

Domestic violence and alcohol: the reaction of the legal system

A description of the facts noted by the legal system and an examination of the legal outcome for the cases concerned

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In France, during the first nine months of 2006, a total of 113 homicides were committed between intimate partners¹ according to the Ministry of Social Cohesion and Equality. Alcohol was a factor in a quarter of these cases. In 83% of cases, the victim was a woman. The World Health Organisation (WHO) has stressed the scale and seriousness of this problem in addition to the lack of available data in this field.

These observations highlight both the phenomenon of domestic violence and its long-presumed link with alcohol consumption. The effect of alcohol upon aggressiveness has been demonstrated under laboratory conditions although no direct causal relationship has been scientifically established in day-to-day life. This is due firstly to the virtual impossibility of observing this phenomenon at first hand. Secondly, methodological issues also prevent any reliable demonstration from being carried out.

Currently, it is considered that alcohol encourages violent outbursts among certain individuals under certain circumstances. The task at hand is therefore simply to identify the joint occurrence of these two phenomena, an issue which is badly understood in France and which is universally recognised as being a subject which is very difficult to approach. The main disagreements and the difficulties in measuring and analysing this issue have already been presented (Pérez-Díaz 2000; Pérez-Díaz 2003).

A major obstacle in observing this phenomenon lies in its obviously illegal nature. Hence the idea of describing these events at the point at which the data is collected in sufficient quantity and is amply documented: i.e. the penal system. Such data may be subject to bias as the population group being observed is «assembled» by the same penal system. An initial stage in the demonstration therefore involves reviewing this reconstruction process. Indeed, not all of the delinquent acts committed are identified or revealed. Furthermore, the offences are not all investigated or processed identically. Some cases are not taken further due to a legal system driven by penal policy priorities and which operates rather like a «funnel» with successive filters along the way. A key factor where processing is

concerned is the public prosecutor's office, which decides whether or not to dismiss or pursue a case. A comparative analysis of those cases dismissed or pursued makes it possible to identify a number of criteria influencing these decisions.

Additionally, the law states that domestic violence takes various forms (including verbal, psychological, physical, sexual and economic, etc) between spouses or common-law partners. Even in the absence of sick leave, these facts nevertheless amount to an offence (as per the law of 22 July, 1992). What can the examination of cases of violence tell us about the manner in which this law is applied?

Generally, the manner in which a law is applied is only known for those cases resulting in a sentence. The contribution made by this study is that it makes it possible to describe the cases registered with the public prosecutor's office ahead of that stage. It examines the way in which they are processed, in relation to the characteristics of the perpetrators and the facts concerned. The dismissal of the case without charge, (the main course of action), is therefore also examined at first hand, offering a new perspective.

In the present case, almost 700 cases of domestic violence (please see the panel on page 2) will be described. Three quarters of these were dismissed while the others were tried. They involved 736 presumed perpetrators. Three cross-disciplinary questions are examined here. What

The injury criticality indicator

A criticality indicator of the facts describes the physical injury sustained by the victims, observed and confirmed by a medical certificate or a statement from the police. The most serious injury allegedly committed by each perpetrator (whether his case was «dismissed» or «tried») is attributed to him in order to categorise his level of violence. These injuries are divided into three categories. The most serious injuries include fractures, major cuts (stitches or operations) or injuries affecting the head, numerous bruises or a major one on the head, and/or traces of strangulation, etc. Slight injuries include sprains, cuts or bruises, and/or multiple contusions, etc. Zero injuries referred to punches or pains without visible traces.

1. This includes married couples, couples living together in a common-law relationship and those in an intimate relationship (even temporary) either currently or in the past.

is the exact nature of the facts recorded and who were the perpetrators? To what extent are domestic violence and alcohol related in France? What are the respective roles played by violence and alcohol in the cases dealt with?

