



**THE RIGHT TO LIFE AND PREVENTION OF ROAD ACCIDENT DEATHS:
ANALYSIS OF THE ETHIOPIAN POLICY, LEGAL AND INSTITUTIONAL
FRAMEWORKS**

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DECLARATION

I, Hanna Mathewos, hereby declare that this work is an original work and has not been presented in any other institution before. All referred materials are duly acknowledged.

ACRONYMS

ACHPR	African Charter on Human and Peoples' Rights
ACHR	American Convention on Human Rights
ADRDM	American Declaration of the Rights and Duties of Man
BAC	Blood Alcoholic Concentration
COMESA	Common Market for Eastern and Southern Africa
ECE	Economic Commission for Europe
ECHR	European Convention on Human Right
EMS	Emergency Medical Service
ERA	Ethiopian Road Authority
ETB	Ethiopian Birr
FPC	Federal Police Commission
FTA	Federal Transport Authority
ICCPR	International Covenant on Civil and Political Rights
MOT	Ministry of Transport
NGO	Non Governmental Organisation
NRTSC	National Road Traffic Safety Council
RAD	Road Accident Death
RTA	Road Traffic Accident
RTL	Road Transport Legislations
UDHR	Universal Declaration of Human Rights
UNECE	United Nations Economic Commission for Europe
WHO	World Health Organization

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CHAPTER ONE

INTRODUCTION

1.1.BACKGROUND OF THE STUDY

Human rights in general and the right to life in particular are commonly understood as being those rights which are inherent to every human beings without discrimination and are inalienable in a sense that they exist even where not recognized or irrespective of existing international or national laws. They are also interrelated, interdependent and indivisible.¹ As the right to life is protected under different international, regional and national instruments States assume obligations and duties to respect, to protect and to fulfill this right. Ethiopia being a State Party to various human right instruments is obliged to respect, protect and fulfill the rights recognized under those instruments. As a result of this, Ethiopia is taking various measures to ensure the realization and observance of the rights to life through constitutional recognition and set up the necessary laws and regulations.

In spite of such universal, regional and national recognition of the right to life, road accident deaths (hereinafter RADs) become one of the top causes of the infringement of the right to life. According to the third Global status report on road safety, road traffic accident(hereinafter RTA) killed over 1.25 million people and it is the leading cause of death among young people aged between 15 and 29 years.² By 2030, road traffic injuries are expected to be the 5th leading cause of death in low and middle income countries.³

¹United Nations human rights, Human rights indicators, a guide to measurement and implementation, office of the high commissioner,2012

²World Health Organization, *Global Status Report on road safety 2015*, available at www.who.int/violence_injury_prevention/road_safety_status/2015/en

³World Health Organization, *Status Report on Road Safety in Countries of the WHO African Region* (2010) available at www.who.int/violence_injury_prevention/road_safety_status/2015/en

Most of these deaths are in low and middle-income countries where rapid economic growth has been accompanied by increased motorization and road traffic injuries.⁴ In Africa, the number of road traffic injuries and deaths have been increasing over the last three decades that made the African Region the highest level of deaths worldwide at 26.6 per 100 000 population for the year 2013.⁵

In response to this crisis, numerous international and regional instruments and resolutions have been adopted to address the global road safety crisis.⁶ For instance, Out of the 58 United Nations transport agreements and conventions administered by the Inland Transport Committee of the United Nations Economic Commission for Europe (UNECE), 13 are of particular relevance to road transport that addresses road transport and road traffic safety.⁷

Ethiopia is also one of those countries that experience high numbers of RADs. More than 90% of the traffic accidents are caused by human errors⁸. Among others, the major causes of fatal accidents are failure to give way for pedestrians, over speeding and failure to respect rules. Driver errors with no or fake driving license, inadequate training, alcohol use, drug or Chat are also leading causes for RADs.⁹

To reduce the burden of RADs it has to start with policy framework and legislation. Against this backdrop, this thesis will explore the implementation of the right to life in Ethiopia by focusing on the policy, legislative and institutional measures Ethiopia has taken to overcome RADs.

⁴Id., page 3

⁵Davies Adeloye et al, The burden of road traffic crashes, injuries and deaths in Africa: a systematic review and meta-analysis(2016), [http:// www.who.int/bulletin/volumes/94/7/15-163121/en/](http://www.who.int/bulletin/volumes/94/7/15-163121/en/)

⁶United Nations Economic Commission for Africa, the case study; Road safety in Ethiopia, (2009) available at <http://www.repository.uneca.org/handle/10855/738>

⁷Main United Nations agreements and conventions available at <http://www.euromedtransport.org/fr/image.php?=3075>

⁸Supra note 6, page 22

⁹Id.

1.2.STATEMENT OF THE PROBLEM

According to the report of World Health Organization (hereinafter WHO) that was published in April 2014, traffic accidents in Ethiopia account for the deaths of 37.28 persons per 100,000 population which keeps Ethiopia 12th in the world.¹⁰

On the other hand, different road transport legislations enacted by Ethiopian government have been put in to critics as they are not comprehensive, specific, clear and adequate to control the multiple causes of RADs. Though Ethiopia has adhered to Common Market for Eastern and Southern Africa (COMESA) road transport treaty and signed bilateral road transport agreements with all neighboring countries, the country has never signed the various UN Road traffic international treaties started with 1949 Geneva Convention and revised by the 1968 Vienna convention.¹¹

Nonetheless, Ethiopia's obligations on the right to life under international human rights instruments have not been analyzed in light of road transport legislations (hereinafter RTLs), policy and institutional frameworks as the right to life and RADs are not separate concepts; nor can one successfully address the causes of RADs without reference to these frameworks. Therefore, it is paramount importance to examine these links between the right to life and its applicability in the Ethiopian context through analyzing Ethiopian policy, RTLs and institutions as they are very important to reduce RADs.

¹⁰Brook Abdu, *Ethiopia among Worst in Traffic Safety*, Addis Fortune (Addis Ababa), Vol. 15, No.780, April, available at <https://addisfortune.net/articles/ethiopia-among-worst-in-traffic-safety>

¹¹Supra note 6, page 28

1.3.OBJECTIVES OF THE STUDY

1.3.1. MAIN OBJECTIVE

The main objective of the study is to assess the adequacy of the Ethiopian policy and legal measures that has taken and institutions it has established to prevent RADs to realize the right to life.

1.3.2. SPECIFIC OBJECTIVES

The following specific objectives will be addressed,

- To assess the relationship between the right to life and RADs.
- To show how the Ethiopian RTLs relate with the right to life.
- To assess the causes of RADs in Ethiopia visa-vise Ethiopian RTLs.
- To assess whether Ethiopia has comprehensive, clear and adequate policies, RTLs and institutions.
- To make an assessment on how far the Ethiopian government went in addressing the problem of RADs.

1.4.QUESTIONS OF THE STUDY

The central question of the research is whether the policy and legal measures Ethiopia has taken and institutions it has established to prevent RADs are adequate to realize the right to life.

- The specific questions that will discussed under this are:

- What is the relationship between the right to life and RADs?
- What are the Ethiopian RTLs that affect the right to life?
- What are the causes of RADs and how they relate with Ethiopian RTLs?
- Does Ethiopia have comprehensive, clear and adequate policies, RTLs and institutions as well?
- What works have been done by the Ethiopian government in addressing RADs?

1.5.SIGNIFICANCE OF THE STUDY

This study is crucial as there was no prior exhaustive and comprehensive research done in the area that assess the impacts of the Ethiopian policy, RTLs and institutions on the enforcement of the right to life in relation with RADs. This research will serve as an input and source of reference to the government as it highlights the need of attention and gives recommendation for policy framework, legislation and institutional reform. Furthermore, it calls for initiates to further research studies through providing important information in the area.

1.6. SCOPE OF THE STUDY

This research is mainly focuses on the implications of the Ethiopian road transport Safety policy, federal RTLs and institutions on the enforcement of the right to life in light of RADs. The nexus between policy, RTLs and institutions and the right to life will be discussed through analyzing the implications of policy, legal and institutional measures in relation to the implementation of the right to life in Ethiopia.

1.7. LIMITATIONS OF THE STUDY

The shortage of reference materials such as researches and comprehensive data sources were major challenges. Since time is short and high cost is required to collect data's and as it is difficult see cases and legislations throughout Ethiopia, the researcher is only limited to analyzing few cases and the impact of Ethiopian Federal RTLs on the right to life in Ethiopia. Also some concerned institutions are not voluntary for interviewee.

1.8. RESEARCH METHODOLOGY

This research uses Empirical Legal Research methodology based on both primary and secondary data. International, regional and national legal instruments, journals, articles, reports, government enactments and polices, books and other related materials will be used as primary data. Interviews with federal government officials or personalities such as; federal police officers (investigators), Attorney Generals, judges were conducted using purposive sampling method.

1.9. ORGANIZATION OF THE STUDY

The research is organized in five chapters. Chapter one is the introduction part of the study in which background of the study, statement of the problems, objectives of the study, research questions, significance of the study, and limitation of the study will be dealt. Second chapter will discuss about the right to life. In this chapter an attempts will be made to see the definition, content, recognition and limitation of the right to life and its protection in Ethiopia. Third chapter will deals with RADs including its causes and the magnitude of the problem. Chapter four will deals with the measures taken by the Ethiopian government to curve RADs. These include policy, legislative and institutional measures. Finally, chapter five concludes the main findings of the study and ends with recommendations.

1.10. REVIEW OF RELATED LITERATURE

The researcher has identified that there is only few literature on the area of RADs that relates it with the right to life. However, many studies have been undertaken on road accidents. Among others, Antenehs' study focuses on "*the assessment of the magnitude and factors contributing to the Mortality related to RTAs in `Addis Ababa, Ethiopia from September 2013 to August 2014`*".¹² As a result he finds out in all, there were 2372 recorded RTAs in Addis Ababa during 2013/14. Of these, 382(16.1%) were fatal. Among all fatalities majority were male (73.03%) and pedestrians (84.0%) and more than half of fatalities (53.8%) occurred due to failure to give a way for pedestrians.¹³ Therefore, he concludes that majority of affected were vulnerable road users among which pedestrians were predominant and affected while crossing the road outside the zebra cross and responsible parties were driving commercial cars.¹⁴ And vast majority of victims died at the scene instantaneously which needs policy on pedestrian safety and education on behavioral change.¹⁵

Another researcher Atsbeha, on his study called "*Addis Ababa RTAs study and possible engineering solutions; case study of Akaki-Kaliti Sub-city roads`*" examined RTA and possible engineering solutions through investigating the magnitude of RTAs and black spot areas.¹⁶ Similar study on road accident is done by Tewolde Mekonnen. His study was an Empirical Analysis on Traffic Accidents Involving Human Injuries in Addis Ababa and identifies the major factors determining the number of traffic injuries.¹⁷ In doing so, he attempts to identify the variables that mainly determine the number of injuries and shows that

¹²AntenehKebede, Road Traffic Accident related Fatalities in Addis Ababa City, Ethiopia: An Analysis of Police Report 2013/14 , July, 2015, Addis Ababa, Ethiopia

¹³ Id., page 2

¹⁴Id.

¹⁵Id., page 25

¹⁶AtsbehaGebremeskel, Addis Ababa road traffic accident study and possible engineering solutions; case study of Akaki-Kaliti Sub-city roads,may,2014,Addis Ababa, Ethiopia

¹⁷*Supra note 3*

Drivers who are in the age group of 18-30, elementary school level of education and residential areas are the main causes of injuries per accident.¹⁸

The research that specifically relates road accident with the right to life is the one that is done by Ogwaro Geoffrey, on “*RADs and the right to life: the case of South Africa and Uganda*”.¹⁹ This study focuses on the linkage between inordinately high road accident rates in Uganda and South Africa and the right to life as protected by international and regional human rights law as well as the national constitutions of the two countries.²⁰ It establishes RTA and deaths as an important human rights issue directly linked to the right to life as protected by human rights law and examined preventive efforts by the states towards RADs and concludes that not enough is being done by the countries in terms of their duty to protect and in terms of international norms and standards, both in the human rights sector and in the road safety sector.²¹

Therefore, this research will assess the adequacy of the Ethiopian policy and legal measures that has taken and institutions that has established to prevent RADs to realize the right to life which is a new area of research in Ethiopia.

¹⁸Id.,page47

¹⁹Ogwaro Geoffrey, road accident deaths and the right to life: the case of South Africa and Uganda (2015) (unpublished LLM dissertation, University of Pretoria)

²⁰Id. ,page 5

²¹Id. ,page 35

CHAPTER TWO

THE RIGHT TO LIFE IN GENERAL

2.1. THE GENERAL CONCEPT AND NATURE OF THE RIGHT TO LIFE

Like other human rights the concept of the right to life goes to the early middle-ages while other more ancient expressions express the protection of life in the negative i.e. forbidding harming or killing people such as the Ten Commandments and it has been concretized in the form of Magna Carta of 1215; the American Declaration of Independence, 1776, and the French Declaration of the Rights of Man and the Citizen of 1789.²² The right to life has an importance both for individuals and for society as a whole as it serves as a basic right, facilitating the enjoyment of all other human rights.²³ It grants the entitlement of individuals to be free from acts and omissions intended or expected to cause their unnatural or premature death, as well as their legitimate expectation to enjoy a dignified existence.²⁴ The right to life is recognized as part of customary international law and the general principles of law, and is also recognized as a jus cogens norm, universally binding at all times.²⁵

While many international, regional and national legal instruments recognized the right to life none of these instruments define it. However, based on the moral principle it is believed that a human being has the right to live and should not be unlawfully killed by another human being.²⁶ It has been interpreted broadly to protect not only against the termination of life

²²Sharada T. Nirvani, a critical study of judicial enforcement of human rights in India through public interest litigation with special reference to Right to Life (2005) (unpublished PhD thesis, Saurashtra University)

²³Human Rights Committee, Draft General Comment No. 36, organizational and other matters including the adoption of the report of the pre-session working group on individual communications (September 2, 20015, CCPR/C/GC/R.36/Rev.2)

²⁴ Id.

