**State Liability in Tort** Duncan Fairgrieve, 2003 This book examines the topical sphere of governmental liability in damages arguing that there has been an important shift in the traditional English law approach as illustrated in a series of recent House of Lords decisions A detailed analysis is made of the torts applying to public bodies including negligence misfeasance in public office nuisance and breach of statutory duty as well as the influence of European human rights law and community law with discussion of the availability of damages under the Human Rights Act 1998 and the impact of the controversial decision of the European Court of Human Rights in *Osman v UK* and the subsequent retreat in *Z v UK* The discussion of state liability is also placed within the context of the evolving attitude of the courts to public law remedies with a detailed reconsideration of the relationship between ultra vires and liability in damages From a comparative law perspective it is argued that contrary to orthodox doctrinal opinion there are many similarities in the English and French law of administrative liability with parallels in the treatment of different types of loss causation finding of fault and underlying policy concerns The author discusses the direction in which English law might now move as well as analysing less orthodox sources of compensation such as the practice of the ombudsmen and statutory funds including the new French medical negligence compensation scheme

***Vicarious Liability in Tort*** Paula Giliker, 2010-10-28 Vicarious liability is controversial a principle of strict liability in an area dominated by fault based liability By making an innocent party pay compensation for the torts of another it can also appear unjust Yet it is a principle found in all Western legal systems be they civil law or common law Despite uncertainty as to its justifications it is accepted as necessary In our modern global economy we are unlikely to understand its meaning and rationale through study of one legal system alone Using her considerable experience as a comparative tort lawyer Paula Giliker examines the principle of vicarious liability or to a civil lawyer liability for the acts of others in England and Wales Australia Canada France and Germany and with reference to legal systems in countries such as the United States New Zealand and Spain

***The Oxford Handbook of Comparative Administrative Law*** Peter Cane, Herwig Hofmann, Eric C. Ip, Eric Chi Yeung Ip, Peter L. Lindseth, 2021 In this Handbook distinguished experts in the field of administrative law discuss a wide range of issues from a comparative perspective The book covers the historical beginnings of comparative administrative law scholarship and discusses important methodological issues and basic concepts such as administrative power and accountability

***Methods of Comparative Law*** P. G. Monateri, 2012-01-01 Comprising an array of distinguished contributors this pioneering volume of original contributions explores theoretical and empirical issues in comparative law The innovative interpretive approach found here combines explorative scholarship and research with thoughtful qualitative critiques of the field The book promotes a deeper appreciation of classical theories and offers new ways to re orient the study of legal transplants and transnational codes *Methods of Comparative Law* brings to bear new thinking on topics including the mutual relationship between space and law the plot that structures legal narratives identities

and judicial interpretations a strategic approach to legal decision making and the inner potentialities of the comparative law and economics approach to the field Together the contributors reassess the scientific understanding of comparative methodologies in the field of law in order to provide both critical insights into the traditional literature and an original overview of the most recent and purposive trends A welcome addition to the lively field of comparative law *Methods of Comparative Law* will appeal to students and scholars of law comparative law and economics Judges and practitioners will also find much of interest here

**English, French & German Comparative Law** Raymond Youngs, 2014-06-13 This comparative analysis considers the differing approaches to important areas of law in England France and Germany In particular constitutions sources of law rights against the state to prevent abuse of power and rights of private individuals and organisations against each other in tort and contract are examined and compared and the system of courts is also considered Updated and revised each sub topic is introduced with the relevant material in the English system allowing easy comparison and assimilation of the other systems The text includes translations of relevant French and German codal material and references to relevant cases from all of the jurisdictions This new edition includes constitutional changes in France and the United Kingdom in particular the new procedure for challenging existing legislation before the Conseil constitutionnel It examines the consequences of the Lisbon Treaty as well as other recent codal and legislative changes Comprehensive and topical the text explores a wide variety of new case law on issues such as preventive detention the use of evidence obtained by torture the balance between suppression of terrorism and personal freedom the internet email monitoring artificial reproductive techniques use of global positioning systems GPSs deoxyribonucleic acid DNA and closed circuit television CCTV the wearing of religious clothing such as the headscarf and symbols such as the cross circumcision methods of crowd control the prevention of human trafficking the preservation of privacy especially for celebrities and the legality of pre nuptial agreements and success fees for lawyers Designed for students on comparative law courses this textbook will also prove valuable to students who are familiar with English law but require a readily comprehensible introduction to French or German law

