### Contents

**Acknowledgments**

**Introduction**

A Thinking in Networks  
B Breaking Academic Frames of Reference  
C Understanding Systems Theory as an Analytical ‘Frame of Reference’ rather than a Grand Theory

1 Tort Law from Individuals to Systems: Ladeur’s Debt to Luhmann  
2 Ladeur’s Models of Modernity: Programmes and Paradigms

**Tort Law and the Society of Individuals**

A Introduction  
B Re-programming the Law: The Contribution of Legal Science to an Acentric Legal Architecture

1 The Emergence of a Distinct and Subsidiary Tort Law: The Radiating Effect of the Will of the Parties and *Winterbottom v Wright*  
2 Secondary Remodelling of Distributed ‘Experience’ through the Tort Standard of Care

C How Individualised Ascription Became a Normative Model for a General Law of Tort

1 Private Bureaucracy: The Doctrine of Vicarious Liability  
2 Public Bureaucracy: A Public Law of Tort

D Conclusion
2 Tort Law and the Society of Organisations
   A Introduction 61
   B Cognitive Rupture and Organisational Responsibility 61
      1 Materialised Social Responsibility: Donoghue v Stevenson 64
   C The Eclipse of the Individual: Illustrations of the Turn to
      Organisational Liability 74
      1 Product Liability qua Organisational Liability 74
      2 The Slow Emergence of ‘Enterprise Risk’ Liability in the
         Common Law: Vicarious Liability 87
      3 Direct Action against the State via Negligence: The Rise
         of the State qua Organisation 91
   D Conclusion 114

3 Currents and Counter-Currents in Contemporary Law 116
   A Introduction 116
   B Cognitivisation in EU Law: De-differentiation in
      Legal Discourse 129
   C Constitutions and Collisions: Against ‘Hegemonic
      Programmes’ or a Common Law for Europe 138
   D Rights Balancing before the Court: Thinking through
      Non-commensurable Discourses 148
   E Conclusion 154

4 Re-norming Tort Law: From Network Rights to
   Network Remedies 155
   A Introduction 155
   B The New Approach: The Emergence of
      Network Governance 158
      1 A History of the New Approach: Building
         Network Governance 158
      2 The PIP Imbroglio and Schmitt: Tort Law in the
         Spotlight 161
      3 Of Bits and Pieces: The Emergence of the Cupola
         of Responsibility and Its Theoretical Consequences 174
      4 Re-imagining Francovich State Liability 180
      5 The Three-Track Liability Schemata: From Network
         Liability to Network Responsibility 192
## Contents

C Beyond a Reconstruction of EU ‘State Liability’? A Model for the Value Chain? 197
1 Between Individual and Organisational Liability in Tort 197
2 Beyond Individual and Organisational Responsibility in the Value Chain: Network Governance of the Supply Chain 208
D Conclusion 216

Conclusion 217

Index 223