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SUMMARY OF CONTENTS

Challenges for Sino-Japanese Tort Law in the 21st Century: With Reference to Recent Legislation in China

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[Abstract]

Comparisons of tort law between Japan and China are quite interesting in the sense that it is, on the one hand, one of the most debated fields in Japan while, on the other hand, in China, it was codified at the end of 2009 and has been considered the fruit of comparative jurisprudence ; the variety of tort law purposes and of tort remedies in the recent statutes is noticeable.

In this article, the legal comparison of both tort laws has been pursued using the concrete cases of tort law: for example, (1) traffic accidents, (2) medical malpractice, (3) product liabilities, (4) public nuisance and environmental torts, (5) natural disasters, and (6) reparations of past injustices.

Then the imminent tort law agendas in the 21st century have been analyzed as follows. First, (1) the reciprocal relationship of law and policy, and thus that of legislation and adjudication, in many public tort law cases, (2) recent developments of tort law, such as economic torts, cyber torts, sexual harassment, child abuse, and some other family and school torts behind closed doors, (3) tort law regarding personal identity as opposed to physical damage

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and environmental tort law.

Second, the debate over the comprehensive recovery system outside of traditional tort law has already started in the case of traffic accidents, but it is all the more necessary in the field of natural disasters, in the face of the recent abundance of earthquake and flood tragedies. Broader public assistance should also be considered in this context.

Third, the international co-operation among neighboring countries in East Asia is indispensable for the pursuit of environmental protection and the preservation of common-pool resources, e.g., forests, water, oil, fishery resources, and to prevent the global warming.

Fourth, reparation debates about past injustices, especially those regarding the Japanese invasion of China, are still limited. The re-examination of the significance of legal and moral tort responsibilities and reconsideration of the type of remedies in reparation cases should be prioritised in order to stop the cycle of hatred, and to seek the forgiveness in its true sense from the victims, and thus to attain historical reconciliation. In this sense, the effort to look for the sincere recognition of the personal guilt in the Fushun penitentiary in the 1950s still attracts academic attentions.

[Key Words]
Tort Law ; Historical Reconciliation; Law and Policy ; Comprehensive Remedies from Disasters ; Protection of Environment and Common-Pool Resources