²⁵African Commission on Human and Peoples' Rights, General Comment No. 3 on the African Charter on Human and Peoples' Rights: The Right to Life (Article 4), 18 November 2015, available at www.achpr.org/instruments/general-comments-right-to-life/

²⁶*Supra note 19*, page 10

itself, but the right to life requires the realization of all human rights.²⁷ Therefore, the right to life is a foundational right in which all the other rights of the human depends.²⁸

2.2.RECOGNITION OF THE RIGHT TO LIFE

Although the right to life is not defined under different legal instruments, nowadays many international, regional and national legal instruments universally acknowledged it as a basic or fundamental human right. Among others it is recognized under the Universal Declaration of Human Rights (UDHR)²⁹ and the American Declaration of the Rights and Duties of Man (ADRDM)³⁰ are the first international documents identifying a right to life. Other instruments including the European convention on human right (ECHR)³¹, the International Covenant on Civil and Political Rights (ICCPR)³², the American Convention on Human Rights (ACHR)³³, and the African Charter on Human and Peoples' Rights (ACHPR)³⁴ protect this right. Therefore, International human rights law recognizes the right to life as fundamental human right that is central to the enjoyment of all other human rights.

2.3.THE CONTENT OF THE RIGHT TO LIFE

Article 2 of the ECHR states that '*Everyone's right to life shall be protected by law. No one shall be deprived of his life intentionally ...*'.³⁵ Then it tries to specify a number of circumstances in which the intentional deprivation of life is permissible, including 'in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law' and 'when it results from the use of force which is no more than

²⁷Supra note 25

²⁸Id., page 8

²⁹Universal Declaration of Human Rights, G.A. Res. 217A (III), U.N. Doc. A/810, at 71 (1948),

³⁰Inter-American Commission on Human Rights (IACHR), *American Declaration of the Rights and Duties of Man*, 2 May 1948,

³¹Council of Europe, *European Convention on human rights, as amended by Protocols Nos.11 and 14*, 4 November 1950,

³²UN General Assembly, *International Covenant on Civil and Political Rights*, 16 December 1966, United Nations, Treaty Series, vol. 999, p. 171,

³³Organization of American States (OAS),*American Convention on Human Rights, San Jose, Costa Rica*, 22 November 1969,

³⁴Organization of African Unity (OAU), *African Charter on Human and Peoples' Rights ("Banjul Charter")*, 27 June 1981, CAB/LEG/67/3 rev.5 21 I.L.M.58(1982),

³⁵Supra note 31, article 2

absolutely necessary in defence of any person from unlawful violence'.³⁶ What is explicit is 'life' is an item to which 'everyone' is acknowledged to have a right and it is necessary to respect for all human life.³⁷ The European Court of Human Rights has interpreted the right to life as one of the most fundamental right and puts the obligations on a State to refrain from unlawful deprivation of life and in certain circumstances, a positive obligation to take steps to prevent avoidable losses of life.³⁸

Article 6 of ICCPR also recognizes and protects the right to life of all individuals and prohibits unlawful deprivation of this right.³⁹ According to the general comment no. 36 the deprivation of the right to life regulated by article 6 include the carrying out of a death penalty, extra-judicial killings, murder, road-traffic deaths, death resulting from medical malpractice, assisted suicide, euthanasia and infanticide.⁴⁰

Therefore, these two instruments recognized the legal protection of the right to life to incorporate the respect for human life and an obligation on the state parties to not only refrain from killing but also to govern in a manner that seeks to preserve human life wherever reasonably possible. It means that the States have to protect the right to life of the citizens including from RTAs as it is included under the contents of the right to life.

ACHR under Article 4(1) also protects the right to life in a way '*Every person has the right to have his life respected. This right shall be protected by law and, in general, from the moment of conception. No one shall be arbitrarily deprived of his life.*'⁴¹

³⁶ Id.

³⁷ Elizabeth Wicks, The Meaning of 'Life': Dignity and the Right to Life in International Human Rights Treaties, Human Rights Law Review, 199-219 (2012),

³⁸ McCann and others v United Kingdom, Application no.18984/91, European Court of Human Rights, 1995, Para 150-164 available at <https://www.leeds.ac.uk/law/hamlyn/gibraltar.htm> (accessed 1 May 2017)

³⁹ Supra note 32, article 6(1)

⁴⁰ Supra note 23, Para. 5.

⁴¹ Supra note 33, article 4(1)

Similarly Article 4 of the ACHPR states that '*Human beings are inviolable. Every human being shall be entitled to respect for his life and the integrity of his person. No one may be arbitrarily deprived of this right.*'⁴² This expression of the right to life refers to the concept of the inviolability of a human being and the need for respect for life and it is supplemented by explicit recognition in Article 5 of a 'right to the respect of the dignity inherent in a human being'.⁴³ Cumulative reading of these two articles show that human life has a special value and dignity which requires legal protection.⁴⁴ The inclusion of the idea of dignity in human life enables the incorporation of basic economic and social needs into the ambit of a right to life by extending the conditions necessary for life to continue beyond a mere absence of death and leads to a recognition that all forms of human life will need some basic level of protection regardless of whether the individual entity is of rights bearing status.⁴⁵

According to General Comment No.3, of the ACHPR the right to life should not be interpreted narrowly as it secures a dignified life for all which requires the realization of all human rights recognized in the Charter.⁴⁶ It also impose an obligation on the States have a to develop and implement a legal and practical framework to respect, protect, promote and fulfill the right to life and derogation from the right to life is not permissible in a time of emergency, including a situation of armed conflict, or in response to threats such as terrorism.⁴⁷ Though ACHPR do not have a provision that recognize the death penalty, the African commission ruling on various cases shows that death penalty is not the prima facie violation of the right to life. The commission emphasized that the right to life is violated only if due process in the imposition of death sentence is not respected as it amounts to arbitrary

⁴²*Supra* note 34, article 4

⁴³*Id.*, article 5

⁴⁴*Id.*, article 4 and 5

⁴⁵*Id.*

⁴⁶*Supra* note 25, page 8

⁴⁷*Id.*

deprivation of life.⁴⁸ However, the African commission established a Working Group on death penalty in 2005 which is a commendable step along the road towards abolishing the death penalty throughout Africa.⁴⁹

Later on the African commission adopts draft Protocol to the African Charter on Human and peoples' rights on the Abolition of the death Penalty in Africa.⁵⁰ In addition, the commission urges those States Parties that have not already abolished the death penalty to immediately establish a moratorium on executions and to adopt measures aimed at the full abolition of the death penalty.⁵¹

As it can be seen from these international and regional human rights instruments, the right to life includes the inherent nature of the right to life of every human. And it is accompanied by an assertion of the legal protection of this basic human right and the negative obligation not to deprive arbitrarily of one's life which includes to refrain from taking life except when is absolutely necessary in very limited circumstances. States also have positive obligation to take all appropriate measures to protect, promote and preserve human life.⁵² Therefore, the right to life has been interpreted broadly to protect not only against the termination of life itself, but also against activities whose effects may cause any injury to life and the state should prohibit unlawful deprivation of this right, including RADs.

⁴⁸Forum of Conscience v Sierra Leone, Communication 223/98, African Commission on Human and Peoples' Rights, 6 November 2000, AHRLR 293 available at www.chr.up.ac.za/.../436-sierra-leone-forum-of-conscience-v-sierra-leone-2000-ahrlr (accessed 1 May, 2017)

⁴⁹The Working Group on Death Penalty and Extra-Judicial, Summary or Arbitrary killings in Africa, available at [www.fiacat.org/Act/Before international Forums/ FLACAT before the ACHPR](http://www.fiacat.org/Act/Before%20international%20forums/FLACAT%20before%20the%20ACHPR) (accessed 1 May, 2017)

⁵⁰The African Commission on human and Peoples rights, The draft protocol to the African charter on Human and Peoples Rights on the Abolition of Death penalty, 22 April 2015

⁵¹The African Commission on Human and Peoples' Rights, the right to life in Africa, ACHPR/ Res. 375(LX) 2017(22 May 2017) available at www.achpr.org/sessions/60th/resolutions/375/(accessed 4 May 2017)

⁵²*Supra note 23*, Para. 11

2.4.LIMITATION ON THE RIGHT TO LIFE

Limitation refers to justifiable infringement of fundamental rights and freedoms which is exception to the general rule that fundamental rights and freedoms should be protected.⁵³ The international human rights law allows states to limit or restrict human rights through ways of express limitations to rights, derogations from rights and reservations to treaties. However, limitations should fulfill the criteria of balance of legitimate interests, no time limitations, strict interpretation, proportionality and must be necessary.⁵⁴

Also it should be for the purpose of public order, public health, public moral, national security and public safety.⁵⁵ In addition, conventions often contain a paragraph prohibiting the abuse of an international instrument to destroy another right. Article 5 ICCPR, for instance, stipulates: *“Nothing in the present Convention may be interpreted as implying for any state, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms recognized herein or at their limitation to a greater extent than is provided for in the present Covenant.”*⁵⁶

The right to life is not an absolute right without limitations. Many international human right instruments specify restrictions or exceptions to the scope of this right. Among other international instruments, article 2 and 15(2) of ECHR⁵⁷ together, limitations of the right to life are restrictive in nature as it states human life cannot be intentionally terminated, aside from exceptional conditions. The restrictions with respect to the right to life are due to Court Decision following a person’s conviction of a crime for which the penalty is provided by law to execute a death penalty.⁵⁸ Regarding other Restrictions paragraph 2 of Article 2 states that

⁵³AbdiJibril Ali, Comment, Distinguishing limitation on constitutional rights from their suspentional: A comment on the case cud case, Haramaya Law Review, Vol. 1:2 (2012)

⁵⁴International Human Rights Law: Substantive Rights, Reservations, Limitations and Derogations, Wednesday, October 25, 2006, 13.15-14.00, and Friday, November 10, 2006, 12.15-14 retrieved from http://www.uio.no/studier/emner/jus/humanrights/HUMR5120/h06/undervisningsmateriale/Lecture_notes_Maria_reservations_limitations_and_derogations.doc

⁵⁵United Nations, Economic and Social Council, Siracusa Principles on the Limitation and Derogation Provisions in the International Covenant on Civil and Political Rights, U.N. Doc. E/CN.4/1985/4, Annex (1985),

⁵⁶Supra note 32, article 5

⁵⁷Supra note 31, article 2 and 15(2)

⁵⁸Id.

“if the act of killing occurred as a result of the use force which is no more than absolutely necessary”, then the act is not regarded as being in conflict with the principle of the right to life in the cases of legitimate defense in circumstances with respect to a direct threat to physical existence, for detaining and Preventing the escape of a detainee uprisings and quelling rebellions and war Actions.⁵⁹

Although, the right to life is not an absolute right, it is non derogable right. According to Article 4(2) of the ICCPR states can never derogate this right even in times of public emergency that threatens the life of the nation.⁶⁰ This means though it is possible to limit the right to life in certain circumstances states cannot suspend this right in a state of national emergencies.⁶¹ For instance, even in a state of emergency, police may only shoot people when it is necessary and proportionate.⁶²

2.5.PROTECTION OF THE RIGHT TO LIFE IN ETHIOPIA

The FDRE Constitution guarantees every person the inviolable and inalienable right to life and the constitution provided that no person may be deprived of his life except as a punishment for a serious criminal offence determined by law.⁶³ This shows the Constitution has accepted the possibility of the deprivation of the right to life through the imposition of the death penalty as long as the measure is taken in accordance with law even though it unequivocally prohibits any arbitrary deprivation of the right to life.⁶⁴ Following this, the Criminal Code allows the imposition of the death penalty but only in “cases of *grave crimes* and on *exceptionally dangerous criminals* ... as a punishment for *completed crimes and in*

⁵⁹Id.

⁶⁰*Supra note* 32, article 4(2)

⁶¹Rachel Ball, Absolute and non derogable human rights in international law, Human right law center (2011) available at http://www.parliament.vic.gov.au/images/stories/committees/sarc/charter_review/supplementary_info/26

⁶²Id., page 1

⁶³Constitution of the Federal Democratic Republic of Ethiopia, 21 August 1995, article 14 and 15.

⁶⁴African Commission on Human and Peoples' Rights, Combined Report (Initial and Four Periodic Reports) to the African Commission on Human and Peoples' Rights, 15 November 2008, available at: <http://www.refworld.org/docid/502d1d242.html> (accessed on 7 May 2017)

the absence of extenuating circumstances.”⁶⁵ In addition, the offender should have attained 18 years of age at the time of the commission of the crime and in all cases, execution of death penalty requires confirmation by the Head of the State, and ascertainment of its non-remission or non-commutation by pardon or amnesty.⁶⁶ The Constitution also permits the Head of State to commute the sentence of death penalty against persons committing crimes against humanity, genocide, summary execution, forced disappearances and torture, to life imprisonment.⁶⁷

Ethiopia is also bound by different international and regional instruments including ICCPR and the ACHPR. Despite the recognition, there have been reports and allegations made by national and international bodies claiming the presence of serious violations of the right to life in the country, in various forms, both by state’s agents and private actors.⁶⁸

According to Article 4 of the ICCPR, states including Ethiopia cannot derogate from the right to life.⁶⁹ The Human Rights Committee further expanded the category of non-derogable rights by identifying provisions of the ICCPR containing elements that cannot be subject to lawful derogation.⁷⁰ This Committee requires states to change their constitutions when the latter allow derogation from rights that are listed under Article 4 of the ICCPR as non-derogable.⁷¹ However, the right to life which is non-derogable under the ICCPR is not included under the Ethiopian list of non-derogable rights.⁷² Due to this ICCPR and FDRE constitution apparently seem incompatible regarding the non-derogability of the right to life during state of emergency. According to article 13(2) of the constitution human and democratic rights enshrined in the constitution must be interpreted in a manner confirming to

⁶⁵The criminal code of the federal democratic republic of Ethiopia, (1995)

⁶⁶*Id.*, article 117

⁶⁷*Supra* note 63, article 15

⁶⁸BayenewLisanework, An Appraisal of the enforcement of international and regional human rights obligations in Ethiopia (2011) (unpublished MA dissertation, Addis Ababa University) available at

etd.aau.edu.et/bitstream/123456789/3551/2/Bayenew%20Lisanework.pdf

⁶⁹*Supra* note 32 Article 4

⁷⁰*Supra* note 53, page 17

⁷¹*Id.*

⁷²*Id.*

the principles of international instruments adopted by Ethiopia including ICCPR.⁷³ In addition, as pursuant to article 9 (4) of the constitution ICCPR is also the law of the land.⁷⁴ Therefore, the organ which is responsible to declare state of emergency is responsible to take it into consideration while exercising its declaration right.⁷⁵

⁷³*Supra note* 63, article13(2)

⁷⁴*Id.*, article 9(4)

⁷⁵Henok A. Gebeyehu , Non-/Derogation of the Right to Life: A Paradox between the Constitution of the Federal Democratic Republic of Ethiopia and International Covenant on Civil and Political Rights, available at http://www.academia.edu/9962308/Derogation_of_the_Right_to_Life_in_Ethiopia

CHAPTER THREE

ROAD ACCIDENT DEATHS IN GENERAL

Albeit, the right to life is protected under different international, regional and national legal instruments there are impediments that hinders its implementation. Among other factors RADs is one of the contributing factors for the non-implementation of the right to life. In relation to this, this chapter starts by defining RTAs. Then it will assess the relationship between the right to life and RADs via how RADs could be a threat to the right to life. Next to this, the magnitude of RADs will be seen. Finally the main causes of RADs in general and in particular to Ethiopia will be discussed.

