

A changing landscape of road traffic liability in China

Citation for published version (APA):

Yan, Y. (2018). *A changing landscape of road traffic liability in China: A view from law and economics*. [Doctoral Thesis, Maastricht University]. Datawyse / Universitaire Pers Maastricht. <https://doi.org/10.26481/dis.20180914yy>

Document status and date:

Published: 01/01/2018

DOI:

[10.26481/dis.20180914yy](https://doi.org/10.26481/dis.20180914yy)

Document Version:

Publisher's PDF, also known as Version of record

Please check the document version of this publication:

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Propositions

Accompanying the Doctoral Dissertation

A Changing Landscape of Road Traffic Liability in China: A View from Law and Economics

Yu Yan

Friday 14th September 2018, at 12:00 hours.

1. Safety regulation should be strongly enforced in China (especially among non-motor vehicles), either by imposing small punishments with a high rate of detection and by paying more attention to regulate non-motor vehicle parties' behaviour, to produce sufficient deterrence.
2. To avoid uncertainties and to make corruption and fraud issues difficult to hide, Liability rules and regulatory standards should be more clear in China.
3. Caps on tort damages, especially arbitrary caps on non-pecuniary damages should be removed in China. Tort losses should be more carefully calculated and the assessment of the losses should be correct on average.
4. The insolvency risk of tortfeasors needs to be further eliminated, either by increasing the compulsory motor vehicle liability coverages (short-term strategy) or by improving social security benefits (long-term strategy).
5. To make the compulsory motor vehicle liability insurance (CVLI) functions more effectively in China, competition in the CVLI market needs to be promoted; restrictions on the CVLI insurer's ability to do risk-differentiation need to be removed; the duty to insure needs to be sufficiently enforced (particularly among motorcycles and tractors); the premiums should be more risk-based and coverage should be linked with the insured's degree of fault; the Bonus-Malus system should be further refined and be applied to all types of motor vehicles; and the victim should be entitled to have the right to bring a direct action against the CVLI insurer.
6. The collateral benefits set-off rule (deduction), and subrogation of the insurer or provider should be allowed, if the victim received compensation from multiple sources.
7. Accident parties should be entitled to claim social security benefits even if the accident was caused by a third party. And, to function effectively and to complement the traffic liability system well, social security benefits should be paid rapidly without regard to fault and without filing any application for benefits.
8. Innovation developments, such as ride-sharing, autonomous driving and usage-based insurance, may affect the shaping of traffic liability rules, regulations, as well as the pricing of the automobile insurance in the near future. However, it is still debated whether these technologies will actually improve traffic safety.
9. PhD stands for "patiently hoping for a degree" instead of "doctor of philosophy".