**The Indian Yearbook of Comparative Law 2019** Mathew John, Vishwas H. Devaiah, Pritam Baruah, Moiz Tundawala, Niraj Kumar, 2021-07-28 This book is a compilation of thematically arranged essays that critically analyze emerging developments issues and perspectives in the field of comparative law especially in the field of comparative constitutional law The book discusses limits and challenges of comparativism comparative aspects of arbitral awards cross border consumer disputes online hate speech authoritarian constitutions issues related to legal transplants the indispensability of the idea of the concept of Rechtsstaat interdisciplinary challenges of comparative environmental law free exercise of religions public interest litigation constitutional interpretation and developments and sustainable development in model BITs It comprises seven parts wherein the first part focuses on general themes of comparative law the second part discusses private law through a comparative lens and the third fourth and fifth parts examine aspects of public law with

special focus on constitutional law human rights environmental law and economic laws The last part of the book covers recent developments in the field of comparative law The book intends to seamlessly tie together discussions on both public and private law aspects of comparative law It encourages readers to gain a nuanced understanding of the working of law legal systems and legal cultures while aiding deliberations on the constituents of an ideal system of law *Lunney & Oliphant's Tort Law* Donal Nolan, Ken Oliphant, 2023 The seventh edition provides a complete authoritative guide to the subject The book combines clear overviews of the law with well chosen extracts from cases and materials supported by insightful commentary

**Public Liability in EU Law** Pekka Aalto, 2011-11-01 Over the last two decades public law liability for breach of European Union law has been subject to remarkable developments This book examines the convergence between its two constituent systems the damages liability of the EU and that of its Member States for failing to comply with EU rules Member State liability based as it is on the Francovich case 1991 and Brasserie du P cheur and Factortame 1996 judgments of the European Court of Justice ECJ is well established But it is yet to be closely scrutinised by reference to the detailed rules on the liability of the European Union The focus of the book is on the two key legal criteria that are common to both systems namely the grant of rights to individuals by EU law and the notion of sufficiently serious breach of such rights The analysis concentrates on developments in the case law of the ECJ and the General Court since the Bergaderm judgment 2000 which consolidated the convergence of the two liability systems that was first indicated in Brasserie du P cheur and Factortame These two criteria are set side by side to evaluate the extent in real terms of the convergence of Member State and EU institutional damages liability and to determine the extent to which one has influenced the other This book shows that although full convergence between the two liability systems is not likely each stream of case law should look to the other more actively as this important element of EU remedial law develops Convergence in EU law public liability is supported by developments in adjacent areas most notably European tort law and European administrative law This study also illustrates how convergence in the EU liability systems to date has had spill over effects into national public liability law

**Cases, Materials and Text on Judicial Review of Administrative Action** Chris Backes, Mariolina Eliantonio, 2019-08-08 This casebook studies the law governing judicial review of administrative action It examines the foundations and the organisation of judicial review the types of administrative action and corresponding kinds of review and access to court Significant attention is also devoted to the conduct of the court proceedings the grounds for review and the standard of review and the remedies available in judicial review cases The relevant rules and case law of Germany England and Wales France and the Netherlands are analysed and compared The similarities and differences between the legal systems are highlighted The impact of the jurisprudence of the European Court of Human Rights is considered as well as the influence of EU legislative initiatives and the case law of the Court of Justice of the European Union in the legal systems examined Furthermore the system of judicial review of administrative action before the European courts is studied and compared to that of the national

legal systems During the last decade the growing influence of EU law on national procedural law has been increasingly recognised However the way in which national systems of judicial review address the requirements imposed by EU law differs substantially The casebook compares the primary sources legislation case law etc of the legal systems covered and explores their differences and similarities this examination reveals to what extent a *ius commune* of judicial review of administrative action is developing

Tort Law in France Jonas Knetsch, 2025-07-23 Derived from the renowned multi volume International Encyclopaedia of Laws this book provides ready access to how the legal dimension of prevention against harm and loss allocation is treated in France This traditional branch of law not only tackles questions which concern every lawyer whatever his legal expertise but also concerns each person's most fundamental rights on a worldwide scale Following a general introduction that probes the distinction between tort and crime and the relationship between tort and contract the monograph describes how the concepts of fault and unlawfulness and of duty of care and negligence are dealt with in both the legislature and the courts The book then proceeds to cover specific cases of liability such as professional liability liability of public bodies abuse of rights injury to reputation and privacy vicarious liability liability of parents and teachers liability for handicapped persons product liability environmental liability and liability connected with road and traffic accidents Principles of causation grounds of justification limitations on recovery assessment of damages and compensation and the role of private insurance and social security are all closely considered Its succinct yet scholarly nature as well as the practical quality of the information it provides make this book a valuable resource for lawyers in France Academics and researchers will also welcome this very useful guide and will appreciate its value not only as a contribution to comparative law but also as a stimulus to harmonization of the rules on tort

This book delves into State Liability In Tort A Comparative Law Study. State Liability In Tort A Comparative Law Study is an essential topic that must be grasped by everyone, ranging from students and scholars to the general public. The book will furnish comprehensive and in-depth insights into State Liability In Tort A Comparative Law Study, encompassing both the fundamentals and more intricate discussions.

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  6. In chapter 5, this book will draw a conclusion about State Liability In Tort A Comparative Law Study. This chapter will summarize the key points that have been discussed throughout the book.
- This book is crafted in an easy-to-understand language and is complemented by engaging illustrations. This book is highly recommended for anyone seeking to gain a comprehensive understanding of State Liability In Tort A Comparative Law Study.

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