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Rijden onder invloed. Een onderzoek naar de relatie tussen strafmaat en recidive

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In this book we shall be concerned with the problem of driving under the influence of alcohol, as it has been made punishable by article 26 of the Road Traffic Act.

Chapter I discusses the dangers of drunken driving, which considerable research has shown to be substantial. Observation and reaction capacity decrease rapidly with increasing amounts of liquor and the chance of an accident grows accordingly. Yet – as statistics show – the number of convictions under article 26 increases steadily. Half the number of all traffic offences concerns drunken driving.

In chapter II we deal with the general aims of a penal system. In our opinion influencing of behaviour plays an important role in this, particularly in regard to traffic. When describing the evolution of this part of the criminal law, special attention is paid to the introduction of article 26. It appears that infraction of this regulation may be punished with imprisonment or a fine; in addition, a person convicted on this count may be disqualified from driving. As can be seen from statistical data in an increasing number of cases (62 per cent in 1968) unconditional imprisonment is imposed and is almost always combined with disqualification from driving.

The main question of our investigation is put forward in chapter III. We shall consider if the severity of the sentence has any effect on the recidivism of the person convicted. We shall also try to answer some secondary questions:

- Why does one offender relapse and another not; do recidivists differ from non-recidivists?
- Is it possible to predict recidivism based on this difference?
- What factors play a part in determining the kind of penalty to be imposed?

The data needed to answer those questions are gathered from the dossiers of 1674 male drunken drivers, who in the period 1960 to 1964,

were convicted for this offence in the jurisdiction of Leeuwarden (i.e. the area comprising the three northern provinces of Groningen, Friesland and Drenthe).

Three groups of data can be distinguished:

1. Personal data as to age, marital status etc.
2. Data about the offence; with which vehicle was the offence committed; what was the concentration of alcohol in the blood?
3. Data about the criminal record of the convicted person.

Helped by this data, a picture is drawn in chapter IV. of our group under investigation. We find it containing many 'older' delinquents, mostly coming from lower social-economic classes, with high to very high blood alcohol concentrations. Almost 25 per cent have previous convictions for an alcohol-traffic-offence, while 45 per cent have already been convicted for another type of offence – in brief a rather special group of delinquents.

In chapter V we deal with the further recidivism of this group. After being sentenced in the years 1960 to 1964, over 30 per cent was re-convicted for the same offence in the period up to January 1, 1970. Within 3 years 60 per cent of this latter group has recommitted the offence.

To answer the question of the possible causes for this relapse, recidivists and non-recidivists are compared with each other. It appears that the former are, on average, older, have a higher blood alcohol content and a more extensive criminal record. They also include more divorcees and widowers.

In calculating the correlations between this kind of background variable and recidivism, similar relations are found. Yet those, individually and together (multiple correlation) are too slight to predict recidivism on this basis.

Chapter VI calls attention to the main question of our investigation, namely the effect of the severity of the penalty on recidivism. Before answering this question we examine how, in fact, our drunken drivers are punished. In spite of great differences in the distinctive areas of our investigation (Groningen, Friesland and Drenthe) the policy, as to punishment, pursued in the jurisdiction of Leeuwarden is fairly in agreement with that of the Netherlands as a whole.

Next – in chapter VII – we ask what factors play a part in determining the severity of the sentence. When comparing the people who have and those who have not been punished with unconditional imprisonment, a number of clear distinctions becomes apparent. In particular the existence of a criminal record appears to be of great influence on the decision whether or not unconditional imprisonment will be imposed. If we try to determine a more accurate relation between certain background variables and the degree of punishment, we encounter the difficult problem of classifying the different sentences.

Nevertheless, an effort is made in chapter VIII to establish what

sentence may be considered the more severe and what the more lenient. With certain criteria in mind a method is presented – and tested in practice – in which all sentences, from severe to lenient, can be classified. From this starting-point the relation between background variables and severity of sentence is reconsidered. The results of the calculated coefficients of correlation show that in particular previous convictions for drunken driving do influence the severity of the penalty.

Finally, in chapter IX, the main question of our investigation is answered. In considering the relation between the severity of the sentence and recidivism, the partial coefficient of correlation appears to be .03, indicating no relation whatsoever between these two variables. The severity of the penalty therefore does not influence recidivism in any way. We now ask ourselves what the significance of all this might be in practice, i.e. for the penalty – policy in relation to drunken driving. At the end of this chapter, therefore, it is explained how such a policy is made, which official bodies are concerned and what aims should be kept in mind. In this connection two questions are put forward:

- a. Is it possible to reach the effect of the present-day penalty policy more economically?
- b. Is it possible, by changing this policy, to attain a better result, i.e. a greater reduction in drunken driving?

Both questions are answered positively. The first on account of a cost/profit analysis of the present policy. Frequent imposition of unconditional imprisonment, as is usual today, appears very costly in relation to the results obtained. We therefore suggest reducing prison sentences in favour of fines. We answer the second question by making a number of recommendations aimed at removing the causes of the relative inefficacy of present-day policy. These suggestions are:

- Much more attention should be paid to giving adequate information about the dangers of drunken driving.
- The chance of being caught for this offence must be drastically increased.
- The penalties for driving under the influence of alcohol must be clear to everybody.
- The penalties imposed should be a real threat to every offender.
- The sentence should be related as much as possible to the alcohol-problems of the person convicted.

For those concerned with policy-making (judge, public prosecutor and legislator) this among other things leads to the following conclusions:

On all first offenders the judge imposes a fine, not imprisonment; the amount of the fine should be related to the income of the offender. In all cases of recidivism, in addition to a fine, the vehicle with which the offence was committed should be confiscated. In cases of persistent recidivism, measures should be taken to solve the alcohol-problems of the one concerned.

The public prosecutor must take care that detection of drunken

drivers becomes more effective, resulting in a better chance of their apprehension.

Finally, the legislator must formulate a clear penal-provision and do everything possible for the actual enforcement of the above-mentioned suggestions to the judge and public prosecutor. In particular the imposition of the proportional fine should be made possible.