3.1.WHAT IS ROAD TRAFFIC ACCIDENT?

Generally "*An accident is an unplanned, unforeseen and unexpected event that has a negative impact on all activities of the individual(s) concerned. An accident can result in death, injury, health hazard, and loss of property, damage to environment or a combination thereof.*"⁷⁶

According to this definition an accident is a sudden happening that causes people to be disabled or handicapped, loss of live, shattering of dreams, loss in the family, hospitalization, and much more as it affects all activities of individuals.

The Economic Commission for Europe (ECE) defines road traffic accidents RTAs as;

“Road traffic accidents are those which occur or originate on a way or street open to traffic, which resulted in one or more persons being killed or injured and in which at least one

⁷⁶What is an accident? Definition from Safeopedia available at <https://www.safeopedia.com/defination/204/accident-health-safety-and-environment>(accessed 7 May 2017)

*moving vehicle was involved. These accidents, therefore, include collisions between vehicles, between vehicles and pedestrians, and between vehicles and animals or fixed obstacles.”*⁷⁷

A road accident is also defined as *“any accident involving at least one road vehicle, occurring on a road open to public circulation, and in which at least one person is injured or killed excluding intentional acts (murder, suicide) and natural disasters.”*⁷⁸

These two definitions define Road accident similarly as an accident that occurs on the road which results at least a death or an injury of person. However, the first one explains about how an accident happens while later excludes intentional killing or suicide and a natural occurrence that results loss of human life.

Generally road accidents have left many injuries to the physical and mental health of humans. Thousands of people are losing their lives and families losing their loved ones. Unfortunately, the pain of loss stays forever. This doesn't leave an impact on individuals only but also affects the country's gross domestic product and development. Therefore, there is a never ending list on what impact road accidents can do.

3.2.ROAD ACCIDENT DEATH, A THREAT TO THE RIGHT TO LIFE

RTAs are one of the major causes of death worldwide accounting for 1.25 million deaths annually in 2013 and the main cause of death among those aged 15–29 years.⁷⁹ This represents an average of 3472 persons dying each day around the world and around half of all these deaths on the world's roads are motorcyclists, cyclists and pedestrians.⁸⁰ In addition to these deaths, between 20 million and 50 million people globally are estimated to be injured or

⁷⁷The United Nations Economic Commission for Europe (UNECE), *Statistics of Road Traffic Accidents in Europe and North America*, Vol. LII_TOM LII, (2011), available at https://www.unece.org/trans/main/wp6/publications/stats_accidents2011.html

⁷⁸Definition of Road accidents available at <https://www.insee.fr/en/metadonnees/definition/c11167> (accessed May 2017)

⁷⁹*Supra note 2*, page 2

⁸⁰*Id.*, page 4

disabled each year.⁸¹ Low-income and middle-income countries had a greater rate of these accidents in which 90% of the accidents occur in these countries while 10% of road traffic deaths occurred in high-income countries.⁸²

African Region had the highest rate of fatalities from road traffic injuries worldwide at 26.6 per 100 000 population while the European Region has a rate far below the global average (9.3 per 100 000 population for the year 2013).⁸³

Table 3.1: Road traffic fatality rates, WHO regions (per 100 000 population)

WHO Region	Mortality rate per 100,000 people
African	26.6
Americas	15.9
South-east Asia	17.0
Eastern Mediterranean	19.9
European	9.3
Western Pacific	17.5
Global	18.8

Source; Global status report on road safety, 2015, WHO

3.2.1. THE MAGNITUDE OF ROAD ACCIDENT DEATHS IN AFRICA

The highest road traffic death rate in the world is in Africa (26.6 deaths per 100000 populations per year), which is more than double the European countries.⁸⁴ The range of fatalities per 100,000 populations in the African countries is not very wide; rather 70% of all the deaths in the Region occurred in the ten countries that account for 70% of the regional

⁸¹World Health Organization, *Global status report on road safety 2013: supporting a decade of action* (2013) available at www.who.int/violence_injury_prevention/road_safety_status/2013/en,

⁸²Supra note 2, page 3

⁸³Id.

⁸⁴Id.

population: Democratic Republic of Congo, Ethiopia, Ghana, Kenya, Madagascar, Mozambique, Nigeria, South Africa, Tanzania and Uganda.⁸⁵

On the other hand, the risk of road traffic crash in the African countries is particularly high for pedestrians, or those travelling on two- or three-wheeled vehicles though other categories such as those using public transport, and passengers on pick-up trucks are included with the increased risk of being injured or killed on Young males (ages 5 to 44 years).⁸⁶

3.2.2. ROAD ACCIDENT DEATHS IN ETHIOPIA

Ethiopia is included among the top ten countries of the world in which around 62% of reported road traffic deaths occur.⁸⁷ Ethiopia stands as one of the worst countries with respect to RADs as the country contributed to a high proportion (23%) of road accident related deaths to the African continent.⁸⁸ RADs in Ethiopia reached at the rate of 20.16 per 100,000 of population.⁸⁹ In addition the RADs reached above 3,874.3 deaths per 100,000 vehicles and 80% of these deaths are attributed to drivers faults and the remaining due to road construction maintenance and technical problems of the vehicles including other leading causes of drinking and driveing, non compliance with traffic rules and speeding.⁹⁰

Table 3.2: The Magnitude of RTA's in Ethiopia

Types of accident	Year of Traffic Accident Recording				
	2011/2012	2012/2013	2013/2014	2014/2015	2015/2016
Light injury	6,016	6,316	5,888	6,508	7,071

⁸⁵Supra note 3, page 8

⁸⁶Id., page 9

⁸⁷World Health Organization, *Global status report on road safety: time for action* (2009), available at www.who.int/violence_injury_prevention/road_safety_status/

⁸⁸Mortality in Africa; The share of road Traffic fatalities, (June 2013), available at retrieved from <https://www.afdb.org/.../Economic%20Brief%20-%20Mortality%20in%20Africa%20>.(accessed 10 May 2017)

⁸⁹Road traffic accidents in Ethiopia, World life expectancy, available at <http://www.Worldlifeexpectancy.com/Ethiopia-road-traffic-accidents>(accessed 10 May 2017)

⁹⁰Lucy Kassa, *Ethiopia: The Highest Price of Life on the Road*, Addis Fortune (Addis Ababa), September 21 2015 available at www.allafrica.com/stories/201509212840.html

Heavy injury	4,979	5,042	6,039	5,918	6,886
Death	3,132	3,362	3,331	3,847	4,352
Percentage share of death	22.17%	22.83%	21.83%	23.64%	23.76%

Source; Federal police commission central Information and crime Intelligence Directorate, May 2017

Table 3.2 above shows traffic accident rate in Ethiopia is growing. In 2011/2012 the number of registered traffic accident death was 3,132, but this reached 4,352 in year 2015/2016.⁹¹ The situation is likely to be even more severe than shown in the statistics due to the possible significant under-reporting.⁹²

Table 3.3: Distribution of total crash fatalities by sex, age group and year in Ethiopia

Total percentage of death from the year 2011/2012- 2015/2016				
Age group	Drivers	Pedestrians	Passengers	Total
<18	10%	24%	23%	22%
18-30	43%	32%	38%	37%
31-50	39%	25%	30%	29%
>51	8%	19%	9%	12%
Male	92%	72%	70%	74%
Female	8%	28%	30%	26%
Total	14%	44%	42%	

Source; Federal police commission central Information and crime Intelligence Directorate, May 2017

⁹¹Federal police commission central information and crime intelligence, May 2017, Table 3.2

⁹²Abegaz T et al, A Road Traffic Deaths and Injuries Are Under-Reported in Ethiopia: A capture-Recapture Method(2014), available at <https://doi.org/10.1371/journal.pone.0103001/>

Data in table 3.3 emphasize which age group had the largest crash fatalities. It shows that males had the highest 74% crash fatality and it reveals that among the vulnerable, pedestrians (44%) had more fatalities followed by passengers (42%) for the last five years (2011/2012-2015/2016).⁹³ Compared to all age groups, the 18 to 31(37%) age group had the greatest increase in fatality rate and the pedestrians (44%) had the highest number of fatalities followed by the passengers.⁹⁴

3.3.CAUSES OF ROAD ACCIDENT DEATHS

Traffic accident occurs as the result of a combination of multiple factors. The following are the main factors that contribute to great RADs.

3.3.1. HUMAN FACTORS

Human factors in vehicle collisions include all factors related to drivers and other road users that may contribute to a collision.⁹⁵ The human behavior is the most significant factor in an accident which comprises characteristic of drivers including Speed, age, fatigue, alcohol, travelling in darkness, psycho-physical conditions, negligence and non-use of seat belts.⁹⁶

3.3.1.1. DRIVERS

Among human factors the drivers are the main cause for the occurrence of accidents due to various human related causalities.

Drink driving is one of the most important risk factors that causes of RTAs and increases the risk of being involved in a road crash for all road users as alcohol interferes with road users'

⁹³Supra note 91, table 3.3

⁹⁴Id.

⁹⁵VaianaRosolino et al, Road safety performance assessment: a new road network Risk Index for info mobility (2013), available at www.sciencedirect.com/science/article/pii/S1877042814000974/pdf?md5

⁹⁶Id., page 625

skills by impairing cognition, vision and reaction time.⁹⁷ It also increases the likelihood of adopting other risky forms of behavior, such as speeding and not using safety equipment such as seat-belts and helmets.⁹⁸ The relative risk of crash involvement starts to increase significantly at a blood alcoholic concentration (hereinafter BAC) level of 0.04 g/dl.⁹⁹ A variety of BAC limits are in place across the world, ranging from 0.0 g/dl to 0.10 g/dl.¹⁰⁰ The maximum permissible BAC for drivers in most countries is either 0.05% or 0.08%.¹⁰¹ Lower BAC limits are often established for young drivers and for drivers of commercial vehicles.¹⁰²

In addition, although the extensive and mandatory use of seat-belts and improper use of a child restraint have contributed to the reduction of RADs, drivers have the problem of using them due to lack of awareness.¹⁰³ Researchers have shown that the use of seat belts reduce serious and fatal injuries by 40 to 65 percent, so does child restraint by 54%.¹⁰⁴ Therefore, failure to use a seat-belt and child restraint are a major risk factor for road traffic deaths and injuries among vehicle occupants.¹⁰⁵

On the other hand excess and inappropriate speed has been identified as a major risk factor in RTAs.¹⁰⁶ Speed choice is influenced by factors such as personal preferences, social pressure, road features, vehicle features, haste, pleasure, unintended, boredom among others.¹⁰⁷ Men exceed the limit more often than women; youths exceed the limit more often than older

⁹⁷Francesco Mitis and Dinesh Sethi, Reducing injuries and death from alcohol-related road crashes available at www.euro.who.int/.../5-Reducing-injuries-and-death-from-alcohol-related-road-crashes

⁹⁸ Id., page 1

⁹⁹Supra note 3, page 20

¹⁰⁰ Id.

¹⁰¹ World Health Organization, *Global status report alcohol and health*, 2011, available at

http://www.who.int/substance_abuse/publications/global_alcohol_report/msbgsruprofiles.pdf

¹⁰²United Nations Economic Commission for Europe, Inland transport Committee, *consolidated resolution on road traffic*, (2010) available at https://www.unece.org/.../roadsafe/.../Consolidated_Resolution_on_Road_Traffic_RE

¹⁰³ Supra note 3, page 26

¹⁰⁴Ibid, page 28

¹⁰⁵ World Health Organization, *The need for seatbelts and child restraints; a road safety manual*, (6 February 2009) available at www.who.int/roadsafety/projects/manuals/seatbelt/seat_belt_manual_module_1.pdf

¹⁰⁶World Health Organization, *World Report on Road Traffic Injury Prevention*, (2004), available at whqlibdoc.who.int/publications/2004/9241562609.pdf (accessed 7 May 2017)

¹⁰⁷ Institute for road safety Research, *Speed choice: the influence of man, vehicle, and road*, June 2012, available at http://www.swov.nl/rapport/Factsheets/UK/FS_Speed_choice.pdf

drivers, and commercial drivers exceed the limit more often than those mainly driving for private purposes.¹⁰⁸

In high-income countries, speed contributes about 30% of deaths while in some low and middle income countries, speed is estimated to be the main contributory factor in about half of all road crashes and the relationship between speed and injury severity is particularly critical for vulnerable road users such as pedestrians and cyclists.¹⁰⁹ Studies undertaken in many countries showed that at speeds above 50 km/hour, every 1 km/hour reduction in the average speed reduces the number of crashes by 2%.¹¹⁰ Therefore, there is a consistent finding from the research that greater speed increases crash, injury, and fatality rates, and that decreasing speed reduces these rates.

The age of drivers also affects the behavior and attention to driving. Globally, RTA is a leading cause of death for young drivers as young age drivers contribute to the high risk of crash injury than older drivers.¹¹¹ It has been established in industrialized countries that men, especially young men in their first few years of driving, have higher rates of crash involvement than women, even when corrected for exposure factors.¹¹²

The non-use of proper a motorcycle helmet is also one of the reasons that cause RTA as the use of a motorcycle helmet reduces the risk of a severe head injury by as much as 70%, and the risk of death by up to 40% in the event of a crash.¹¹³ According to the report of WHO, non-helmeted motorized two-wheeler users were three times more likely to sustain head injuries in a crash than those wearing helmets.¹¹⁴ Studies have shown drivers who use mobile

¹⁰⁸Id., page 2

¹⁰⁹Supra note 106, page 76

¹¹⁰Supra note 3, page 18

¹¹¹Supra note 106, page 78

¹¹²Id.

