

Ordinary Tort Litigation in China: Law Versus Practical Justice

This talk will examine the roles courts play in tort litigation in China, in particular in litigation resulting from death and injury on China's roads. At first glance traffic accident litigation in China appears to be an area in which courts play only minor roles. The courts rarely act as fact-finders and the combination of strict liability and clear guidelines for damages should make court awards highly predictable. Examination of 336 tort cases from one county in Hubei Province, however, shows how difficult it is to separate out the role courts play in tort cases in China from those played in areas officially deemed sensitive. Courts seek to eliminate not just the possibility of unrest but also of litigant dissatisfaction. Courts ignore legal rules or innovate in the interstices of unclear law in ways that ensure that weak or aggrieved parties receive compensation, losses are shared among those able to pay, and the risk of unrest is mitigated. Tort litigation in China also highlights the strategic use of courts by individuals, institutions, and the state. Courts hearing tort cases in China must respond to these varied uses and litigant goals; doing so requires doing far more than resolving legal or factual issues.

Benjamin Liebman

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Benjamin L. Liebman is the Robert L. Lieff Professor of Law and director of the Center for Chinese Legal Studies at Columbia Law School. His research focuses on Chinese courts, Chinese tort law, Chinese criminal procedure, and the impact of popular opinion and populism on the Chinese legal system.

Prior to joining the Law School's faculty in 2002,

Liebman was an associate in the London and Beijing offices of Sullivan & Cromwell. He also previously served as a law clerk to Justice David Souter and to Judge Sandra Lynch of the First Circuit.

He is a graduate of Yale University, the University of Oxford, and Harvard Law School.

Light lunch will be served. Please RSVP to cals@allard.ubc.ca



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April

26

Wednesday

**12:30pm –
2:00 pm**

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