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Original Paper

An Empirical Analysis of the Crime of "Drunk" Dangerous Driving—Taking the Plateau Area as an Example

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Abstract

In May 2011, the "Criminal Law Amendment (VIII)" incorporated drunk driving into the scope of criminal law regulation. After "drunk driving into the penalty", it has played a great deterrent role in recent years. However, with the containment of "drunk driving" and "drunk driving", the judicial cost of our country has also increased. The inclusion of drunken dangerous driving crime into the penalty system makes the grass-roots courts spend a lot of judicial resources to deal with such cases every year. In this paper, the cases published in the judgment document network during the ten-year period from 2015 to 2024 in the plateau area are sorted out and summarized. Based on objective empirical analysis, the effectiveness, characteristics and existing problems of "drunk driving into punishment" after the implementation of drunken dangerous driving crime in the plateau area are studied. Finally, according to the analysis and research results, corresponding suggestions are put forward.

Keywords

plateau region, drunk, dangerous driving, empirical analysis

1. Introduction

In recent years, with the development of China's economy, automobiles have become an increasingly important means of transportation. However, before the "drunk driving penalty", the tragedy of homebreaking caused by drunk driving has occurred repeatedly around us. The regulation of drunk driving only by administrative punishment is obviously not enough to deter the perpetrators, and the punishment is far from enough (Research on the judicial determination of the crime of "drunken" dangerous driving, 2024). With the traffic accident cases caused by drunk driving and drunk driving rising in a straight line, and the nature and its bad, the people are very angry. In recent years, the relevant data also show that the number of cases of drunk driving accidents is increasing, and the degree of harm is deepening, which has posed a great threat to the safety of citizens' lives and property.

Therefore, in this context, drunk driving has become a necessary link in the improvement of China's criminal law and an inevitable result of the continuous improvement of the social protection function of criminal law (Fu, Y. M., 2023).

2. Selection and Design of Sample Data

In this paper, the empirical analysis of the crime of "drunken" dangerous driving is based on the crime of dangerous driving published by the grass-roots courts of 6 cities and 1 city in the plateau region on the China Judgment Document Network (Tian, X., 2023, pp. 176-200) as the research sample. By demonstrating whether the high-trend development of "drunken" dangerous driving crime cases is directly related to economic development, the characteristics of relatively backward economic development, poor natural conditions, small population and underdeveloped traffic in the plateau area make it a representative research object (Liu, D. F., & Chen, M. F., 2021, pp. 96-98)[0].

In terms of literature retrieval methods, the author set up keywords such as "criminal case", "grass-roots court", "plateau area", "dangerous driving crime", etc. A total of 903 cases were detected, and 896 cases were selected for data analysis according to the time requirements set up in this study. In the process of data collection, induction and summary, it is found that a total of 884 cases have been concluded, and the types of cases are "drunk driving" dangerous driving crimes. This has great reference value and significance for the author to analyze the sample data related to the crime of "drunken" dangerous driving (Yin, S. F., 2023, pp. 32-36, p. 41).

In addition, the ten-year period from 2015 to 2024 is selected as the research period, hoping to fully and dynamically understand the application of the crime of dangerous driving in the plateau area since its application, so as to find out the problems existing in the crime of dangerous driving in practice. Through empirical analysis from the perspective of subjective factors and objective factors, this paper explores the relationship between the high incidence of dangerous driving crime and the development of plateau area (Li, R. S., 2023, pp. 75-86).

3. Characteristics of the Crime of Dangerous Driving

3.1 Analysis of the Characteristics of the Main Factors

3.1.1 The Proportion of Migrant Workers Is the Largest

According to the analysis of the sample situation, it is concluded that the crime of "drunk driving" dangerous driving in the plateau autonomous region has involved 884 people in 10 years. Among them, 234 workers accounted for 26 %, nearly one-third of the total staff; the second is the unemployed, with a total of 140 people, accounting for 16 % of the total; secondly, there are 124 people with the status of farmers and herdsmen, accounting for 14 %, about half of the migrant workers; thirdly, there are 69 business people affected by population migration and local tourism development, accounting for 8% of the total, which is related to economic strength and the number of cars owned.