¹¹³Supra note 3, page 23

¹¹⁴Supra note 106, page 90

telephones while driving face a risk of a crash four times higher than those who do not use them.¹¹⁵

Substances such as drugs, narcotics, psychotropic, chemical substances and medicines are proved to negatively affect the capacity of driving vehicles as they can seriously impair the perception of the driver, lessen his/her ability to interact and deal safely with unforeseen or unexpected events and may lead to lethal outcomes.¹¹⁶ Studies and research suggest that each year a significant number of people are killed or permanently disabled as a consequence of RADs associated with driving under the influence of these substances.¹¹⁷

Furthermore, the risk of accidents by night driving is much more serious than by day.¹¹⁸ Studies show that approximately 35% of those injured and 50% of fatalities are the victims of an accident during night driving although night driving accounts for only about one third of general traffic.¹¹⁹

3.3.2. VEHICLES

Un-roadworthy vehicles pose a major danger to other road users as they could result fatal consequences for other motorists, pedestrians, passengers and cyclists. The main causes for the traffic accident are due to vehicles' numerous defects including malfunction of the braking system, body, tire, improper inspection, overloaded or poorly loaded vehicle or trailer, defective lights or indicators, defective steering or suspension and defective or missing mirrors and maintenance.¹²⁰ This defect of the vehicle especially commercial vehicles contributes for crash injuries.¹²¹ In low-income countries, the regulation of motor vehicle safety standards are not as systematic as in high-income countries and the

¹¹⁵Id., page 85

¹¹⁶Supra note 102, page 17

¹¹⁷Id.

¹¹⁸Id., page 24

¹¹⁹Id.

¹²⁰Supra note 16, page 9

¹²¹Supra note 106, page 88

engineering advances of high-income countries vehicles do not fit the standards of vehicles in low-income countries.¹²²

3.3.3. ROADS

As the entire process of road transport is conducted on roads, the quality, size and engineering characteristics of the roads will have considerable contribution to the increase or decrease of RTA risks. Among others, road network, road signs, and road markings, junctions' designs, pavement surfaces, narrow bridges and culverts, median, width, and street lighting are among risk factors for accident.¹²³ In the planning, design and maintenance of the road network; due attention is need to include safety considerations.

3.4.CAUSES OF ROAD ACCIDENT DEATHS IN ETHIOPIA

Ethiopia has a major road safety problem and it is becoming worse because of different contributing factors. According to the data of the Federal Police Commission (hereinafter FPC) for the last five consecutive years (2011/2012 to 2015/2016) more than 82% of deaths were due solely to driver factors, 1.93% to 5.52 % was due to Vehicle factors, 1.3% to 3.84% was due to passengers, 0.23% to 1.09% was due to road factors and 8% to 13.32% was due to other and unknown factors except the last year (2015/2016) reduction which was 7.23%.¹²⁴

¹²²Id.

¹²³Id., page 87

¹²⁴*Supra note 91*, Table 3.4

Table 3.4: Causes of road accident deaths in Ethiopia

Causes of RADs	Year of Traffic Accident Recording				
	2011/2012	2012/2013	2013/2014	2014/2015	2015/2016
Drivers	85%	85%	86.39%	82.01%	82.28%
Vehicles	4.5%	3.04%	1.93%	2.16%	5.52%
Defective Road	0.23%	0.25%	0.91%	0.22%	1.09%
Passengers	1.3%	1.20%	1.52%	1.87%	3.84%
Others and unknown	8%	10.4%	9.23%	13.32%	7.23%

Source: Federal police commission, central Information and crime Intelligence Directorate, may 2017

According to the statistics of FPC the main factors are human related factors that include driving without putting passengers first and letting other vehicles pass, speed, unlawful pass, drink driving, unlawful turn, driving leaving the right side, using substances (drugs), driving without keeping distance, driving without giving priority and breach of traffic police order.¹²⁵

The conditions of vehicles related factors contribute for deaths of many Ethiopian citizens through mechanical failures of the vehicle such as brake failure, tire failure and steering wheel defect among other technical problems.¹²⁶

Conditions of roads are also one of the causes for traffic accidents.¹²⁷ Furthermore, passengers are also included among the lists of causes of RADs data of the federal police commission.¹²⁸ Causes of RAD are not limited to this as there are also other and unknown Causes of road accident deaths that are not identified by the Federal Police.

¹²⁵Federal police commission, central information and crime Intelligence Directorate, May 2017

¹²⁶Id.

¹²⁷Id.

¹²⁸Id.

CHAPTER FOUR

MEASURES TAKEN TO CURVE ROAD ACCIDENT DEATHS IN ETHIOPIA

4.1.INTRODUCTION

Ethiopia has a major road safety problem. Every year, many lives and property losses occur due to RADs. The Country has experienced total RADs of 18,024 from the year 2011/2012-2015/2016.¹²⁹ On the other hand, the financial estimation of property damage was 3,661,030,259.45 Birr during the year 2011/12-2015/16, which is 732,206,051.89 Birr average annual cost.¹³⁰

Those figures call for actions to decrease the absolute number of RADs. As traffic fatalities are negatively impacting the development of human capital, working towards reducing RADs should be one of the priority agendas of the government. Road accident is a man-made problem that results from a consequence of human actions. Therefore, it could be prevented through special attention from the state. Mobilization of the community and states' Commitment with formulation of well-defined strategy, clear vision, legal framework, co-ordination, and careful and critical evaluation of measures are essential steps to be taken in order to reduce RTAs.

On the other hand, Ethiopia is a State Party to almost all core international human rights instruments. For instance, Ethiopia is a state party to ICCPR. And according to the general comment no. 36 states parties have the duty to respect the right to life and refrain from engaging in conduct resulting in deprivation of lives.¹³¹ They must also take all suitable measures, which can reasonably be expected from them, to protect the right to life of

¹²⁹Federal police commission central Information and crime Intelligence Directorate, Traffic data, May 2017

¹³⁰Id.

¹³¹*Supra note 23*, Para 11

individuals against deprivations caused by persons or entities not acting on behalf of the State.¹³²

There are positive obligations that states that are party to a treaty must ensure that people's rights are not violated and that persons are protected from violations.¹³³ These includes the state has duty to prevent third parties from interfering with and obliged to protect persons from life threatening accidents; inarguably, this includes RADs and injuries.¹³⁴ However, in the case of RADs and injuries negative obligations cannot apply as the state cannot deliberately kill people through accidents.¹³⁵ But if there is an omission by a state when it does not take an action to stop the loss of life under its own territory where it was reasonably capable of and mandated to; the state can and should be held accountable for the violation.¹³⁶ Therefore, excluding limitations, the government should undertake all appropriate measures including setting up policy framework, legislative, and other measures to ensure the protection of the right to life.

The following sub sections will address the measures taken by the Ethiopian government to curve road accidents and to bring safe transportation system.

4.2.NATIONAL ROAD SAFETY ACTION PLAN AND STRATEGIES OF ETHIOPIA ON RADs

Although Ethiopia has celebrated the launch of the first ever Decade of Action for Road Safety 2011–2020 which was launched by the United Nations General Assembly on 11 May 2011;¹³⁷ Ethiopia has never had proper national transport and road safety policy to fight the problem of road accident to date. The absence of the government policy regarding road safety

¹³²Id.

¹³³*Supra note 1*, page 12

¹³⁴*Supra note 19*, page 13

¹³⁵Id., page 12

¹³⁶Id., page 24

¹³⁷Global launch, *Decade of Action for Road Safety 2011–2020*, 11 May 2011, available at http://www.who.int/roadsafety/publications/global_launch.pdf (accessed 4 October 2017)

shows it has been given low priority by road safety government agencies.¹³⁸ Some of the reasons why the country has no road safety policy are; the presence of other pressing economic and social priority agenda of the government, the economic effect is not fully considered by decision makers as cause of indirect public expenditure, lack of community awareness, and experience on road safety issues.¹³⁹ These gaps were also highlighted by Federal Transport Authority (hereinafter FTA) official who was interviewed.¹⁴⁰

GTP II has promising target to reduce the number of deaths from RTA per 10,000 cars from 60 in 2014/15 to 27 by 2019/20.¹⁴¹ To this end, the National Road Traffic Safety Council (hereinafter NRTSC) of Ethiopia also developed Road safety action plans focusing on the following major activities.¹⁴²

- Controlling the road traffic system through using modern traffic controlling systems and technologies such as radar, cameras and surprise patrolling system on main high roads. This also includes controlling of speed limit(using speed indicator tools) and inspect drunk drivers, identify and monitor road traffic flows. Deploying data-base and controlling system to ensure the safety of pedestrians and inspection of vehicle are given better attention in reducing RTAs.
- Increasing road safety awareness of the public through inclusion of it under the educational curriculum, creating traffic safety clubs in schools, creating awareness in different institutions such as Eder, religious institutions and NGOs and using short video films, theater, printing materials and use of Media.

¹³⁸Supra note 6, page 26

¹³⁹Id.

¹⁴⁰Interview with Tesfaye Yebas, law affairs Directorate Director, at Federal Transport Authority, 30 May 2017

¹⁴¹National Planning Commission, *Growth and Transformation Plan II (GTP II) (2015/16-2019/20)*, May, 2016, available at https://europa.eu/capacity4dev/resilience_ethiopia/document/growth-and-transformation-plan-ii (accessed 4 October 2017)

¹⁴²Office of National Road Traffic Safety Council, national road safety action plan 2011-2020(Amharic version), May 2013

- Expanding Road safety engineering methods (road marks, zebras, sidewalks, traffic lights and road signs, speed breakers), maintenance of damaged roads and the construction of new roads considering separate ways to motorcycles, pedestrians and cyclists.
- Ensuring the safety of road transport sector through protecting drivers safety, technical efficiency of vehicles, organized action of transport associations on road safety. National road safety management through enabling NRTSC with manpower, establishing national road safety technical committee and monitoring road safety works of its members and through study and research.
- Delivering speedy Emergency medical service (hereinafter EMS) through the collaborative work of transporters, hospitals, telecommunication and police that could save the injured from death.
- Encouraging safety mobility of private individuals and organizations by coordinating the expansion of road safety study, preparing and implementing annual strategy and program on national road safety. It also targets the initiation of supporting the improvement of road safety projects, budgeting funds for road safety education and study.
- Increasing road safety manpower via starting and strengthening post graduate program in transport planning and experience sharing with foreign countries.

With regard to the implementation of this national road safety action plan the following activities are performed;¹⁴³

In controlling the road traffic system;

¹⁴³Id., page 17-57

- Strong and sustainable controlling system is done in Eastern Shewa.
- High way patrolling system with the support of radar is placed from Addis Ababa to Hawassa.
- Speed controlling system with the support of radar is implemented in Addis Ababa, Oromia and Amhara regions and inspection of drunk drivers is implemented in Addis Ababa.
- Strong controlling system on night driving was done particularly in Eastern Showa, Sidama and Wolita zones.

In creating road safety awareness Ethiopian;

- Broad Cast and different Radios are transmitting regular programs.
- Individuals songs, music and vidio clips are used.
- The issue of road safety is included under first level educational carriculum(grade 1-8), books, reference books and videos are prepared. Also different printing exahibitions are conducted and broshers, posters stickers are prepared and distributed.
- More than 5000 traffic clubs and 5000 committies with regulations are established.
- More than 12000 students traffic police and 10,000 driveres are trained on ethical behavior.

Regarding road engineering;

- Based on differentiating dangerous roads, an action is taken in Addis Ababa and southern region via studies.

- Under the Ethiopian Road Authority(hereinafter ERA) and Adiss Ababa Road Authority, departements are created for the assesement of road design, construction and maintanance that focuses on road safety.
- Amhara, South and Tigrian regions road safety officies made a study and took an action on high-risk roads.

In relation to EMS;

- EMS team is established in which the NRTSC is a member intiated a 5 years strategy on rendering ambulance, training and implementation of EMS.
- 30,000 health extention workers provide medical service to the victms of road accident.
- EMS is included under the manual of licence training.

In relation to road transport sector safety;

- National standard on drivers training and examination (with techniques of driving with preventing accident, road safety and required ethical behaviors of drivers) for driving license is prepared.
- Out sourcing of driving training to private sectors is made.
- Uniform standared on technical inspection of vehicles with the support of tools and surprise inspection is started in Amhara, South and Tigrian regional states.
- Transport service associations and organizations are established and are actively engaged.

Regarding the implementation of this action plan, NRTSC is the leading agency that coordinates other stakeholders and follows up the implementation of the action plan.¹⁴⁴ However, as it is stated under its establishment regulation, NRTSC is not an independent institution rather it is a subordinate department in the ministry of trade.¹⁴⁵ Also it does not have a mandate to control and monitor other stakeholders while discharging their responsibilities in the implementation of the action plan.¹⁴⁶ Members of the council and concerned government and non-governmental organizations have a legal obligation to cooperate with the Council in the implementation of traffic safety policy, strategy and programs. However these actors do not work in collaboration with the council.¹⁴⁷ They are also unable to attend quarter meetings and submit their planning and reporting documents have been challenges to integrate actions.¹⁴⁸ Moreover, lack of enough attention by the government, weak system, loss coordination, financial constraints and lack of well-educated man power seriously drags NRTSC to implement the action plan.¹⁴⁹

Although NRTSC is working on implementation of 10 years action plan, all the stakeholders should appropriately integrate their responsibilities and collaborate for the implementation of the action plan.

A study was conducted on road safety modernization and transformation by FTA focusing on five major areas of road safety management, safer road and mobility, safer vehicles, safer road users and EMS (post-crash response).¹⁵⁰ It also aims at decreasing RADs meaningfully through establishing well organized management of road traffic safety and intensify collaborative works among stakeholders.¹⁵¹ Developing road safety controlling, increasing

¹⁴⁴Interview with Amelaku Alemayehu, Head of National Road Safety Council Office, at Ministry of Transport, 29 November 2017

¹⁴⁵Id.

¹⁴⁶Id.

¹⁴⁷Id.

¹⁴⁸Id.

¹⁴⁹Id.

¹⁵⁰Federal road Authority, Systematic study on road safety modernization and transformation, (Amharic version), January 2008

¹⁵¹Id., page 2

public awareness and participation to create a society that is protected from traffic accident are also covered in the study.¹⁵² In order to meet this aim this study tries to analyze foreign countries experience to each area of study.