The first part seeks to determine if the perpetrators recorded by the legal system (regardless of whether the cases are dismissed or tried) may be considered as a sample suitable for the observation of the domestic violence committed. A positive answer to this question enables us to briefly describe a number of socio-demographic aspects of this group of perpetrators. In the following two sections, the overall population is studied. The dismissed cases are compared to the cases tried based on two themes: alcohol, and subsequently violence. These themes are identified firstly at the time the offences occurred, and subsequently during the perpetrators' recent or not so recent past (the notion of "history of violence").

In the last part of the report, the co-occurrence levels of violence and alcohol use are identified.

A phenomenon which is observable from the moment the cases are recorded?

It has been established that due to an identification bias, a certain variation exists between the recorded offences and all of the offences committed. However, once recorded, what changes do these cases undergo? And can the "dismissed" cases teach us any lessons where this phenomenon is concerned?

The dismissed cases mostly involved physical injuries

The main grounds for dismissing cases are linked to a criterion taking account of the physical nature of the offences recorded: i.e. the criticality of the most important injury inflicted (please see page 1) by each «perpetrator» on his main victim (Table 1).

Insufficiently established offences provided the justification for 60 dismissals, (i.e. 11% of the «dismissed perpetrators»). However, in 67% of these cases, slight injuries were nevertheless inflicted. Consequently, the dismissal of the

The data examined: cases of «domestic violence»

In order to study violent incidents, their circumstances and their perpetrators: details of 2,207 penal cases recorded over a one-year period (1999-2000) by a major County Court (Tribunal de Grande Instance) in the Paris region were collected. These cases concerned violence within couples or against children, serious violence and sexual assault or the re-classified rape of adults or minors². An initial analysis of the cases pursued has already been published (Pérez-Diaz and Huré 2006).

Cases of domestic violence dismissed or tried are both studied here. Among the 818 cases of domestic violence recorded at the public prosecutor's office, several were still underway (106 cases) and were not taken into account. Among the 712 cases for which the outcome (trial or dismissal) is known, 531 were dismissed (i.e. 75% of cases) and 176 tried (25%).

During an initial analysis, all of the cases in which the alleged perpetrators were prosecuted and tried were studied (166 cases)³. During a second analysis, the dismissed cases were sampled according to their reasons for dismissal⁴. Ultimately, a reconstituted batch of 686 cases including 520 dismissed cases (76%) and 166 tried cases (24%) will be described.

The legal institution deals with cases which sometimes involve several perpetrators. In order to examine the relationship between violence and alcohol, it is necessary to think in terms of perpetrators. The 520 dismissed cases concern 570 «dismissed perpetrators». Thus, there may sometimes be several perpetrators for a single case. In those cases where the perpetrators were prosecuted and judged, there is only one perpetrator per case, i.e. a total of 166 «tried perpetrators» of whom 165 were sentenced and one discharged.

case is not so much due to a lack of injury but rather a lack of any possibility to attribute these facts to the alleged perpetrator. The decision by the plaintiff to withdraw charges (21%) or to make it impossible for the authorities to contact her (plaintiff failings, 5%) resulted in the dismissal of 150 perpetrators. However, in these cases the injuries are often slight (at 58% and 33% of cases respectively) and sometimes even serious (25% in cases in which the plaintiff withdraws charges). The harm inflicted is considered as being non-substantial (19%) in the case of 110 perpetrators who all inflicted slight injuries, despite the fact that these are non-negligible (please see the panel). The 160 receiving cautions (28% of dismissals) chiefly concerned 110 perpetrators of slight injuries (69%) and even 20 serious cases (13%).

We therefore note that physical injury is involved in 81% of the dismissed cases. Additionally, such injuries are also present in 95% of the cases tried. Thus, most of the cases registered with the court concern the presence of injuries. We therefore need to take account of the offences committed by all of the «presumed perpetrators» whether their cases were «tried» or «dismissed». They will be referred to simply as «perpetrators» as this is generally their status. This judicial population group supplies a better appreciation of domestic violence than that

of condemned perpetrators, provided that the practices of other courts are similar.

