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Comparative Studies on Governmental Liability in East and Southeast Asia (Public Law in East and Southeast Asia)

Yong Zhang
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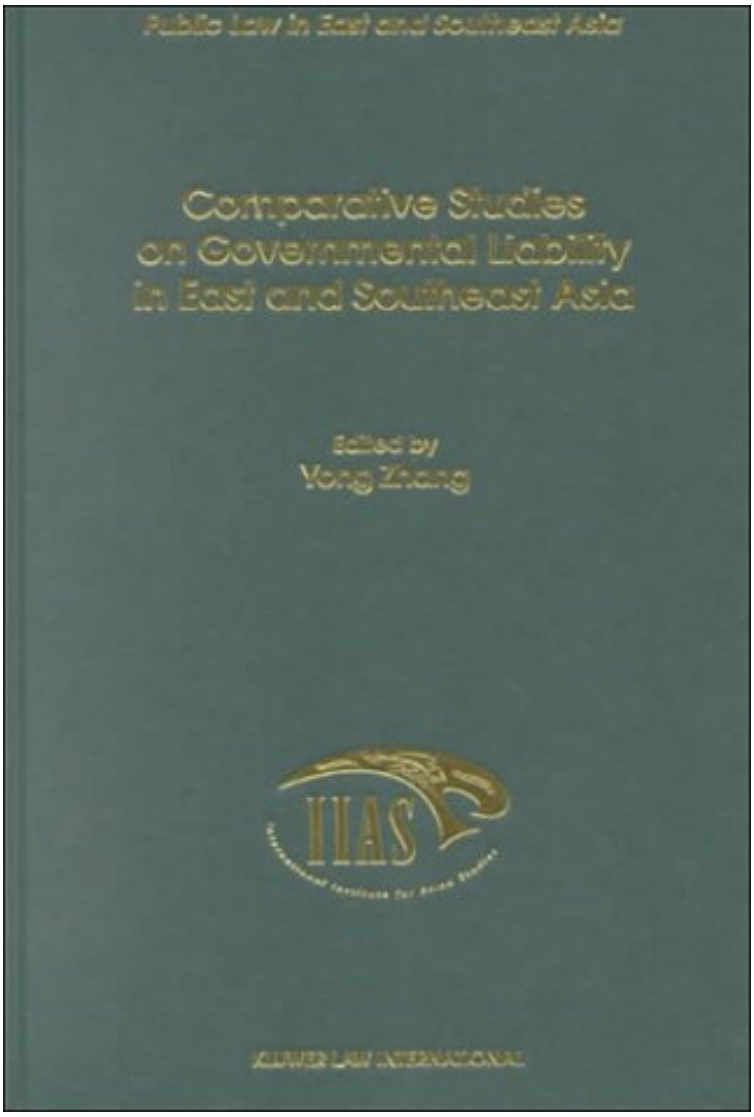

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This book is the second volume of a planned trilogy on legal protection of citizens' rights against the state in East and Southeast Asia. The first volume was published in 1997, under the title of Comparative Studies on the Judicial Review System in East and Southeast Asia. The third book will deal with the subject of due process of law with respect to administrative decision-making in these areas. This second volume examines the historical development and present function of governmental liability in Japan, China, Korea, Taiwan, Malaysia and Indonesia. Both theoretical and practical problems of governmental liability are analyzed through comparative perspectives. As German and Dutch law have a strong influence in East and Southeast Asian countries, the governmental liability system in these two countries is also discussed. During the process of modernizing the economy and legal systems, especially with the globalization of the economy and the internationalization of Western law, it is inevitable for countries in East and Southeast Asia to introduce a governmental compensation system. However, because of a lack of experience of civil society and the tradition of the rule of law, of shortage of finance, and of different viewpoints on human rights, the introduced and planned governmental compensation systems in East and Southeast Asia could not be expected to function in the same way as those in Western countries. This book is based on the assumption that it is better to prevent damage from happening than compensating for it with money.