The study has identified the following main challenges of road safety in the country:¹⁵³

- Lack of effective and sustainable traffic management system.
- Weak encouragement to the parties that works for the improvement of road safety.
- Inefficiency of trained man power, lack of formal and organized public awareness creation and insufficient awareness creation by medias and non inclusion of road safety under high level of educational curriculum.
- weak controlling system on causes of road accident and lack of well organized data on traffic accident.
- Uncomfortable road design for road users and pedestrians and roads are not designed in a way that protects road accidents such as insufficiency of pedestrian walkways and crossings bicycle lanes and crossings and lack of enough traffic signals and lights, road and speed limit signs.
- Insufficient inspection on technical efficiency of imported and assembled vehicles and vehicle maintenance institutions.
- Non-implementation of the rules such as wearing of seatbelts and helmet and absence of a system or standard on the safety requirement of non-motor vehicles while imported or manufactured in the country.

¹⁵²Id.
¹⁵³Id.

- Absence of road-off system of old vehicles.
- Non enforcement of the standard of Annual inspection of vehicles.
- No continuous training to drivers and absence of special training and psychological treatment to drivers who commites continuous faults and absence of central recording system to this.
- Weak controlling of side walk traders.
- Absence of sufficient patrol controlling system on main roads.
- No well organized and sustainable traffic penalty administration system.
- Absence of special monitoring and controlling system on vehicles that results higher accident and
- Lack of good governance and corruption.

This study has gone far in identifying major risk factors of road accidents and main practical challenges of road safety. It also tries to assess good experiences of other countries. However, though FTA is working on the above identified problems still there are challenges of weak participation and collaboration between the stakeholders, sufficient manpower and lack of due attention.¹⁵⁴

Generally, under human rights instruments to which Ethiopia is a party lay positive obligation to protect and to fulfill or promote the right to life by creating policy framework that could prevent RADs. However, the country has neither a national transport policy nor road safety policy rather road safety activities are being done by preparing road safety action plan and

¹⁵⁴Interview with YohanesLema, Road Safety Education and Awareness Directorate Director , at Federal Transport Authority, 25 October 2017

programs. Accordingly, Ethiopia basically does not take adequate measures to guarantee the implementation of right to life with regard to its duty to protect and promote through adopting policy measure to reduce RADs. Consecutively the government should bears this responsibility and adopt both transport and road safety policies that stimulates effective and efficient countermeasures to prevent road accidents and enabled all relevant parties to deliver their contributions in a timely and co-operative manner.

4.3.THE LEGAL FRAMWORK FOR PREVENTION OF ROAD ACCIDENTS

Another measure that a state has to take under the duty to protect and promote is a legislative measure to ensure the right to life including keeping its inhabitants from a threat of road accident. In this regard the Ethiopian government has developed different legislation for the road transport in which different entities assumes the legal responsibilities of ensuring the road safety. The following sections provide the review of the major Federal legislations that govern the road transport of the country as Ethiopia is a federal country. Legislations used in road transport activities in Ethiopia can be categorized in to the following major groups.

4.3.1. TRANSPORT PROCLIMATION NO. 468/2005

A proclamation to provide the regulation of transport was enacted in August 2005 (proclamation 468/2005) which demarcated the roles and responsibilities of the federal and regional transport government agencies.¹⁵⁵ It is proclaimed for the improvement of the transport sector through making the transport service more competitive, safe and efficient as

¹⁵⁵A proclamation to provide for the regulation of transport, proclamation no.468/2005, Federal Negarit Gazeta, 11th year , no.58,6th August, 2005

the transport service plays a great role for the economic and social development of the country.¹⁵⁶

The proclamation empowers the FTA to follow up the provision of safe transport services to the public and harmonize and standardize the nation's road transport system.¹⁵⁷ Its objectives is the promotion of an efficient, adequate, economical and equitable transport system to ensure that public transport services are safe and comfortable to develop domestic and international transport network and to promote the development of all aspects of transport.¹⁵⁸ The general and specific powers and duties of the transport authority are also explained.¹⁵⁹

Generally it is good to have such a law that clearly defines the roles and responsibilities of government institutions that works on the transport system with clear objectives and aims.

However, there are problems with regard to the implementation of this proclamation. Among others lack of due attention to areas that could be a cause for road accidents, problem of capacity building, inadequate research and study centers, weak participation and collaboration between the concerned organs and among the federal and regional transport sectors are the main problems.¹⁶⁰ Also there is an absence of strong follow up of persons and individuals who are engaged in public commercial road transport, weak follow up the importation, manufacture or assembling of vehicles in Ethiopia, weak implementation of directives relating to driving license, the licensing of driving schools and instructors and weak and inadequate supervision of institutions engaged in the annual inspection of vehicles.¹⁶¹ Therefore, due to these challenges of FTA this law is not implemented fully.

¹⁵⁶Id., preamble

¹⁵⁷Id., article 7

¹⁵⁸Id., article 4 and 6

¹⁵⁹Id., article 7

¹⁶⁰*Supra note 154*

¹⁶¹Id.

4.3.2. ETHIOPIAN ROADS AUTHORITY RE-ESTABLISHMENT

REGULTION NO.247/2011

The objectives of ERA are to develop and administer roads and to ensure the maintenance of standards in road construction.¹⁶² It also explains powers and duties, organization of the authority and Powers and Duties of its Board as well.¹⁶³ In addition, this law deals about the financial source of ERA.¹⁶⁴

ERA has the responsibility to ensure the standard of road construction and well networked roads by improving the road network. However, ERA in implementing this proclamation faces different challenges. Even though, there is a department that supervise whether the design of Ethiopian roads take in to consideration of road safety, practically the construction of Ethiopian roads may not fully implement it. For this we could raise various problems which includes lack of commitments of the contractors, capacity and facility constrains and other out of control situations.¹⁶⁵ Also low commitment of higher officials of concerned organs, low quality of roads due to the use of poor materials, absence of effective system that controls road construction supervision consultant, lack of enough traffic safety sign, weak collaboration with other concerning organs, absence of accountability and lack of study that clearly identifies accident area are the main challenges.¹⁶⁶ Therefore, an action should be taken on these major problems of ERA that hinders the implementation its responsibilities and duties.¹⁶⁷ Furthermore, in addition to affirming the above mentioned problems there are also practical challenges of this law such as road safety sign posts will be theft, financial problems as road construction requires huge investment, lack of well standards roads and

¹⁶²A regulation to provide for the Re-establishment of the Ethiopian roads Authority, Regulation No. 247/2011, Federal NegaritGazeta, 17th year, no.81, 8th July,2011, article 5

¹⁶³Id., article 6, 7, and 8

¹⁶⁴Id., article 11

¹⁶⁵Interview with Oumer Ahmed, Legal Service Director , at Ethiopian Road Authority, 27 November 2017

¹⁶⁶Interview with NegatuWedenehe, Quality Assurance Road Inspection and safety Management Directorate Director , at Ethiopian Road Authority, 29 November 2017

¹⁶⁷ Id.

irresponsibility of contractors are included under the challenges of ERA in implementing its duties.¹⁶⁸

4.3.3. DRIVER'S QUALIFICATION CERTIFICATION LICENSE PROCLAMATION NO.600/2008

The prevailing occurrence of traffic accident against humanity and property mainly arises due to the deficiency of issuance of driving license procedure. Therefore, it is important to create a uniform, standard and effective system for the issuance of qualification certification of driving license at national level to have qualified drivers.¹⁶⁹

The purpose of this Proclamation is to ensure that drivers operate vehicles in appropriate condition by acquiring adequate driving skill, to set nationwide driving qualification standard and establish a system for the issuance of driving license certification free from forgery, corruption and bureaucratic red tape and to ensure bilateral and multilateral agreements relating to qualification of driving and movements of traffic on all-weather roads are observed by drivers.¹⁷⁰

In doing so it explains the powers and duties of transport authority.¹⁷¹ It also puts the requirements for a driver's qualification certification license. For instance in the case of motorcycle or automobile driver's qualification certification license, the law requires the completion of fourth grade education.¹⁷² This is lower even in relation to many other professions such as cleaners, guards or home workers as these professions require at least eighth or twelve grade completion. On the other hand, driving requires higher standard of cognitive capacity and responsibility to decide within fraction of seconds than the above

¹⁶⁸Interview with Asechalew Asefaw, Legal Service tem leader , at Ethiopian Road Authority, 01December 2017

¹⁶⁹A proclamation to provide for Drivers Qualification Certification License, Proclamation No. 600/2008, Federal Negarit Gazeta, 14th year , no.59,25th August, 2008, preamble

¹⁷⁰Id., article3

¹⁷¹Id., article 5

¹⁷²*Supra note* 166., article 12 (1)

mentioned professions. Therefore, educational level of drivers should be somehow higher as it is presumed that cognitive capacity of a person increases with the increase of educational level.

Also where a holder of lower qualification certification license wants to obtain a driver's qualification certification license of a different category, the law only requires taking theoretical and practical training and the test specified for such category of license without any prior experience of driving.¹⁷³ Because the higher category of the driving license requires earlier driving experience than lower category as the higher category of driving license requires high responsibility and risk. Because second and above category of driving license should be matured enough to take high level of responsibility and should understand all the situations as the lives of the passengers and pedestrians are at the hands of the driver. Therefore, a great attention should be given to the maturity of the driver as it is one of the contributing factors that make the driver for being the cause of RAD. Moreover, limits must be placed on the duration of journeys made by drivers per day.

In addition, a person holding a foreign or international driving license only requires ascertaining that the government which issued the driving license similarly recognizes Ethiopian driver's qualification certification license.¹⁷⁴ But in addition to this, these drivers at least should be oriented about the situations of country including the conditions of the roads and the behaviors of drivers and road users.

The other critical point is the validity and renewal of driver's qualification certification license. Regarding this the law states that the license of any category is valid for a period of four years and should be renewed for a period of four years and in case of the driver whose

¹⁷³Id., article 7(4)

¹⁷⁴Id., article 15(b)(1)

age is above 55 (fifty five), the license shall be renewed every two years.¹⁷⁵ But this could be seen in relation to the current situation of the Ethiopian roads. Currently the road construction and road systems are booming especially in Addis Ababa. It also could be related with the health condition particularly the sight of the driver within four years. This is a long time as there is no any mechanism to review the health condition of the driver before the lapse of the specified time unless the driver made a medical examination at his/her good will. Therefore, the renewal time of the license should be re-examined considering the current situations.

Regarding practical driving training, apart from having the uniform standard in such as practicing hours, performing the practice is a manual inspection system in which after the practice is done by the trainee the time form is filed by the trainer.¹⁷⁶ This could be a cause for the inefficiency of the trainee and exposed to corruption. Therefore, practical driving training should be under computerized system (software) which could be traceable like that of written exam. Although, there is a uniform standard of training hour which is a total of 20 hours, there are situations in which most of the trainers trains only half an hour (1/2) i.e. a total of 10 practicing hours. So, there should be systematic inspection method of the trainers whether they are properly trains their trainees. In addition, even if the trainers trained for 20 hours, still it is not enough as the more practicing hour is important for the better qualification and effectiveness. Moreover, there should be strong grievance handling system for those who are not properly trained persons.

Generally, this law relates with the human related cause of RADs particularly with drivers which is main factor for RADs in Ethiopia as it takes the highest percentage (> 85%) of all other causes of RADs. Though ERA and other concerned organs are working through issuing different directives and standards and following up the implementation of the same, there are

¹⁷⁵Id., article 19(1)and(4)

¹⁷⁶ Interview with GetachewNegusse, Trainer at Be International Drivers and Mechanics Training Institute, 05 November 2017

still various obstacles that hinder their efforts. One is the gap of the law to govern issues like who is responsible in case of injury or death of a person during the training time: the trainee or the trainer?¹⁷⁷ Also there is no central controlling mechanism or system that can control persons who has multiple driving licenses. In order to have driving license in Addis Ababa, it requires Addis Ababa ID card. This is against an idea of having uniform standard as it is an international profession.¹⁷⁸ Also there is a weak follow up on the implementation of directives relating to the licensing of driving schools, instructors and to driving license.¹⁷⁹ Moreover, absence of clear demarcation between the mandate of Federal and Regional governments, weak collaboration between stakeholders, inability to follow up and control the supervision system of experts as they are not experts of FTA rather representatives of regions, lack of well-educated manpower are also among the main challenges.¹⁸⁰ Furthermore, the problem of the law that relate with the age and educational background of the drivers, issue of injury or death of a person during the training time are included under the main problems for the implementation of the law.¹⁸¹ In addition, as this law is not implemented fully it is difficult to identify all the gaps of this law.¹⁸²

4.3.4. VEHICLE INSURANCE AGAINST THIRD PARTY RISKS PROCLAMATION NO.799/2013

This law is enacted to address the social problem as the occurrence of accidents caused by vehicles are escalating from time to time and results loss of lives, bodily injuries and damages to properties.¹⁸³ It is also important to establish a system for facilitating the provision of

¹⁷⁷Interview with Asefa Ayana, Manager of Be International Drivers and Mechanics Training Institute, 27 November 2017

¹⁷⁸Id.

¹⁷⁹Supra note 138

¹⁸⁰Interview with Tamiru Tulu, Drivers Training Institutions follow up and controlling Team Leader, at Federal Transport Authority, 04 December 2017

¹⁸¹Id.

¹⁸²Id.

¹⁸³A proclamation to provide for Vehicle Insurance Against Third Party Risks, proclamation no. 799/2013, Federal Negarit Gazeta, 19th year, no.53, 23th July, 2013, preamble, paragraph 1 and 2

emergency medical treatments to victims of vehicle accidents, and to require owners of vehicles to have third party insurance coverage against third party risks.¹⁸⁴

Besides the prevention of RADs, it is paramount to compensate those who are victims of road accident. This law is also important to preserve loses of lives as it helps to avert the deaths of the injured person through medical treatment.

This proclamation prohibits driving a vehicle without a third party insurance coverage. However, the Ministry of Transport is given the mandate to determine vehicles to operate on the road without requiring compulsory insurance coverage.¹⁸⁵ The policy shall cover the compensation payable for death, bodily injury, damage to property and the expenses of emergency medical treatment arising from the insured vehicle.¹⁸⁶ However, the policy ignores death or bodily injury or damage to property of the insured person or a person hired by the insured person and occurred in the course of such employment.¹⁸⁷

But as far as we are talking about preserving the losses of lives we should not discriminate among them based on being an insured person or a person hired by the insured person.