Most of the dismissed offences are not contested but legal proceedings are nevertheless stopped (often in order to avoid overloading the legal system). Furthermore, this practice is out of step with the legal definition which extends the concept of violence to include mere verbal aggression, and even slight injuries have resulted in numerous dismissals (19%) for «non-substantial harm».

The percentages shown with a grey background are calculated based on the total number of perpetrators for each reason for dismissal (the total for each line). The percentages shown with a blue background are calculated based on all of the «dismissed perpetrators» (i.e. 570)

The key characteristics of perpetrators of domestic violence

The population group studied here includes 736 perpetrators of whom 570 were dismissed and 166 were tried. Most are perpetrators of actual domestic violence. However, the offences observed could only be legally attributed in a certain and definitive manner to 8% of them⁵. Of these individuals, 88% were men. The rare women accused all benefited from dismissal while all of the perpetrators tried were men. These individuals are often young: 57% are aged

Table 1: Injuries inflicted by « dismissed perpetrators » according to the reasons for dismissal

Grounds for dismissing the case	Injuries inflicted on the main victim						All	
	Serious		Slight		Non or not mentioned			
Offense insufficiently defined			40	67 %	20	33 %	60	11 %
Insufficient research			10	100 %			10	2 %
Deficient mental condition					10	100 %	10	2 %
Withdrawal of charges by the plaintiff	30	25 %	70	58 %	20	17 %	120	21 %
Failings on the part of the plaintiff			10	33 %	20	67 %	30	5 %
The victim's behaviour			40	80 %	10	20 %	50	9 %
Non-substantial harm			110	100 %			110	19 %
Order to receive treatment			20	100 %			20	4 %
Caution	20	13 %	110	69 %	30	19 %	160	28 %
All	50	9 %	410	72 %	110	19 %	570	100 %

The percentages shown with a grey background are calculated based on the total number of perpetrators for each reason for dismissal (the total for each line). The percentages shown with a blue background are calculated based on all of the "dismissed perpetrators" (i.e. 570)

2. Under the law, rape cases are heard at the Crown Court. For various reasons, certain cases are reclassified in terms of offense category and heard by a Magistrates' Court.

3. Losses are rare (7 case files unavailable). Additionally, 6 of the original cases were subsequently merged to comprise just three cases as these three perpetrators reoffended despite the fact that action before the courts was already underway.

4. The reasons for the dismissal of each of the cases are known and the sampling of the case files was carried out among the dismissed cases for each of the grounds concerned. One case file in 10 was selected, making a total of 52 cases studied in detail. Each characteristic is weighted by 10 in order to represent the reference population. This recomposed population group representing the dismissed cases concerned a total of 520 perpetrators.

5. 60 "perpetrators" whose offences were insufficiently defined from among all 736 perpetrators.

between 20 and 40, while this age group accounts for 41% of the population of the département⁶ concerned. The perpetrators tried tend to be somewhat younger than those for whom the accusations are dismissed.

These perpetrators tend to have a modest educational level although more than three quarters have undergone secondary education and most have a high-school diploma. They are chiefly manual or office workers, who tend to be overrepresented. Executives and those in the advanced intellectual professions and intermediate professions are underrepresented. Non-working individuals (highly underrepresented) include the unemployed whereas in censuses this category comprises students and particularly the retired.

The judicial processing differs according to the categories concerned. Executives and the advanced intellectual professions in addition to non-working individuals are all a little more likely to see their cases dismissed. Perpetrators from the intermediate professions, manual workers, craftsmen, shopkeepers and company managers are more often tried. These referrals for trial (which contrast sharply according to the category concerned), are only partially related to the individual's membership of the upper socio-professional categories.