3.1.2 The Overall Distribution Is Dominated By Localized Crimes, and the Occurrence of Dangerous Driving Crimes Is Positively Correlated With the Proportion of Local Population

According to the sample analysis, in addition to the six regions and one city in the plateau area, the distribution area of the people involved also involves more than 20 provinces such as Sichuan, Gansu and Qinghai (Sun, Y., 2023, pp. 77-81). In the plateau area, Lhasa and Shannan are the most, followed by 136 in Sichuan, while the total number of Linzhi, Naqu and Changdu is less than half of Lhasa. There is only one case of dangerous driving crime in Ali area with an average population density of less than 0.2 people per square kilometer. Through the data, it can be seen that the crime rate of "drunk driving type" dangerous driving crime, whether in the plateau area or outside the area, is positively correlated with the proportion of population in the area.

3.1.3 The Defendant's Cultural Level Is Generally Low, and the Level of Cultural Level Is Proportional to the Degree of Familiarity with the Law and the Awareness of Active Compliance with the Law

According to the relevant provisions of the "Education Law of the People's Republic of China" and the current situation of plateau teaching, the author sets up six types of cultural level types for the defendant. Through analysis and induction, the following results are obtained: the cultural level of junior high school occupies a high position, accounting for 23%; the second is the level of primary school culture, accounting for 21%; the lowest proportion is undergraduate and above education level, only 3%. Through data analysis, it can be seen that the cultural level of the people involved in the crime of drunken dangerous driving is generally low. The cultural level of junior high school and below is as high as 61%, and the level of primary school and below is 36%. In addition, according to the analysis of Xizang (including Lhoba) the defendant's cultural level is low, there are some people are illiterate, far lower than the overall cultural level evaluation ratio, this side shows that the level of education in the plateau area and the country's 9 years of compulsory education requirements There is still a certain gap, but also the overall reflection of the plateau area "drunken" dangerous driving crime defendant's cultural level is too low objective facts. American scholar Blake once pointed out: "The change of law is proportional to culture." It can be seen that the level of cultural level is directly proportional to the degree of familiarity with the law and the awareness of active compliance with the law.

3.2 Analysis of the Characteristics of Objective Factors

3.2.1 The Proportion of Cars in "Drunk" Dangerous Driving Is the Highest

Through the data analysis of effective samples, it is not difficult to find that the motor vehicle type of "drunken" dangerous driving crime is mainly automobile. In addition to 8 three-wheeled motorcycles, 2 180-type tractors, 5 electric vehicles, 27 motorcycles, 1 walking tractor, 1 small disc tractor, the remaining 840 cases are cars, accounting for 95.02% of the cases of "drunken" dangerous driving crimes.

3.2.2 The Alcohol Concentration in the Blood of the People Involved Is Generally High

According to the provisions of Article 4 of the Supreme People's Court, the Supreme People's Procuratorate, the Ministry of Public Security and the Ministry of Justice on the issuance of the "Opinions of the Supreme People's Court, the Supreme People's Procuratorate, the Ministry of Public Security and the Ministry of Justice on Handling Criminal Cases of Drunk Dangerous Driving" in 2023: "If a motor vehicle is driven on the road and the breath alcohol content is detected to show that the blood alcohol content reaches 80 mg/100 ml or more, the public security organ shall decide whether to file a case in accordance with the provisions of the Criminal Procedure Law and this Opinion." According to the "opinion", by comparing the blood alcohol content of the defendant in the data, the lowest alcohol content is 80.38mg/100ml, and the highest is 412.61mg/100ml. Among them, there are 453 people with more than 200mg/100ml, accounting for up to 51.2%, which indicates that most of the criminal suspects have high alcohol content. On the whole, the alcohol content is positively correlated with the crime rate, and drunk drivers are still in a state of ignorance or even ignorance of "drunkenness".