Regarding the extent of Liability, the proclamation limits the amount of third party compensation not to exceed ETB 40,000 in the case of death, ETB 15,000 in the case of injury as determined by a medical board while it sets ETB 100,000 in the case of damages of property.¹⁸⁸ Surprisingly the value given to a person life which is incomparable with property is much less than the value given to a property though it is allowed to claim in accordance with other relevant laws. Also the amount of medical coverage is still too small to cover the medical treatment especially in private health center with current situations. Therefore,

¹⁸⁴Id., preamble, paragraph 3 and 4

¹⁸⁵Id., article 3

¹⁸⁶Id., article 4(2)

¹⁸⁷Id., article 7

¹⁸⁸Id., article 16 and 27

though the victim can claim compensation using extra contractual liability at least the law should put an exception to which the victim can claim to the extent he/she incurs for medical expenses and the general compensation in case of death.¹⁸⁹

4.3.5. VEHICLES IDENTIFICATION, INSPECTION AND REGISTRATION PROCLAMATION NO.681/2010

The deficiency of vehicles registration and annual inspection procedure is one of the causes for the prevailing occurrence of traffic accident against humanity and property. Therefore, Vehicles Identification, Inspection and Registration Proclamation No.681/2010 is enacted to set internationally acceptable standard to implement uniform vehicles registration and annual inspection procedure at the national level.¹⁹⁰

This law deals about the requirement of registration and how to get title certificate book for the vehicle from the appropriate organ in order to operate the said vehicle on any road.¹⁹¹

Regarding the requirement of inspection of a vehicle an authorized inspector of an inspection station among other, shall inspect the vehicle's road worthiness in performing, in a safe manner, the purposes for which it is registered and the vehicle's compliance with the standards, set in accordance with the law.¹⁹²

The law puts the mechanism of conducting a special inspection, where it finds it necessary.¹⁹³ However in addition to a special inspection, it will be better if there is a sudden inspection system to every vehicle.

¹⁸⁹Interview with Yesuf Mohammed, Judge at Federal High Court, 02 December 2017

¹⁹⁰A proclamation to provide for Vehicles Identification, Inspection and Registration, Proclamation No. 681/2010, Federal Negarit Gazeta, 23rd July, 2010, available at goalgoole.com/proclamation-no-6812010-vehicles-identification-inspection-and-regis, preamble

¹⁹¹Id., article 4 and 6

¹⁹²Id., article 29

¹⁹³Id., article 37

In implementing its responsibility, FTA under the Directorate of Vehicle Qualification Certification issues different directives and standards.¹⁹⁴ This includes directives relating to the certification of the technical competence, licensing and grading of garages engaged in the repair and maintenance of vehicle, and directive for registration and inspection of vehicles.¹⁹⁵ The Directorate also follows up and supervises the implementation of these directives and determines the operations, equipment, weight and size, number of passengers and load of vehicles using the road and issue approval certificate for registration.¹⁹⁶ It also follows up the importation, manufacture or assembling of vehicles in Ethiopia, supervise and inspect institutions that undertake annual technical inspection to motor vehicles of the Federal Government and take measures on those institutions that fail to perform their responsibility accordingly.¹⁹⁷

However, there are practical constrains on the implementation of FTAs' duty which contains absence of online system that could control the inspection competence of inspecting institutions i.e. whether they are actually inspecting vehicles as per the standard and their inspecting machines are working or not.¹⁹⁸ In addition, there is a lack of skilled man power and weak controlling system.¹⁹⁹ Therefore, though the authority is doing a lot for the implementation of this law, we cannot say that FTA is effective in implementing its responsibility under the law.²⁰⁰

This law also deals with the penalty on the person who violates the requirement of the law.²⁰¹ But its maximum fine is limited to up to 5000 birr and simple imprisonment not exceeding two years, or both unless punished by criminal code. On the other hand, any personnel of the

¹⁹⁴Interview with AdmasuAsefa, Directorate of Vehicle Qualification Certification Director, at Federal Transport Authority, 04 December 2017

¹⁹⁵Id.

¹⁹⁶Id.

¹⁹⁷Id.

¹⁹⁸Interview with EshetuWondemu, Team Leader of Vehicle Qualification Certification Directorate, at Federal Transport Authority, 04 December 2017

¹⁹⁹Id.

²⁰⁰Id.

²⁰¹Id., article 48 (1) and (2)

appropriate organ or a delegated organization who issues or causes the issuance of an inspection certificate with respect to a vehicle that has not fully met the prescribed inspection criteria shall, upon conviction by a court and unless punishable with higher penalty pursuant to the provisions of the Criminal Code, be punished with a fine not exceeding Birr 3,000 and simple imprisonment from six months to two years.²⁰² However, practically the punishment under the criminal code does not have a deterrence effect as the final decision of the court results the suspension of the penalty.²⁰³

Therefore, though the FTA is working on the implementation of this law still a lot has to be done on the problems of the Authority especially in relation to the controlling mechanisms of inspecting institutions which is the main cause for the ineffective implementation of this law.

4.3.6. THE ROAD TRANSPORT TRAFFIC CONTROL REGULATION NO. 395/2017

This regulation is enacted amending the road transport traffic control regulation No.208/2003 to regulate all aspects of traffic requirements of today as the previous regulation is inadequate to govern different faults that are happening now.²⁰⁴ It is also proclaimed to preserve the outrageous increasing of loss of lives bodily injuries and damages to properties from time to time.²⁰⁵ It regulates the traffic operation and safety precautions such as traffic signals, traffic rules, vehicle emissions, noise, drunk driving, pedestrian's priority on pedestrian crossings, pedestrian road use, carrying passenger on trucks, use of roads by animals, road signs, safety and lights.²⁰⁶

²⁰²Id., article 48(3)

²⁰³Interview with MineyebelAyenew, Attorney General at Federal Attorney General, 07 December 2017

²⁰⁴Council of ministers regulation to provide road transport traffic control Amendment regulation, Regulation No. 395/2017, Federal NegaritGazeta, 26th, December, 2017, preamble

²⁰⁵Id.

²⁰⁶Id.

This brings new concepts that were not governed before that relates with the human related causes of RADs as it provides clear and comprehensive law which is very important to reduce RADs. However, the level of alcohol is not defined by this regulation too. Also Seat-belt wearing should be mandatory for both front and rear-seat occupants as it reduces the risk of fatality among drivers and front-seat occupants. This law should also prohibit the use of both hand-held and hands-free mobile phones. As a whole, as this law is a recent law and not implemented fully it is difficult to assess its effectiveness at this stage.²⁰⁷

4.3.7. ETHIOPIA'S SPEED LIMITS REGULATION NO. 361/1969

According to this regulation, the maximum speed limits are 100, 70, and 60 km/hr. for private cars and motorcycles, 80, 60, and 50 km/hr. for commercial vehicles, 70, 50, and 40 km/hr. for motor vehicles and trucks with semi-trailers and trailers on primary, secondary, and feeder roads respectively outside urban areas.²⁰⁸ Within urban areas, the speed limits are 60, 40, and 30 km/hr. for private cars and motorcycles, single unit trucks with maximum gross weight of 3,500 kg and public transport vehicles, and single unit trucks exceeding 3,500 kg and trucks with trailers respectively.²⁰⁹ The regulation also states that these speed limits shall be reduced where public safety requires for any or all vehicles on any particular roads by the road authority or local municipality. Despite the fact that the speed limits are reasonable, the regulation is not enforced and operating vehicle speeds are much higher than what is stated in the regulation.²¹⁰

Practically, most drivers are not driving within the speed limit of the law rather the mandate is left to the traffic police as the system is manual. In Ethiopia except some selected areas of

²⁰⁷*Supra note 154*

²⁰⁸Council of ministers regulation to provide Ethiopia's Speed Limit Regulation, Regulation No. 361/1969, Federal NegaritGazeta, 1969

²⁰⁹*Id.*

²¹⁰*Supra note 6, page 28*

Addis Ababa there is no enough camera or radar to control the speed of the drivers.²¹¹ However, publicizing the presence of speed cameras or radar will increase compliance with speed laws and reduce the incidence of crashes resulting in death. In addition speed-limiting devices built into vehicles are also effective for the reduction of RADs. Therefore, unless there is no systematic controlling and inspection mechanism, it will be difficult to reduce RADs that comes out from driving out of the legal limit.

4.3.8. THE CRIMINAL CODE OF THE FEDERAL DEMOCRATIC REPUBLIC OF ETHIOPIA

In addition to the above road transport related laws, the 2004 criminal code applies in case of deaths resulting from road accidents. Article 543(2) of this law states that “*Where the negligent homicide is committed by a person, such as a doctor or driver, who has a professional or other duty to protect the life, health or safety of another, the punishment shall be simple imprisonment from one year to five years and fine from three thousand to six thousand Birr.*”²¹² Also sub article 3 of the same provision put the punishment “*rigorous imprisonment from five year to fifteen years and fine from ten thousand to fifteen thousand Birr where the criminal has negligently caused the death of two or more persons or where he has deliberately infringed express rules and regulations disregarding that such consequences may follow or even where he has put himself in a state of irresponsibility by taking drugs or alcohol.*”²¹³

As indicated above, the law is not designed not only to punish the offender after the violation of the law but also to deter traffic violations. Deterrence is particularly effective when drivers perceive they are likely to be caught and punished and any punishment administered should

²¹¹*Supra note 154*

²¹²A proclamation to provide for The Criminal Code of the Federal Democratic Republic of Ethiopia, Proclamation No. 414/2004, Federal Negarit Gazeta, 2004, article 543(2)

²¹³*Id.*, article 543(3)

be severe and administered in a timely fashion. But the law puts lower penalty in case of negligent homicide on a driver who has a professional duty to protect the life or safety of people.²¹⁴ In addition, the practical implementation of the law is even less than this. According to the Federal Supreme Court penalty deciding Directive, the calculation of the penalty for the violation of article 543(3) of this law will be lower as it finally fails up to 3 years simple imprisonment.²¹⁵ And if the criminal pays compensation almost in all cases the penalty will be suspended and the criminal will be released especially even without finishing the lower decision and finally the deterrence effect of this law will not be achieved.²¹⁶ Also the Federal High Court files in relation to negligent homicide shows similar scenarios.²¹⁷ Above all the death of the innocent person will be left without justice and it will not deter wrongdoers from committing other crimes and will not serve as a warning to prospective wrongdoers.²¹⁸ On the other hand the decision of Federal Supreme Court cassation bench under its legal interpretation excludes article 543(3) from concurrent crimes (in the case of a criminal act which, though flowing from the same criminal intention or negligence and violating the same criminal provision, causes the same harm against the rights or interests of more than one person) in case between Public Prosecutor vs. Addisu Gemechu.²¹⁹ In this case the accused who was a driver was prosecuted for the crime of heavy negligent homicide under article 543(3) for the death of two persons and for the crime of injuries Caused by negligence under article 559(2) for the injury of seven people that were happened while they were travelling using public transport.²²⁰ Lower courts (the Amhara region higher and Supreme courts) made the accused guilty for concurrent crimes i.e. two counts under article 543(3) and seven counts under 559(2) for the death of two persons and the injury of Seven

²¹⁴Interview with RobelRegasa, Judge at Federal first instance court, 02 December 2017

²¹⁵Interview with TemesegenLapiso, Attorney General at Federal Attorney General, 07 December 2017

²¹⁶Interview with LidiyaTeseafahun, Attorney General at Federal Attorney General, 02 December 2017

²¹⁷Federal High Court, data recording and ICT Department,05 December 2017

²¹⁸*Supra note* 203

²¹⁹Public Prosecutor vs. AddisuGemechu, Federal Supreme Court cassation bench, February 21, 2017(reviewing the decision of lower court)(unpublished)

²²⁰*Id.*

people. However, the cassation bench of the Federal Supreme Court repealed this decision and considers the above mentioned concurrent crimes as one crime for the death of two persons and one crime for the injury of seven persons.²²¹ This legal interpretation contravenes the principle of concurrent crimes and other courts continuous to use this cassation interpretation of the law as a law. Therefore, the deterrence effect of the law will not be achieved and others will not learn from such punishment.²²²

To recap, in discharging its responsibility, Ethiopia took different legislative measures to protect its inhabitants from a threat of their life as a result of road accident. As already seen above Ethiopia have laws that could govern road related issues though the laws are not comprehensive enough. As discussed above, there are many issues with the implementation and also there exist gaps in the laws that have to be filled. Therefore, the government of Ethiopia has the obligation to work on the implementation problems and the gaps of the laws.

4.4.INSTITUTIONS

Another duty of a state relates to the obligation to fulfill human rights, which includes the obligations to promote the right to life by creating an institutional frame work.²²³ An effective institutional framework is important for the development and implementation of policies and programs to prevent road traffic injuries. The government of Ethiopia has the responsibility to advance institutional reform to prevent road traffic injuries and address road accidents as it affects the lives of many people and the over all development of the country.

The main governmental institutions concerned with road safety include Ministry of Transport (hereinafter MOT), FTA, ERA, Road Fund, Ministry of Federal Affairs, FPC, Regional Rural

²²¹Id.

²²²Interview with Tomas Brehane, Attorney General, at Federal Attorney General, 30 October 2017

²²³*Supra note 1*, page 12

Road Authorities, Regional Transport Bureaus, Regional Police Commissions, and City Administrations.²²⁴

4.4.1. MINISTRY OF TRANSPORT

MOT is one of the departments of the executive branch of the Ethiopian government.²²⁵ It supervises and coordinates institutions of transport sectors including FTA, ERA and Office of Road Fund Agency.²²⁶

It has the vision” to see the people of Ethiopia enjoy the access of reliable transport services by 2025” and the mission of “Building the capacity of the sector; leading and backing the participation of the private sector as well as scaling up efficient and fruitful transport network in an equitable manner across the nation within a short period of time.”²²⁷

Even though having such a vision and mission is important to create comfortable and efficient transportation system an attention should be given to the safe transportation system that could reduce RADs. And the vision and the mission of MOT should be able to address the current situation of road accident. In doing so, the vision and mission of MOT should include the safer roads and placing priority on preventing death and serious injury, with consideration to how it could be achieved.