Perpetrators and alcohol

The issue of alcohol is addressed using two variables concerning the perpetrator: drunkenness at the time of the offence and the massive and habitual use of alcohol in general. This appears in the «medical history» variable which includes other data concerning the past history of each perpetrator (mental health, any use of narcotics, etc).

The drunkenness of the perpetrator at the time of the offence

Alcoholism is rare, with the perpetrator often not being arrested at the time of the offence. The statement made by his spouse or by possible witnesses then forms the basis for the case. Often, massive drunkenness is involved. It is rare for only one or two glasses to be mentioned, even if the violence occurs just after a meal or a meal in honour of a special occasion⁷. The incidence of moderate drunkenness therefore remains unknown. However, according to ex-

perimental research, minimal doses are conducive to aggressive behaviour, from 0.06 g per litre for some experiments and from 0.3 grams per litre of blood for others (Galanter 1997, Pérez-Díaz 2003).

Of the 736 perpetrators, 34% had consumed alcohol at the time of the offence. A higher proportion of those tried had consumed alcohol (46%) than those for whom the case was dismissed (30%). The use of narcotics at the time of the offence is never measured and rarely mentioned (a few units only). This concerns the occasional discovery of cannabis found on the perpetrator's person or mentioned in his victim's statement.

The role played by medical history

An indicator was sought to describe the true frequency of each type of problem presumed to be chronic according to the perpetrators' files. This is what is meant by the prevalence of a medical history⁸ in this population group (Table 2). To achieve this, the number of occurrences of each of these problems considered independently⁹ was calculated. This made it possible to compare the «occurrences» and «individuals» for each medical history. The percentage of these occurrences vis-à-vis the total number of perpetrators provides an indication of the prevalence of each type of problem in this population group.

A history of «alcohol» refers to a user who frequently consumes large quantities of alcohol¹⁰, referred to as a «regular drinker». A history of «narcotics» refers to previous (regular or occasional) uses of illegal substances, the nature of which is usually not identified. This consumption has existed in the past and in a number of cases continues today (with some of the users undergoing a substitution treatment programme). Psychiatric problems are generally confirmed medically.

The prevalence of «regular drinkers» in this total population group was 28%, while those having previously used narcotics accounted for 6% and those with psychiatric problems accounted for 15%. Psychotropic drug abuse and other identified addictions (gambling, impulse buying, etc) are rare¹¹. Excessive drinkers, exceeding the health criteria laid down by the WHO, represented 8 to 15% of the French population group. These are consumers who significantly exceed the criteria, and who are therefore far rarer in the population.

A «regular drinker» population size of 28% is therefore high. The sub-group of perpetrators tried should therefore be distinguished from that of perpetrators whose cases have been dismissed on several grounds. Among the perpetrators tried, we find fewer individuals with no health problems and significantly more «regular drinkers» or individuals experiencing

psychiatric problems. Consequently, any research based only on individuals tried would overestimate the relationship between alcohol and violence. Furthermore, the perpetrators tried who were drunk at the time of the offence are also mostly «regular drinkers» (82%).

Any medical history (with the exception of the abuse of medicines and other addictions) contribute to referral to the courts according to Chi2 tests (Pérez-Díaz and Huré 2006). It appears here that a medical history of alcohol or psychiatric problems is a significant factor in this decision.

Perpetrators and violence

The violence of each perpetrator is studied at two moments. Firstly, at the moment of the offence occurs, such as studied by the injuries inflicted. Secondly, through previous events by gathering information concerning a perpetrator which constitutes his «history of violence»¹².

Violence at the time of the offence

The injuries are studied for the whole population group and then compared according to the legal consequences (Table 3). Among all of the perpetrators registered at the public prosecutor's office, it has been noted that 84% have committed actual bodily injury, including in particular slight injuries (71%) and sometimes serious injuries (13%). Serious injuries are much more prevalent in cases tried (9% versus 28%). For their part, slight injuries are most prevalent when cases are dismissed (72% versus 67%). The lack of visible, provable injuries («none or not mentioned») is most frequent when the offences are dismissed (19% versus 5%) without, however, ever being considered a defining feature of such cases.

