

## HOW TRAFFIC VIOLATIONS ARE VIEWED BY SENTENCED DRIVERS

Punishment of a traffic violation, if and when meted out, is the last act of a long story : an act, an offence, arrest, referral to the criminal justice system, trial and last, punishment. A number of actors have been involved, including the punished driver, who, although the star, is not a more important character than the other people on the road, or the police. In addition to the people who were physically present on the road scene, there are others, invisible but symbolically present through the Code, such as lawmakers, judges and Prefects, through the infrastructures (the DDE - the department of equipment, in charge of roads) and the vehicles (the manufacturers and insurance companies).

Sometimes the story remains unfinished, and it begins before a police report of the violation is made. This explains why the punishment only becomes meaningful for the driver - and derives its value for research - when it is viewed in the framework of the whole story. There is reason to believe that drivers' views of punishment depend on their own behavior in a given situation, which behavior is an offence according to the Code.

We therefore questioned drivers on their views of the way they drive, how the offence came to be committed, and the reactions of the police and the justice system. The expectation was that punishment would always be linked to the fact of committing an offence in a concrete situation.

This study of representations is a way of comprehensively tying together several dimensions of use of the roadways, and of questioning whether punishment is necessarily the appropriate response to the situations encountered by drivers. We would assume that drivers may make contradictory statements in the course of a same interview, since they themselves are mobile in a mobile system. They experience extremely varied, changing situations.

Since the idea was to apprehend the contents of representations which are poorly or insufficiently elucidated, the non-directive interview method was chosen : the people questioned define what they view as relevant and meaningful with respect to how they view their punishment. Forty interviews were conducted immediately after court appearance or shortly thereafter, in which the drivers were asked to reconstruct the entire story that had led to punishment. This type of research hardly lends itself to the construction of a representative sample. Nonetheless, the social status, age and sex of interviewees sentenced for each of the three categories of offences - driving with an illegally high blood alcohol level, speeding and non-respect of road signs - and to each type of punishment - fines, suspension or removal of driver's licence, community service work or prison, must be relatively diversified. The discourse was remarkably uniform. Be they men or women, working class or executives, young or old, first offenders or recidivists, charged with speeding or passing a red light, sentenced to a fine or to prison, car drivers all say very much the same thing.

### **The driver, the situation and the rules**

Drivers perceive motoring as a system of interactions. This perception diverges from the view supported by many

scholars, according to whom the civilization of the car is synonymous with the triumph of individualism. In that system, everyone must take everyone else into consideration. Drivers are well aware that their fate is linked to other people, and that their behavior does not depend exclusively on their own decisions. Anyone who forgets this is called to order by his peers, and then, possibly, by the police or a judge. Motoring is predicated on the ability of individuals to play other people's roles, or to put themselves in their place, in order to see and understand what others are seeing and understanding, thus anticipating on what they will do. Roads are not at all monotonous, in fact. Drivers are not car drivers all of the time, they sometimes ride a bicycle and are often pedestrians, they may occasionally tow a caravan or a trailer, drive a commercial vehicle or drive in a foreign country, travel for work or pleasure. They are therefore able to comprehend roles played by others - drivers, bicycle riders, pedestrians - and which they themselves also play occasionally, just as they may put themselves in a position they have already occupied, such as driver at a given point in the system, for instance. Such positions are never definitive, any more than in musical chairs. Each road-user is defined by the others on the basis of the role and position temporarily occupied, rather than by those personal attributes by which he or she would be defined elsewhere, but which are of little use in the traffic system. Criteria by which people are located in the social hierarchy, for instance, seem to be less important within this system than criteria classifying what is on the road : trucks, small cars, large cars, bikes, etc.

Driving is action constructed by the process of interpreting the situation. Drivers are not automats. The system obliges them to consider the presence and behavior - real or virtual - of other people, their norms, the state of the road, the weather, the lay of the land, the obstacles and dangers, and thousands of other meaningful minor events that are interpreted in the course of constructing the act of driving. Above all, driving is a collective rather than an individual activity. The most important information about the situation pertains to the presence or absence of other people. Together, drivers construct the norm which each and all must accept. Speed is a particularly evident example of this.