On the other hand, Article 17 of proclamation no 471/2005 explains the power and duties of MOT that includes the power to initiate policies and laws, prepare plans and budgets, and upon approval implement same, ensure the enforcement of federal laws and the promotion of

²²⁴*Supra note 6*, page 30

²²⁵Ministry of transport and communications (Ethiopia), Wikipedia available at <http://en.Wikipedia.org/.../Ministryof Transport and communication> (accessed 21 May 2017)

²²⁶*Id.*

²²⁷Ministry of transport available at www.motr.gov.et/home/ (accessed 21 May 2017)

the expansion of transport services.²²⁸ Regarding safe transportation system MOT transfers the power to NRTSC.

4.4.2. THE NATIONAL ROAD TRAFFIC SAFETY COUNCIL

The Council of Ministers Regulation No. 205/2011 established the NRTSC on 30 March 2011.²²⁹ Structurally the NRTSC is chaired by the State Minister of Transport and the head of the Office of the NRTSC is accountable to the NRTSC chair, and chairs the Technical Committee.²³⁰ Members of the council are individually appointed by the Office of the Prime Minister, and the Council is accountable to the Ministry of Transport.²³¹ These members are the State Minister of Transport (Chair), State Minister of Communications, State Minister of Education, State Minister of Health, State Minister of Justice, State Minister of Urban Development, Housing and Construction State Minister of Finance and Economic Development, Director General of ERA, Director General of the Ethiopian Road Fund and Federal Police Commissioner.²³² It also works with these federal government agencies as a partner.²³³

The NRTSC have the powers and duties to: ²³⁴

- Formulate national road traffic safety plans and programs,
- Coordinate and/or encourage government sector and private sector participation in road traffic safety,

²²⁸A proclamation to provide for the definition of powers and duties of the executive organ of the federal democratic republic of Ethiopia, proclamation no. 471/2005, Federal Negarit Gazeta, 12th year, no.1, 17th November, 2005, article 17

²²⁹Council of ministers regulation to provide for the establishment of national road traffic safety council, Regulation No. 205/2011, Federal Negarit Gazeta, 17th year, no.30, March 30th, 2011, article 3

²³⁰National Road Safety management framework, *National road traffic safety council of Ethiopia*, Available at <https://www.ssatp.org/.../roadsafety/NRTSCManagementFrameworkFin> (accessed on May 24, 2017)

²³¹Id., page 7

²³²Id.

²³³Id. page 26

²³⁴Supra note 229, article 5

- Evaluate the effectiveness of existing laws, standards and directives regulating roads, vehicles and road users, and propose safety improvements and reviews them
- Cooperate with the concerned organs and provide the necessary assistance to promote road traffic safety through forums, formal and non-formal education, public participation, and mass media promotion;
- Facilitate and organize forums on the prevention of RADs and evaluate and report to the Ministry on strategy Set up technical committees consisting of members from the concerned organs and coordinate their activities, as may be necessary to improve road traffic safety program implementation by government agencies and Carry out other related activities to attain its objectives.

The Council also established Technical Committees to provide advice to the Council. Concerned government organs and non-governmental organizations have a legal obligation to cooperate with the Council in the implementation of traffic safety policy and strategy.²³⁵

The NRTSC has an Office within the Ministry that serves as the secretariat of the Council.²³⁶

In addition, the NRTSC also works with nine regional road authorities and police authorities, and their counterparts in the cities of Addis Ababa and Dire Dawa.²³⁷ These institutions have an important role as they are complementary to the role performed by Federal government agencies. Furthermore, the private sector and civil society also have important roles to promote a consistent road traffic safety approach throughout all aspects of Ethiopian People.²³⁸

²³⁵Id., article 9

²³⁶Id., article 8

²³⁷Supra note 230, page 9

²³⁸Id.

In discharging its responsibility and duties NRTSC has prepared 10 years strategic action plan.²³⁹ It establishes national Road safety management frameworks that identify seven institutional management functions and tasks of a lead agency for road safety, and for key agencies involved in delivery of road safety and it is aimed to design evidence based interventions which will address the desired road safety results.²⁴⁰

Eventhough the National Road Safety Strategic Plan of Ethiopia 2011 to 202 includes a road safety vision “to stop fatal crashes on the nation’s roads”, and a goal of halving road fatalities by 2020, this will be extremely difficult to achieve given current safety management and policy arrangements, particularly given considerable population and motorization growth rates.²⁴¹

Although the NRTSC is a very young organization, which is at early stage of establishment and consolidation, it is responsible for overall coordination of road safety in the country. This naturally influences the NRTSC’s ability to drive effective high-impact road safety activities of the country. However, structurally the NRTSC is well organized with clear power and responsibility.

As challenges to this institution there are insufficient road safety commitment, delay in formalizing a permanent solution for high-level road safety coordination and cooperation, lacking the needed resources to act effectively, weak links between federal and regional road safety bodies.²⁴² Also several bodies with road safety responsibility have insufficient personnel with inadequate road safety knowledge, know-how and training.²⁴³ Furthermore, road safety planning is not result focused i.e. it is characterized by lack of specific targets and

²³⁹Supra note 142

²⁴⁰Id, page 7

²⁴¹Id, page 24

²⁴²Sub-Saharan Africa Transport policy program, *road safety program phase 1*, completion report, (April 2013) available at [http://documents.worldbank.org/curated/en/508641468001789019/Sub-Saharan-Africa-Transport-\(accessed 23 October 2017\)](http://documents.worldbank.org/curated/en/508641468001789019/Sub-Saharan-Africa-Transport-(accessed%2023%20October%202017))

²⁴³Id.

established procedures for monitoring and evaluation.²⁴⁴ As head of NRTSC office explains under section 4.1 among others the main challenge of the NRTSC is being dependent on MOT and consideration of as one department of MOT though it is working for its independence.²⁴⁵

Therefore, the writer suggests that the NRTSC should conduct a comprehensive, result-oriented demonstration project to improve road safety of the country. It should also give a priority to Promote road safety, traffic management and post-accident trauma care, ensure availability of adequate trained manpower, and promote sustainable road transport with collaboration to other stake holders. Additionally, NRTSC should put its focus on the difficulties listed above and tackle them for successful results. But this does not mean that MOT should leave all road safety issues to NRTSC rather it should give enough attention to safe transportation system and should be included under the duties and responsibilities of the ministry. Therefore, the issue of safe transportation system should be included under the vision, mission, duties and responsibilities as well the objective of MOT in order to solve the problems of road safety.

4.4.3. TRANSPORT AUTHORITY

FTA is responsible for regulating transport services of road, rail, and water transport in the country.²⁴⁶ The authority is missioner to ensure comfortable and safer transport service to the public.²⁴⁷

Proclamation no. 468/2005²⁴⁸ defines the responsibilities of the FTA including;

²⁴⁴Id.

²⁴⁵*Supra note* 144

²⁴⁶*Supra note* 6, page 32

²⁴⁷Federal Transport Authority, Mission of Federal Transport Authority, 29 September 2017

²⁴⁸*Supra note* 155, article 7

- Determination of the operation, and capacity of vehicles using the road and issue approval certificate for registration.
- Registration and annual technical inspection of motor vehicles.
- Standardization of the importation or manufacture of motor vehicles, certification of the technical competence, licensing, and grading of garages engaged in the repair and maintenance of vehicles and
- Licensing of drivers and driving schools and instructors.

In order to improve the shortcomings of the transport system a new proclamation no. 600/2008 was enacted in line with transport proclamation 468/2005.²⁴⁹ The new proclamation has given the FTA the powers and duties to set detail standards, supervise and issue recognition certificate to the licensing body, prepare curriculum jointly with the appropriate technical and vocational training agency for driver training institutions, determine the quality, content, and form of driver's qualification certification license book free from forgery, and supervise the implementation of the provisions of the proclamation.²⁵⁰ In doing so, the FTA driver's qualification certification Directorate enacted a directive that set a standard on the requirements of driving license to the licensing body and prepared curriculum for driving training institutions.²⁵¹

Within the Authority, directorate of road traffic safety Education and Awareness division is responsible for road safety related activities. Apart from this division; Vehicle qualification certification, drivers qualification certification, and road traffic safety and laws implementation technological support and monitoring.²⁵² These Directorates undertake road

²⁴⁹*Supra note 169*

²⁵⁰*Id.*, article 5

²⁵¹Federal Transport Authority, Drivers Qualification Verification Directorate, directive no.01/2007,(Amharic version), March 2007

²⁵²*Supra note 140*

safety related activities including responsibilities in vehicle inspection and registrations, driver training and licensing and road traffic safety.²⁵³ This organization setup will enable the authority to give overall guidance to harmonize and standardize the transport system nationwide in general and the road safety activities in particular.²⁵⁴

Although the main role of the FTA is to promote an efficient and equitable transport system the Authority is facing poor road safety record, absence of modern technology and skilled man power for inspection of vehicles, the poor condition of many old vehicles and lack of capacity for effective enforcement of driving codes and road laws by the traffic police are mentioned by the Transport Authority.²⁵⁵

4.4.4. THE ETHIOPIAN ROADS AUTHORITY

ERA is re-established by regulation No. 247/2011 with the objective to develop and administer highways, and to ensure the standard of road construction.²⁵⁶ The construction of standard roads is important to a successful road safety and reduces road hazards and promotes the safety of road users. Moreover, road related technologies increase road safety while reducing fatal accidents.

ERA is also responsible for planning and formulating long and short term plans and programs for road construction, design, maintenance of trunk and major link roads and assumes the duty of expanding and maintaining the federal road network to an acceptable standard and condition.²⁵⁷

This requires effective engineering plans that consider both infrastructure and technology. A well designed infrastructure reduces road hazards and promotes the safety of road users. In

²⁵³Id.

²⁵⁴Supra note 6, page 32

²⁵⁵Supra note 154

²⁵⁶Supra note 162

²⁵⁷Supra note 6, page 30

addition, vehicle and infrastructure related technologies increase road and vehicle safety while reducing RADs.

The authority has a vision to “assure the provision of an adequate and high quality road network to Ethiopian and open up all potential development areas in all parts of the country” and has the mission to” provide safe, comfortable and adequate road infrastructure to support the socio-economic development of the nation and save road users by improving the condition of roads, expanding the network and preserving road asset.”²⁵⁸ Its goals are improving transport operating efficiency and reducing road transport costs, providing access to rural, neglected and food-deficit areas, and developing institutional capacity of the sector.²⁵⁹

The development of a well-planned infrastructure is important to achieve vision, mission and goals of ERA as it contributes for the improvement of road safety that could reduce the number of deaths on roads. This is through improving road designs including the strategic allocation of roadside-barriers, creation or improvement of pedestrian walkways and crossings, creation or improvement of bicycle lanes and crossings, well-planned allocation of traffic signals, road and speed limit signs, among others. Also Infrastructure-related technology used on the roads, for example advanced radars and speed cameras also plays a great role for the reduction of RADs.

Pursuant to article 6 of the same proclamation, the authority, among others, has the powers and duties to:²⁶⁰

- 1) Initiate policies and laws relating to roads and the Authority;
- 2) Prepare or cause the preparation of designs and feasibility, environment and other related studies required for road works;

²⁵⁸Ethiopian Roads Authority available at www.era.gov.et/web/guest/about-us (accessed May 24, 2017)

²⁵⁹Id.

²⁶⁰*Supra note* 162, article 6

- 3) Prepare coordinated national road network plan and distribute same to the concerned organs;
- 4) Prepare or cause the preparation of contracts for road works and consultancy services, enter into such contracts , and supervise or cause the undertaking of supervisions to ensure the road works are executed as per the terms of their respective contract;
- 5) Cause the preparation and placement of road traffic safety signposts;
- 6) Enforce vehicle weight regulations on roads;
- 7) Remove properties unlawfully placed within the right way of roads;
- 8) Train manpower required for the development of roads as necessary;
- 9) Protect roads from damage and abuse, remove and cause to remove obstructions from roads.
- 10) Perform other functions as are required for the attainment of its objectives.

Regarding the implementation of its responsibility, ERA has performed the following main activities:²⁶¹

- Differentiating hazardous roads and an action is taken in Addis Ababa and southern region
- It established Departments for the assessment of roads design, construction and maintenance Under ERA and Addis Ababa roads Authority;
- It, through Amhara, Southern and Tigray Regions road safety offices, conducted a study and took an action on hazardous roads.

According to the interviews undertaken with different officials and experts at ERA, it is undeniable fact that ERA is thriving to ensure road safety in order to reduce RADs. However,

²⁶¹Supra note 142, page 27

challenges were raised by the interviewees in addition to the problems mentioned under section 4.2.2. This includes lack of enough practical researches relating to road conditions and lack of adequate expertise. Limited availability of road marks, zebra, sidewalks, traffic lights and road signs, speed brakes and other road safety protection methods on roads are also among the gaps. Furthermore, lack of road safety features such as identification and elimination of hotspots and delays in maintaining of damaged roads are identified as problems that are contributing to high risk of collisions and road accidents. In conclusion, ERA has set up achievable goals and workable principles in the re-establishment proclamation despite implementation challenges which the writer believes that they are not impossible to overcome.

4.4.5. THE FEDERAL POLICE COMMISSION

FPC is entrusted, among other functions, with the management of road traffic and enforcement. The Regional Police Commissions also share these functions in the respective regions.²⁶² Central Information and crime Intelligence Directorate and department of road traffic safety management sections are the main organs of the commission that are mandated to handle road traffic cases.²⁶³ The Commission at federal and regional levels works in collaboration with other institutions particularly in collecting and recording of RADs, injuries and causes of road accident data.²⁶⁴

4.4.6. OTHER INSTITUTIONS

As the issue of road safety is multi-sectorial, it requires the involvement of other related sectors such as; the Ministry of Health and Health Bureaus at regional levels have vital roles

²⁶²Addis Ababa Chamber of Commerce, *the Management of Commercial Road Transport in Ethiopia*, (May 2009) available at www.ethiopianchamber.com/.../the-management-of-commercial-road-transport-in-eth

²⁶³Interview with Commander EshetuFita , central Information and crime Intelligence Directorate vice Director, at Federal police commission, 07 June 2017

²⁶⁴Id.

in providing emergency medical treatments for victims of traffic accidents.²⁶⁵ A non-governmental organization like the Ethiopian Red Cross Society provides emergency transport and health services for injuries.²⁶⁶ The Ministry of Education at the federal level and Education Bureaus at the regional level also play important role in creating traffic safety awareness to students and school community.²⁶⁷

Nevertheless, the writer had learned from the interviews undertaken with experts and officials of different stakeholders that one of main challenges commonly raised is lack of inter-sectorial coordination among key actors. As mentioned above a number of efforts are ongoing by different sectors around road traffic accidents to reduce deaths. However there is lack of integrated system and structure that can ensure accountability and coordinated effort among actors. Therefore, setting up a workable and institutionalized system that can embrace all modalities of reducing RADs is inevitable in order to meet targeted goals in a far better way.