6. This overwhelmingly masculine population group was compared to the census results for the male population aged 15 and over for the département in 1999.

7. All declarations are influenced by the level of knowledge and the social perception of the phenomenon. Moderate alcohol abuse (perceived as «normal») does not attract the attention of either witnesses or the police.

8. Where sentencing is concerned, more than half of these medical histories were confirmed by medical or penal sources and the rest declared. For the dismissed cases, the information was usually declared.

9. These various categories of incident may not be combined, as each perpetrator (who may possibly suffer from different problems) may be included several times. On the other hand, the same perpetrator is never counted several times for the same problem.

10. According to the disciplines concerned, specific terms are used to refer to these consumers (alcohol abuser, alcohol afflicted, excessive or abusive drinker, etc) with no unanimity among them. The task here is to describe a specific form of behaviour on the part of the alcohol consumer according to the sources provided (medical certificates, previous criminal history, statements by spouses or witnesses, etc). The few foreign statistics concerning alcohol and violence are based on statements by the victims: here, the data is often better.

11. These indicators were used in order to discover whether the judicial sources could provide information concerning these phenomena, but this information is rare. Perhaps the police does not consider this issue, which is occasionally mentioned by the victims.

12. This previous history is based on criminal records, reports of dismissed incidents, logs kept by the police or statements made by the victim or a witness.

Table 2: The prevalence of each medical history according to the legal outcome of the case: i.e. dismissed (DSM) or sent for trial (SFT)

Medical histories	Prevalences		
	(Of 570 perpetrators) DSM	(Of 166 perpetrators) SFT	(Of 736 perpetrators) Total
Alcohol	23 %	45 %	28 %
Narcotics	5 %	7 %	6 %
Psychiatric problems*	12 %	23 %	15 %
Physical health**	12 %	10 %	12 %
Medicine abuse		2 %	1 %
Other addictions (gambling, impulse buying, etc.)	2 %	2 %	2 %
No health problem	58 %	39 %	54 %

*This category includes depression and other psychiatric problems.

**This category includes physical illnesses and physical disability

Table 3: The seriousness of the injuries inflicted by the perpetrator upon his main victim according to the legal outcome of the case: i.e. dismissed (DSM) or sent for trial (SFT)

« Seriousness of the injuries inflicted by the perpetrator »	Legal outcome		
	DSM	SFT	Total
Serious	9 %	28 %	13 %
Slight	72 %	67 %	71 %
Non or not mentioned	19 %	5 %	16 %
Total	100 %	100 %	100 %

The prevalence of a history of violence on the part of the perpetrator.

Physical violence had already been committed by two thirds of the perpetrators (66%) and verbal aggression by half of them (51%), while a fifth of them had no known history of violence (19%).

For their part, the perpetrators tried more often tended to have a past history of physical violence (87%) than those whose cases were dismissed (60%). The most significant fact is that although 93% of perpetrators tried had at least one past incident of violence to his name, (even if only verbal), this was also the case for three quarters (77%) of perpetrators whose cases were dismissed.

All past incidents of violence, with the exception of verbal aggression, constitute selection criteria for a perpetrator to be tried according to Chi2 tests. The data presented makes it possible to compare those perpetrators whose cases were dismissed with those who were tried. It shows that quite independently of their subsequent processing within the legal system, the cases recorded by the public prosecutor's office also concern perpetrators who mostly have a past history of physical violence. Thus, referral to the court often concerns those cases in which the perpetrator's physical assault is not his first. Despite this, these perpetrators are not always tried. However, the vast majority of those who are tried tend to have a history of physical violence. Such histories are therefore an almost vital precondition, but are not sufficient in their own right for a case to be tried.

