

Cars overwhelmingly cause bike collisions, and the law should reflect that

Written by Soufiane Boufous, Senior Research Fellow, Road Safety and Injury Prevention, UNSW

On a Thursday morning in June 1817, the prolific inventor Karl Drais took his *Laufmaschine* (running machine) for a 13km spin along the banks of the Rhine.

The voyage on the wooden bike, not dissimilar to a modern toddler's balance bike, lasted just under an hour. The early bicycle sparked an [immediate craze](#), and later versions became a symbol of [freedom for workers and women](#).

Two hundred years after their invention, bicycles are widely recognised as an effective tool to combat physical and mental health problems, reduce congestion on urban roads and improve the quality of the environment.

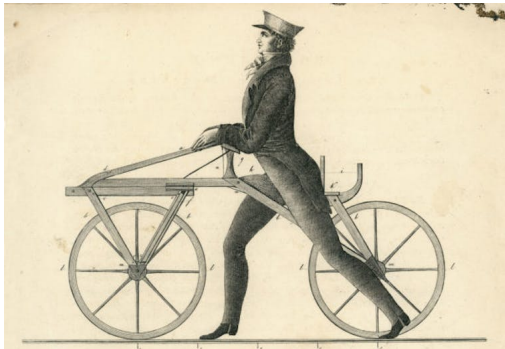
However, cycling participation across Australia is [stagnating](#). This is mainly because of [concerns about safety](#). A report [released last week](#) by the Royal Automobile Association of South Australia found that in the vast majority of crashes the cyclist was not at fault.

To keep our cyclists safe, it may be time to adopt the approach of many European nations by introducing legislation that, in civil cases, presumes that car drivers caused a collision unless there is evidence to the contrary.

Shifting the burden of proof to drivers – who must prove they didn't cause a crash – [has been highly successful in other nations, along with other measures](#), in keeping cyclists safer and reducing accidents.

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Karl Von Drais and his Laufmaschine. © TECHNOSEUM

Cars generally cause collisions

Despite a significant reduction in road deaths in Australia over the past few decades, recent data point to a [steady increase](#) in serious injuries among vulnerable road users, including cyclists.

Australia needs serious action if we want to reverse this trend. Last week's report from the [RAA](#) confirms other research in this area, such as a 2013 University of Adelaide study that examined police crash records and found drivers caused four in every five crashes between cars and bicycles.

These results are similar to a [Monash University study](#) in which researchers examined camera footage of similar incidents. They found that drivers were responsible for the actions preceding the incident in 87% of cases.

The previous studies show that most of these crashes occur at intersections, and generally involve a cyclist travelling in a straight line on a single carriageway at the time of the collision with the motor vehicle.

The presumption of liability

Previous road safety lessons, like the [successful seatbelt campaign](#), tell us education and infrastructure only work in combination with strong regulations. However, legislation in the area of cycling safety is inadequate and puts an unfair burden on cyclists.

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Under current laws, if a car collides with a bicycle or a pedestrian on Australian roads, they must make a case against the motorist to claim on the motorist's insurance. If the insurance company contests the claim, the injured cyclist or pedestrian has to take the case to a civil court.

Surely the burden of proof should shift onto the more powerful road user, especially given that the research suggests they are more likely to be the one at fault.

To do so, we need a presumed liability law that protects vulnerable road users. Similar laws have been introduced in Canada and in many European countries, including [the Netherlands](#), [Germany](#), [Denmark](#) and [France](#)

. Under these laws, sometimes also referred to as “reverse onus” or “strict liability” laws, drivers must prove that a collision with a cyclist or a pedestrian was not their fault.

These laws affect civil cases only and do not remove the presumption of innocence. In criminal law, drivers in collisions with vulnerable road users remain innocent until proven guilty. It's also not about always blaming motorists; for example, if a cyclist ran a red light and caused a collision, they would obviously be at fault and would not receive compensation.

An Australian version of these laws would mean that cyclists were more likely to be fairly compensated in the event of a crash. More importantly, such laws would encourage motorists to take extra care when driving alongside vulnerable road users. In many European nations presumed liability, which was originally introduced to reduce traffic crashes, is widely believed to be a key component of [encouraging safer cycling](#) .

A presumed liability law would encourage the full range of health, environmental and social benefits of cycling, and keep the spirit of Drais's original *Laufmaschine* alive.

However, the law alone is not sufficient. Better cycling infrastructure, reduced speed limits in residential areas, and improved education for drivers and cyclists are all needed to keep our roads safe for everyone.

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