The above institutional measures taken by different legal authorities show that the state does have a role to play in protecting the right to life of its inhabitants from road accidents. However, not doing so within reasonableness should amount to state failure. This could legally amount to a violation of the right to life by government authorities. This is especially so where the loss of life happens because of that each governmental authority fails to implement its responsibilities under the law and does not undertake any effective prevention measures. For instance, ERA is dedicated to road safety as it controls over roads and has the power and responsibility to intervene on the issue of roads. Therefore, as a responsible entity ERA should take seriously its responsibility to ensure that the roads are safe and not killing

²⁶⁵Supra note 6, page 35

²⁶⁶Id.

²⁶⁷Id.

people by being a cause to accidents. Accordingly, the state should respect and refrain from interfering with the enjoyment of the right to life indirectly.

4.5.CONCLUSION

All human rights are universal, indivisible, interdependent, and interrelated and should be promoted and implemented in a fair and equitable manner, without prejudice to their implementation. Hence the right to life, as threatened by road accidents, is just as important as the right to life as threatened by other sources and should be underlined by promoting it as a human rights issue, in the course, promoting the right to life. Also it is important that the state should take RADs as a human rights issue because it is not only a right to life issue but also a right to dignity, right to security of person, right to health, and a right to freedom of movement issue.²⁶⁸

The Ethiopian government therefore, as already discussed above, under binding international human rights law obliged to protect (prevent third parties from taking life or destroying the quality of it) and promote or fulfill the right to life and prohibit unlawful deprivation of this right, including with regard to RADs and injuries. Although state will not intentionally kill people through accidents, there is an omission by the state when it fails to take an action to stop the loss of life where it was reasonably capable and mandated to, the state can and should be held accountable for the violation.

The Ethiopian government must take positive action to facilitate the enjoyment of the right to life. Although the country has neither transport nor national road safety policies there is a strategic action plan of road safety. The country also undertakes legislative and institutional measures. However, as already noted, still there exist gaps in the implementation of the laws and various problems in the institutions. Therefore, all stake holders are required to

²⁶⁸Supra note 19, page 18

implement their duties and responsibilities for the effective protection of a threat of life. It should begin with creating awareness about RADs are human rights issue, enacting effective laws and policies that encourage and facilitate the non-violation of the right to life with regard to RADs. An effective institutional framework should also be created for the development and implementation of policies and laws to prevent road accidents. As whole since a state have the power and the resources to prevent road accident deaths from happening at disproportionate rate an effective and efficient countermeasures have to be undertaken to the problems and all relevant parties should be able to deliver their contributions in a timely and co-operative manner. Moreover, deaths due to road accidents can be drastically reduced through a political commitment, a comprehensive strategy, a clear vision, a concrete plan, suitable institutional development and legal framework, coordination, and a careful and critical evaluation of measures and their effectiveness.

CHAPTER FIVE

CONCLUSIONS AND RECOMMENDATIONS

5.1.CONCLUSIONS

Since Ethiopia has ratified numerous international human rights instruments that recognize the right to life as a fundamental right, the government must ensure that it respects, protects and fulfills this right. Also the right to life is expressly recognized under the 1995 Constitution. However, RTAs are a major cause for a significant loss of lives in Ethiopia that results in denial of the right to life. But the issue of RADs is not considered in human right lens. Also it remains to be one of the critical problems of the road transport of Ethiopia as it still places Ethiopia on highest rank of the international road safety scene.

Ethiopia has no comprehensive and formal transport policy and strategy that embrace road accident concerns. However, looking at the extent and magnitude of the problem, the Ethiopian government has adopted a 10 year strategic action plan, different legislations and institutions that improve the national road safety crisis. But, NRTSC that follows up the implementation of this action plan is not an independent institution rather it is set up as a subordinate department in the ministry of trade. This makes NRTSC incapable to control and monitor other stakeholders while discharging their responsibilities in the implementation of the action plan. Also all stakeholders are not working in collaboration with the council as they are not attending quarter meetings and submit their planning and reporting documents have been challenges for the implementation of the action plan. Moreover lack of enough attention by the government, weak system, loss coordination, financial constraints and lack of well-educated man power seriously drags NRTSC to implement the action plan.

The major RTLs and regulations used in Ethiopia are generally good enough to govern much of road accident related matters as they aim at road safety. They can also reduce RADs through controlling and preventing causes RADs. For instance Ethiopian Roads Authority Re-establishment Proclamation No. 247/2011 ensures the standard of road construction and well networked roads and the construction of standard roads reduces the situation of defective Road which is one of the causes of RADs. However, in implementing this law ERA faces different challenges. Even though, there is a department that supervises the design of Ethiopian road safety, practically the construction of Ethiopian roads may not fully implement it. Also there is lack of commitments of the contractors, capacity and facility constrains and other out of control situations. Furthermore, low commitment of higher officials of concerned organs, low quality of roads due to the use of poor materials, absence of effective system that controls road construction supervision consultant, lack of enough traffic safety sign, weak collaboration with other concerning organs, absence of accountability and absence of study that clearly identifies accident area. Moreover, there are practical challenges in implementing this law such as road safety sign posts will be theft; financial problems as road construction requires huge investment, lack of well standards roads and irresponsibility of contractors are included under the challenges of ERA in implementing its duties.

Driver's qualification certification license Proclamation No.600/2008 is important to create a uniform, standard and effective system for the issuance of qualified driving license at national level. This reduces the prevailing occurrence of traffic accident against humanity as it is mainly arises due to the deficiency of issuance of driving license procedure. However, practically drivers are not acquiring adequate driving skill to achieve safe transport service as there are still some problems in relation to educational level of drivers, uniform criteria for all

categories of driving license, renewal of license, practicing hours of training and other ungoverned issues which are dealt under chapter four of this thesis.

In addition, a person holding a foreign or international driving license is directly allowed to drive in Ethiopia even without any orientation about the situations of country including the conditions of the roads and the behaviors of passengers. Moreover, there is no strong grievance handling system for those who are not properly trained persons. There are also other related problems raised by FTA and training institutions. One is the gap of the law to govern issues like who is responsible in case of injury or death of a person during the training time: the trainee or the trainer? Similarly there is no central controlling mechanism or system that can control persons who has multiple driving licenses. Furthermore, there is a weak follow up on the implementation of directives relating to the licensing of driving schools, instructors and to driving license. Moreover, absence of clear demarcation between the mandate of Federal and regional governments, weak collaboration between stakeholders, inability to follow up and control the supervision system of experts as they are not experts of FTA rather representatives of regions, lack of well-educated manpower are included among the main challenges.

Moreover, Vehicle insurance against third party risks Proclamation No. 799/2013 is designed to compensate third parties and covers emergency medical treatment. However, the amount of compensation and emergency medical treatment coverage is significantly limited. Also the penalty it puts on accused is disproportional with the consequences of the violation. In addition, the criminal law puts lower penalty on negligent homicide on a driver who has a professional duty to protect the people life that he/she is responsible.

Vehicles Identification, Inspection and Registration Proclamation No.681/2010 is enacted to set internationally acceptable standard to implement uniform vehicles registration and annual

inspection procedure at the national level. However, FTA faces practical constraints on the implementation of this law that contains absence of online system that could control the inspection competence of inspecting institutions i.e. whether they are actually inspecting vehicles as per the standard and their inspecting machines are working or not. In addition, there is a lack of skilled man power and weak controlling system. Therefore, though the authority is doing a lot for the implementation of this law, FTA is not effective in implementing its responsibility under the law.

Despite the fact that Ethiopian speed limit regulation no. 361/1969 puts reasonable speed limit, it is not enforced and operating vehicle speeds are much higher than what is stated in the regulation. Practically, most drivers are not driving within the speed limit of the law rather the mandate is left to the traffic police as the system is manual. Also, there is not enough camera or radar to control the speed of the drivers.

The 1995 criminal law is designed to punish the offender after the violation of the law and deter traffic violations. But the law puts lower penalty in case of negligent homicide on a driver who has a professional duty to protect the life or safety of people. In addition, the practical implementation of the law is even less than this as a result of the Federal Supreme Court penalty deciding Directive calculation as it ends up with the suspension of the penalty.

Regarding the institutional framework; the writer came to a conclusion that effective institutional framework in Ethiopia requires significant improvement to control RADs. It is though undeniable to witness the progress of some of the institutions such. FTA is aimed to create safe and comfortable transport service through establishing well organized and structured organizational set up. Besides as NRTSC is empowered to formulate national road traffic safety plans and programs, it has set 10 years strategic action plan. Currently it is working to stop fatal crashes on the nation's roads and on a goal of solving road fatalities by

2020. However, many constraining factors are challenging the institutions to discharge their duties effectively. Among others, there are insufficient road safety commitment, delay in formalizing a permanent solution for high-level road safety coordination and cooperation, lacking the needed resources to act effectively, weak links between federal and regional road safety bodies. Also several bodies with road safety responsibility have insufficient personnel with inadequate road safety knowledge, know-how and training. Also the NRTSC is dependent on MOT that hinders its effectiveness in discharging its responsibility.

Generally, the writer takes the the high magnitude of RADs as reference to conclude that the efforts by both RTLs and institutions are not satisfactory. In conclusion, the legal and policy measures Ethiopia has taken and institutions it has established to prevent road accident deaths are not adequate to realize the right to life as all the policy and strategies, legal frameworks and institutions could not prevent and control the death of Ethiopian people due to RTAs.

5.2.RECOMMENDATIONS

Above all the isuee of RADs are a human right issue that requires a special attention as it results in the violation of the right to life. Therefore, for the full realization of the right to life in addition to the efforts being made to reduce the occurrence of RADs in general, special attention should be given to reduce the severity of accidents by taking the following into consideration:

In light of the policies, programs and plans in relation to road transport the following recommendations are set out:

- There is an urgent need to explicitly recognize the right to life of persons who are dying because of RADs in the national transport policy, strategy and plan that makes it unequivocal that the government is under an obligation to provide safe, road

transport services for these persons. Therefore, the government of Ethiopia should set proper and formal national Transport and road safety policy that considers the people, vehicles, the road, and its environment.

- All the stakeholders and private sectors should work on the effective implementation of national road safety action plan from 2011- 2020 and on various challenges of road safety in the country particularly on major areas of road safety management, safer road and mobility, safer vehicles, safer road users and EMS and road safety related activities including driver training and licensing and road traffic safety.

In order to improve all legal frameworks of road transport, which have created gaps in developing road transport safety the following suggestions are made:

- Driver's Qualification Certification License Proclamation No.600/2008 should be amended in considering some of the requirements of licensing such as age(to start and to stop driving) and educational level, uniform criteria for all categories of driving license, time of renewal and manual examining process. It should also fill the gaps including giving orientation to the foreigners who have international license, strong grievance system and the issue of who is responsible when an injury or death is occurred during practical training.
- Vehicle insurance against third party risks Proclamation No. 799/2013 should be ammended to include death,bodily injury damage to property of the insured person occurred in the course of employment. In addition, revision of the amount of compensation payable for death, bodily injury, damage to property and the expenses of emergency medical treatment arising from the insured vehicle should be made.

- In addition to Vehicles Identification, Inspection and Registration Proclamation No.681/2010, there should be a law that clearly defines the power and responsibility of the institution that undertake an annual inspection and there should be central on line control system.
- Under Road Transport Traffic Control Regulation No.395/201; the level of alcohol should be defined and Seat-belt wearing should be mandatory for both front and rear-seat occupants. Ethiopia's Speed Limit Regulation No.361/1969 sets speed limits of drivers. However, speed reduction techniques must be used adequately for its effective implementation with systematic controlling and inspection system such as placing enough speed cameras or radar and alcohol test machine.
- The Federal Supreme Court penalty deciding Directive should be amended in line with the 1996 criminal code for crime of negligent homicide.

In order to have an effective institutional framework that could reduce RADs drastically, the following recommendations should take in to consideration:

- The vision and the mission of MOT should be able to address the current situation of road accident. Its mission also should be realistic and achievable, understandable, owned, based on facts, cost-effective and monitored that targeted on a greater reduction of RADs.
- NRTSC should work for the effective implementation of the National Road Safety Strategic Plan of Ethiopia 2011 to 2021 and to met the Road Safety Vision of 2020 which is “Making Ethiopian Roads Safer for Every One”. Also it should give a priority to Promote road safety and should work focusing on its institutional challenges in collaboration with MOT and other stake holders.

- FTA should strongly work to ensure comfortable and safer transport service to the public with serious commitment and create support among public and private organizations for substantially improving road safety. In doing so, it should focus on its main challenges.
- ERA should work on different challenges that hinder effective implementation of its responsibility and other related problems that hinder its effectiveness on its contribution to road safety. It should work on the development of a well-planned infrastructure that contributes to the improvement of road safety, and thereby reduces the number of deaths on roads. Activities should include; improvement of road designs including the strategic allocation of roadside-barriers; creation or improvement of pedestrian walkways and crossings, creation or improvement of bicycle lanes and crossings; well-planned allocation of traffic signals; road and speed limit signs, use of Infrastructure-related technology; the identification and elimination of hotspots and road maintenance of damaged roads. Similarly, road engineering works on road marks, zebra, sidewalks, traffic lights and road signs, speed brakes and other road safety protection methods should be expanded.
- FPC and other institutions should work in collaboration with main stakeholders for the reduction of RADs. Also Civil society, including professional groups, NGOs, private societies, the media, the academic and research organizations are expected to play key roles in addressing the problems of RADs.
- There should be a strong and transparent system that made all the above mentioned institutions accountable for their failure to discharge their responsibilities and duties appropriately.

- In order to increase the reaction of the wider community and to change their behaviors and attitudes related to the crisis of RADs, enough awareness-creating programs and education about the trauma of RADs must be disseminated through both print and mass media than ever.

Among the above areas of recommendations that requires special attention and consideration still the writer wants to underline and recomend that the priority should be given to the implementation of the RTLs.

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