The co-occurrence of violence and alcohol

No relationship has been observed between the seriousness of the injuries inflicted and drunkenness at the time of the offence, or the regular drinking habits of the perpetrator. On the other hand, a slight global effect can be witnessed here: injuries, including the slightest, result in their perpetrators being tried if they have consumed alcohol, (either at the time of the offence or regularly) whereas other perpetrators of similar injuries stand a higher chance of seeing their cases dismissed if alcohol does not appear in their criminal record.

More specifically, a typology from just the 166 perpetrators tried (and thus representing cases generally perceived as more «dangerous») has made it possible to identify two groups.

The first accounts for 40% of perpetrators, (regular drinkers who have a past history of physical and sometimes even sexual violence). The other concerns 47% of perpetrators (who have a

history of physical or sexual violence but are not identified as regular drinkers). Thus, cases of regular violence brought before the courts tend to concern, a little less often, regular alcohol drinkers than the others (considered to be sober). This proves that two phenomena coexist in cases of repeated violence. Alcohol alone cannot explain the violence but, only among certain individuals, the consumption of alcohol (which is excessive in the study at hand), can encourage violent outbursts. Laboratory experiments have already demonstrated this and observations in the day-to-day environment have confirmed it. However, repeated violence among a major number of individuals considered to be sober demonstrated the extent to which this phenomenon goes beyond the simple effects of alcohol.

Conclusion

The analysis of the cases recorded by the public prosecutor's office and of the characteristics of their perpetrators reveals that the cases tried only partially represent the incidence of domestic violence actually committed. A complementary analysis of dismissed cases shows that these chiefly concern cases of violence resulting in injury. Other forms of illegal domestic violence, including verbal assault, are currently rarely tried or even recorded by the public prosecutor's office: besides, many cases of violence resulting in injury also never make it to court. Consequently, the current application of the law is focused upon the recording of physical injuries and on trials involving only some of these cases. In order to better understand the phenomenon of domestic violence, it is therefore important to examine the dismissed cases too.

The repetition of acts of physical violence best defines all of these perpetrators as a whole. Additionally, it appears that the phenomenon of violence cannot be simply equated to the abuse of alcohol or the existence of psychiatric problems, and even less so to the use of narcotics. However, the consumption of alcohol at the time of the offences or above all the massive, regular use of alcohol are sufficiently frequent for this to be taken seriously, all the more so as it constitutes a fairly common characteristic of this population group.

Numerous judicial decision-making criteria have been identified. These concern both the offences committed and their perpetrators. All partially contribute to the decision of whether to try a case or to dismiss it. The infliction of physical injuries appears to be a necessary condition but is insufficient in its own right. A past history of physical violence also plays a definite role. However, of all the criteria identified, none is decisive in its own right, as all of these criteria can also be found in the dismissed cases too. It is therefore a combination of several of these factors in addition to other possible factors which have not been defined here which are involved in judicial decisions, rather than any specific criteria.

Where alcohol is concerned, this work confirms that alcohol plays a role in several of the offences committed and shows that it also influences the decision concerning whether to try a case or not.

References

Galanter M. (Ed.), *Recent developments in alcoholism* : vol. 13, *Alcohol and violence - epidemiology, neurobiology, psychology, family issues*, New York, Plenum Press, 1997, 421 p.

Pérez-Díaz C., « Alcool et délinquance. État des lieux », *Documents du CESAMES*, n°7, 1997, p. 1-104.

Pérez-Díaz C., « Consommations et violence », In : *Alcool. Dommages sociaux, abus et dépendance*, Paris, INSERM, Coll. Expertise collective, 2003, p. 171-231.

Pérez-Díaz C., Huré M.S., *Violences physiques et sexuelles, alcool et santé mentale : populations et traitements judiciaires*, St Denis, OFDT, 2006, 290 p.

Pérez-Díaz C., Huré M.S., « Violence, alcool et santé mentale », *Alcoologie et Addictologie*, vol. 28, n°4S, 2006, p. 39S-48S.

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