The different elements of the situation supply information that is just as necessary as the rules contained in the Code. Drivers do not view the latter as sufficient. They need further information. They must make an effort at interpretation, to decide how the abstract rule in the highway code applies to a concrete situation. However, owing to the extreme plasticity of the system, they are aware that those rules are absolutely necessary. But for them to be meaningful, they must be indexed to the situation. Drivers do not react to rules, except when given a questionnaire, but rather, to the situation produced by their own interpretation, in which the rule is considered a piece of information among others. The rule is hardly meaningful in the absolute, it must be restituted to a concrete situation which the driver shares with his or her peers inasmuch as it is they, through mutual constraint, who will make it meaningful if required by the situation. Thus, the sense made of a rule is always local, and is hardly generalizable : it is useful in the particular situation encountered hic et nunc. Driving is an extremely complex

activity, then, which, in the opinion of drivers, cannot be reduced to total, absolute obedience to the highway code owing to the plasticity of situations, the collective definition of norms and the need to emancipate oneself from the rules in many instances.

### **Illegality versus normalcy**

The highway code describes many types of illegal behavior and links them with dangerousness. In practice, drivers make a distinction between what is illegal and what is dangerous, and construct their activity according to their own estimation of dangerousness. In their eyes, an illegal act is only potentially dangerous, and it is the actual situation that may make it truly dangerous, not the fact that it is illegal. The fact that it constitutes an offence is not in itself a sufficient guarantee of safety. This is at the root of one of the many misunderstandings inherent in the relations between drivers and the criminal justice system. What is illegal and a source of danger according to the highway code, then, may be normal for drivers and make them feel secure. Conversely, behavior which the code defines as legal and a source of security may be viewed as abnormal and a source of danger. These equivalencies are based on experience : drivers often commit offences which only exceptionally result in an accident, and they may therefore repeat them without any unpleasant effects. They therefore do not associate illegality with danger. The message according to which accidents are caused by non-respect of the rules has little chance of being heard as long as the link between offences and accidents is contradicted by the driver's personal experience.

It is not ignorance of the rules set down by the code, then, or the physical impossibility of respecting them, as some jurists would have it, that explains the huge number of cases here, but the fact that drivers do not establish a link, *in abstracto*, between illegality and danger. They only connect the two when their interpretation of the situation corroborates this link.

Legal behavior and normal behavior do not automatically overlap, since legality is set and normalcy fluctuates with variations in situations. From the drivers' viewpoint, situations are not comparable, whereas the law applies to them uniformly. They feel that they must adjust their behavior to the different situations. For them such adjustment is a guarantee of safety, whereas the law is rigid. Their open hostility to the justice system is objectively founded on the fact that the driver's mobility encounters the immobility of the police officer who records the offence and of the judge who punishes certain types of behavior. Drivers view their trajectory as a whole, a period of movement occasionally marked by offences that are integrated in their driving practices. According to them, the police and justice only perceive that portion of the trajectory during which the offence was committed, because they are motionless. The accidental encounter between the motionlessness of some actors and the mobility of others is also the source of the misunderstanding that characterizes their relations.

### **The police, the judge and the good driver**

The driver's view of punishment is linked to the way the role of the police on the traffic scene is represented. It is a fact

that punishment does not occur because an offence has been committed, but through the hazards of police vigilance. Drivers know by experience that all offence-committing is not known to the police. They have already committed the same offence on other occasions without being stopped, or seen it committed, sometimes at the same time or just a bit further on, by others who were not bothered. All drivers break the rules a number of times in the course of their career, and are therefore virtually guilty, and it is only because police checks are insufficient that they are not effectively found guilty. Does this mean that the police is only perceived as punitive ? Not at all, drivers have an ambivalent perception of police work, and this is the crux of the problem. They are well aware of the preventive role of the police. They constantly experience the fact that the presence of the police forces themselves and all of their peers to respect the rules. But since this presence is intermittent, the feeling is that it is calculated to trap people more efficiently.