3.2.3 Statistics of the Application of Sentencing

Combined with the analysis of sample data, it is found that in 884 valid data, the probation rate for drunken dangerous driving crime is as high as 81.45%. In addition, among the 844 valid data, only 1 case was exempt from criminal punishment, 7 cases were converted from dangerous driving crimes into other crimes and sentenced to fixed-term imprisonment, and the rest were criminal detention. Through data analysis, the prison term of the crime of drunken dangerous driving in the plateau area is mainly low-penalty punishment, of which 2, 3 and 4 months are the most punished, accounting for 23.87%, 25.23% and 22.85% of the effective data respectively. These three prison terms account for 72% of the total sample size. When dealing with the crime of drunken dangerous driving in the plateau autonomous region, whether it is the sentencing opinion or the final trial result, the mainstream trend is to incriminate. In the process of sentencing, for cases with significantly minor circumstances and little harm, the vast majority of courts will not exempt them from criminal punishment, but adopt a median approach to their punishment. The high application rate of probation also highlights the very low threshold of dangerous driving crime in conviction and conviction, and the overall sentencing is relatively loose.

4. Empirical Conclusions of Dangerous Driving In Plateau Area

Although it has been more than ten years since the introduction of the "Criminal Law Amendment (8)", according to the results of statistics and analysis in six regions and one city in the plateau area, the crime rate of dangerous driving crime is still rising, and "drunk driving into the penalty" has not played a very good improvement effect on society. At the same time, after analyzing the above data, it is found that the increase of drunken dangerous driving crime year by year is not directly related to the local economic development. Although the overall trend of dangerous driving crime is on the rise from 2015

to 2024, there are cases in six regions and one city in the plateau area. Next, the author will take the characteristics of the dangerous driving crime case in the plateau area as the starting point, and analyze the reasons behind it by summarizing the characteristics of the case to confirm the author's conclusion.

5. Analysis of the Characteristics and Causes of Dangerous Driving Crime Cases in Plateau Area

5.1 Strict Conviction and Light Sentencing

Through the analysis of the previous data, it can be found that among the 884 valid sample data, only one case was exempted from criminal punishment, and the remaining 883 cases were criminalized. It can be seen that although China's criminal law stipulates the standard of conviction for the crime of dangerous driving, it also stipulates the circumstances of innocence of "significant minor harm". However, the vast majority of courts in the plateau region have adopted a more conservative and prudent attitude in dealing with the case of dangerous driving crime (Fan, H. X., & Wan, L., 2019, pp. 86-90). This makes "loose conviction and light sentencing" the most significant feature of the ruling of dangerous driving crime cases in the region.

The author analyzes that there may be the following reasons for this feature. In judicial practice, cases suspected of the crime of dangerous driving are usually investigated by the public security organs first, then prosecuted by the procuratorial organs, and finally tried and sentenced by the courts. In the face of the evidence submitted by the public security organs and the sentencing opinions of the procuratorial organs, the courts are often more inclined to crack down on crimes in the trial and sentencing. In the actual sentencing process, they also rely on the sentencing opinions of the procuratorial organs to a large extent, which leads to the court's conviction and conviction. At the same time, it also reduces its authority and independence. At the same time, because dangerous driving itself is a simple type of light crime, the trial time is short, so that the judge is more inclined to "sentence" (Hou, D. Y., & Chen, L. C., 2023, pp. 16-20).

5.2 Light Punishment Is Obvious

Through the comparative analysis of the effective sample data, it can be seen that in 884 valid judgments, the application rate of probation is as high as 81.45%. At the same time, in the sentence of detention, the rate of 2, 3 and 4 months is 72% of the total sentence. This shows that the overall sentencing of dangerous driving crimes in the plateau is a trend of light punishment, and the application rate of probation is also increasing with the growth of the year.

The author believes that the overall trend of light punishment of the crime of dangerous driving is inseparable from the fact that the crime itself is a misdemeanor. As a new crime stipulated in the "Criminal Law Amendment (8)" in 2011, it has received extensive attention from the society since its implementation. The main purpose of the crime of dangerous driving included in the criminal law evaluation system is to prevent and prevent the public from drunk driving (Zheng, A. Q., 2024, pp. 23-45). Therefore, in the case of drunken dangerous driving, the court usually takes this factor into account, and adopts the form of light imprisonment + probation in sentencing. This sentencing

consideration is more to make the subject involved repent in time and achieve the social effect of punishment.

