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**ROAD TRAFFIC LAW ENFORRCEMENT IN ADDIS ABABA:
THE LAW AND PRACTICE**

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Table of Content

Page

| | |
|---|----|
| CHAPTER ONE: The Problem And Its Approach | |
| Introduction | 1 |
| 1.1 Statement of the problem | 2 |
| 1.2 Objectives of road traffic enforcement..... | 3 |
| 1.2.1 Objectives of the study..... | 4 |
| 1.3 The significance of the study | 4 |
| 1.4 Scope of the study | 4 |
| 1.5 Research methodology | 4 |
| 1.5.1 Tools to collect data..... | 5 |
| 1.6 Organization of the paper..... | 5 |
| CHAPTER TWO: Definition and Establishment Of Police Force In Ethiopia | |
| 2.1 Definition..... | 6 |
| 2.2 Establishment of police force in Ethiopia | 8 |
| 2.2.1 Historical background and formation | 8 |
| 2.3 Road traffic regulations in general | 10 |
| 2.3.1 Historical development | 10 |
| 2.4 Traffic police, Ministry of Transport, other related offices and court | 12 |
| CHAPTER THREE: Nature Of Liability Under Traffic Regulation..... | |
| 3.1 General | 13 |
| 3.2 Liability under Regulation 5/1998 | 16 |
| 3.3 Enforcement of the Regulation | 18 |
| 3.3.1 Transport and communication Authority with the responsibility to implement the regulation | 18 |
| 3.3.2 Traffic Police with the responsibility to implement the regulation | 20 |

Table of Content

Page

| | | |
|-------------------------------|--|----|
| 3.4 | Practice and procedure to Implement the Regulation | 23 |
| 3.4.1 | Procedure In the Transport and communication Authority | 23 |
| 3.4.2 | Procedure in the traffic police department..... | 25 |
| 3.4.3 | Judicial review procedure | 26 |
| 3.5 | Encountered problems to enforce the regulation | 27 |
| 3.5.1 | Drivers training and behavior as a cause of problem and accident | 27 |
| 3.5.2 | The engineering of road as a cause of accident | 31 |
| 3.5.3 | The vehicle as a cause of accident | 31 |
| 3.5.4 | Pedestrians as a cause of accident..... | 32 |
| CAPTER FOUR | | |
| 4.1 | Conclusion..... | 33 |
| 4.2 | Recommendation..... | 34 |
| End Note For Chapter II..... | | |
| End Note For Chapter III..... | | |
| Bibilography | | |

CAPTER ONE

The Problem And Its Approach

Introduction

Like any developing countries of the world Ethiopia has faced with traffic problems in all its territories in general and in its capital city, Addis Ababa, in particular. The reasons why traffic accident is escalating in alarming rate are various. The nature of highways, city streets, licensing procedures, mechanical aspect of vehicles can be mentioned as examples.

The period “between” 1889 to 1925 was a time in which Ethiopia began to take the shape it has today. The 20th century “metropolitan city” was the product of extensive application of science and technology to industry. The diffusion of electric power and the development of automobiles are the products of the progress of science and technology.

The construction of the Ethio-Djibouti railway at the end of 19th century helped in developing foreign and domestic trades. The beginning of this external contact resulted in importing motorcars, tractors, bicycles, telephones and telegraph. As a result the system of communication that is essential for commerce and urban growth was greatly improved.

The growth of commerce and urbanization necessarily requires the need for transport of people in large number from the outer fringes into the inner core. The existing system of transport network, which was adequate for the needs of the town of the past, becomes over loaded and turned out to be incapable of addressing the newly created transport demand.

Ethiopia has been legislating different rules and regulations to manage and control traffic flow. Proclamation No. 35 of 1943, Regulation No. 279 of 1963, Legal notice No. 360 of 1969, Legal notice No. 361 of 1969, Legal notice No. 362 of 1969 are legislative measures that pin pointed to regulate traffic flow. Despite the fact that government measures are taken to regulate traffic flow accidents created in life, bodily injury and property damage are immense. In response to the demanding situation government has continued to issue more serious laws that believed to minimize the existing situation. As a result of this attempt the 1968 regulation came in to existence with the aim of minimizing traffic accident. Traffic offences that are not sanctioned by the already-existing regulations were covered by the late coming regulation. However, the problem is still persisting and captured my mind in dealing with the problem as partial fulfillment of my L.L.B. degree. Therefore, my paper focuses in Traffic Law Enforcement in Addis Ababa City; The Law and the Practice.