Are the rules fragile, since they are only respected under police constraint ? If that constraint disappeared for lack of an enforcement agency, would the rules cease to be respected ? Such is often the case when a driver is alone on the road. But once drivers must share the road, they have more to gain by respecting some rules than by ignoring them. In some situations, respect of the rules coincides with the interest of drivers. Nor is the presence of the police necessary, to force respect of the rules in those situations when it coincides with the respect of human life. In this sense, contrary to what many experts believe, ethics does not come into the picture only when drivers consider the consequences of the most dangerous acts. It is already a consideration when behavior, however legal, but which seems likely to cause an accident, is condemned. It may therefore be posited that the fragility of the rules depends less on their being poorly known to drivers or on the psychological or sociological features of the latter than on the characteristics of the situation to be interpreted prior to decision-making. Rules are fragile if they do not afford any compensation, be it material or symbolic, nor even any protection, when they are respected in a given context.

Not only are police officers and their devices all-powerful, but this power extends to the judge. Their authority is viewed as grounded in their inability or refusal to understand the driver's point of view, whereas he or she is in empathy with other drivers when driving. Drivers are convinced that to be successful they must be aware of every aspect of the situation, and they find that the police and judges are totally unaware of it. The judge's ignorance makes the sentence necessarily too severe, and the criterion of legality contradicts the driver's criterion of what is normal. Legality has no need for information on what actually transpired, whereas normalcy requires it.

Drivers believe it is useless to plead their case to a judge. And yet, they do think they could advance a credible line of defense, since it would be based on the actual facts of the situation and their own interpretation of them, which justified them in committing the offence - the offence always being acknowledged. The interpretative mechanism, inherent in how they construe their action, is invalidated first by the police officer, then again by the judge. Drivers feel that neither of these two actors saw what they themselves saw. This double invalidation is particularly intolerable, since it disqualifies the driver's ability to interpret those very situations that make for the self-awarded label of good driver. For all drivers do indeed award themselves that label. The

good driver can commit offences in accordance with his or her interpretation of the situation. Laggards, on the other hand, never break the law ; out of lack of confidence they always drive in strict obedience of the rules based on the highway code's pre-definition of situations, whereas the madman constantly breaks the law out of his or her dangerous inability to adjust to specific situations. Neither of these two types plays with the law, the former out of fear and the latter out of unconsciousness, whereas the good driver views him or herself as sufficiently competent and aware of the dangers of the road to be able to bend the rules to fit the situation.

It is easy to see why road security campaigns are so ineffectual, then. They portray drivers as "bad" drivers whereas those very same people do not view themselves as such, and so these campaigns are aimed at no-one, since everyone labels him or herself a good driver. This does not even mean that each individual thinks that the campaigns are aimed at the other drivers : people are relatively tolerant of their peers, since driving obliges them to understand them and to communicate with them, and they often receive signs of solidarity or of courteousness. This is one of the reasons why they like to drive. Actually, during the interview people find it difficult to imagine what a mad driver or a criminal ~~in fact, drivers~~ distrust anything that seems to be too external to the collectively constructed order of interactions. They see lawmakers, judges and their sanctions, and highway engineers as too far from the realities of driving. They also

distrust anyone who has the privilege of being able to "get away with" committing an offence, and "drunkards", who have already broken the law before they get behind the wheel. Both are too alien to the system, and are assumed not to construct their activity by interpreting the situation, which procedure is absolutely essential to orderly interaction. The former has no need to do so, since outside arrangements give him or her complete freedom within the system, while the latter is incapable of such interpretation. Drivers feel that they cannot make the bet that others will drive properly, since they cheat. Last, this distinction between the inside and the outside accounts for the ambivalence of representations of the police. For drivers, their presence is unconditionally dissuasive, provided it is visible, and therefore objectively a part of the system. Drivers have the feeling that if the policeman are not visible, they are outside of the system and therefore warp the order of interactions.

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For further information, the reader is referred to :

RENOUARD (J.-M.), *L'automobiliste, la situation et la règle* (forthcoming).