5.3 The Application Rate of Acquittal Is Extremely Low

During the decade from 2015 to 2024, only one case of dangerous driving in six regions and one city in the plateau area was exempt from criminal punishment, while other cases similar to the case and circumstances were not acquitted. This reflects that the plateau area has a long way to go for the acquittal of "significant minor harm" (Li, R. Y., 2024, pp. 60-71).

In judicial practice, the understanding and grasp of the provisions of "minor harm is not significant" are different in local courts (Xi, X. W., 2017, pp. 31-32). Even the understanding and application of this provision in different local courts in the same area are also different, resulting in a case may be sentenced to detention in District A Court, while in District B Court may be found to be minor harm is not significant and acquitted.

So far, there is still a certain lack of provisions on the innocence of the crime of dangerous driving in the plateau area, which leads to the fact that the grass-roots courts have no basis for reference in the innocence of this crime, resulting in the innocence of the crime of dangerous driving (Huang, L. H., 2023, pp. 71-74).

6. Empirical Suggestions on the Crime of "Drunk" Dangerous Driving in Plateau Area

Through the comparison and analysis of the data in the previous parts, the author puts forward relevant problems and thoughts, and hopes to put forward suggestions through the following three aspects, in order to improve the high crime rate of dangerous driving crime and achieve the social effect of the introduction of the "Criminal Law Amendment (8)".

First of all, the trial principle of dangerous driving crime in our court is still "easy to incriminate and light sentencing". China's judicial organs should not only abide by the principle of legality, but also abide by the principle of adaptation of crime, responsibility and punishment, adhere to the unity of subjective and objective, and fully consider the harmfulness of the behavior of the parties to dangerous driving and the circumstances of the crime. It is necessary to crack down on the subject of crime with bad circumstances and great social harm, and to carefully incriminate the subject with significant minor harm and little harm, and to identify and deal with the acquittal in time if it conforms to the "proviso". At the same time, the multi-level distinction of drunk driving behavior should be made to avoid all drunk driving behaviors being included in the evaluation system of criminal law, so as to reduce the waste of judicial resources and improve the efficiency of judicial organs in handling cases.

Secondly, for the judicial status quo that the plateau area generally adopts light punishment and high probation application rate, the author believes that it is necessary to start with the circumstances of the case and the guilty attitude and harm degree of the criminal subject, and apply light punishment and probation to cases with good attitude and no specific harm results; for the behavior subject with bad circumstances or who has been legally punished for dangerous driving, the punishment should be

aggravated and probation is no longer applicable. Through this move, the cases of different circumstances are distinguished, and no longer a simple one-size-fits-all, for the vast majority of cases, the application of light imprisonment + probation is adopted.

Finally, since China has not yet formed a unified standard for the determination of the innocence of the crime of dangerous driving, the plateau region has not made relevant judicial guidance on the innocence of the crime, resulting in a very low application rate of the innocence of the crime of dangerous driving in the plateau region. According to the principle of modesty of criminal law, the plateau region should be based on the needs of judicial practice and regional considerations, the relevant legal guidance on the innocence of the crime of dangerous driving, combined with various considerations, the construction of dangerous driving in the plateau region The standard of innocence. At the same time, by making an acquittal determination of the subject involved that meets the requirements, it can also reduce the collateral consequences of the penalty, reduce the negative social consequences caused by the crime of dangerous driving, enhance the public's sense of identity, and reduce the resistance and difficulty of the criminals who commit the crime of dangerous driving returning to society.

7. Conclusion

In addition to the above three suggestions, the author believes that in order to truly achieve the social effect that the dangerous driving crime legislation wanted to achieve at the beginning, it also needs the joint efforts of the whole society and the assistance of the moral level. The purpose of criminal law is not to punish, but to make every citizen perform their duties under the regulation of law and protect their own legitimate rights and interests. The author believes that with the joint efforts of all sectors of society, the crime rate of dangerous driving crime will be lower and lower, until it disappears in the long history.

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