Scientific traffic control brings order and safety to the complex movement of automobiles, and pedestrians in street and high ways. Using variety of traffic control devices saves life, bodily injury. Scientific traffic control utilizes modern technique of planning and designing new high ways that serves for the vehicle users and pedestrians. The designing and planning of modern techniques should take in to account the tradition of the vehicle users and pedestrians. Traffic engineering procedures for the purpose of traffic control should also take in to account rules of parking, loading, turning, pedestrian movements and speed. Some regulations prohibit parking where street spacing is necessary for moving traffic, other rules allocate scarce curve space among users, such as loading and short and long term parking. Parking rules some times apply during the peak hour of traffic movement

Traffic law enforcement and efficient traffic movement requires the service of police officers who are responsible in taking measures on those who fail to observe state and local traffic law, and enforcement must have public support in order to be effective.

Transportation is a very critical and vital need for the development of any nation. A study made on cities indicates that any long term solution in maintaining urban quality of life requires careful understanding of the role of transport. The development of modern society is very complex. The peace and stability of the world depend on the healthy social interactions and balanced trade that brings fair advantage to all stake holders. So the modern techniques of traffic designing and planning must allow people to travel safely and meet its need, as well as facilitating trade by enabling all kinds of goods to be exchanged and transported safely. The importance of transport to society is precious; it is healthy transport that facilitates trade and commerce. Road safety cannot be considered in isolation. Its problems and possibilities are intimately linked to social and economical conditions, as is the transport system in which they arise. In this background paper I shall take a broad look at the road traffic accident and violation of traffic rules and regulations. So the study undertaken by this paper raises different kinds of traffic problems that are observed in the regulations and the practice on the ground. Having seen the law and the practice on the ground recommendations will be expected as findings.

1.1 Statement of the problem

In every nation of the world there is a rapid urbanization and industrial growth. Urbanization and industrial growth necessarily draws individuals from rural area to urban location. The influx of people to urban centers, complexities of urbanization, education, the emergence of public or private organizations require adequate facilities in urban centers. Among the facilities urban center requires using motor vehicles and urban streets are the ones to be mentioned. The requirement of motor vehicles and roads in urban life requires traffic law enforcement that is established in systematic way. Among the systems to be established legislating rules and regulations are the basic ones. These rules and regulations are very important to manage or control different sized vehicles, the conditions of the roads, accommodations and other urban necessities concerned with traffic. The increasing nature of urbanization and industrialization complexities requires modern, well-equipped,

planned and designed traffic administration to manage or to make traffic flow more efficient and effective.

As a result of increasing urbanization, especially in developing countries, like that of ours, many problems may arise in relation to trafficking. These problems may result from population growth, density, using motor vehicles that completed its life span, poorly designed city roads, legislations that do not aim at solving problems critically observed etc. Conversely, the need for orderly movement of people and vehicles in rural centers is not that much required as in urban areas also it is important to observe traffic rules in rural areas. Problems related to jamming of cities with vehicle, people, different infrastructures would normally create problem to smooth traffic flows. It is necessary to address timely these problems systematically so that the problems could be contained or minimized.

Today poor traffic management is mostly seen in countries with lower level of economic development. In most developed countries these kinds of problems are solved because of the availability of awareness, proper resource allocation, and application of modern technology. Planned measures that pin pointed on the existing problems contributes a lot in reducing traffic accident Reduction of traffic accident also depends on awareness of the society in using roads as a vehicle user or as a pedestrian. Awareness creation programs can be organized at community or organization level so that society can protect itself from traffic accident The management of traffic in Addis Ababa shares the same character like that of other developing countries of the world.

The aim of this paper is to high light the main factors that have enhanced the traffic problem in the city of Addis Ababa and to suggest some solution such as: -

- a. The role of traffic safety education to pedestrians;
- b. The role of increase of population;
- c. The role of careful crossing;
- d. The role of problem related to parking;
- e. The role of road worthiness;
- f. The role of proportionality of road to that of city area;
- g. The role of inadequate manpower allocation for enforcement;
- h. The role of effective regulation in minimize traffic accidents on life, bodily injury and property; etc.

1.2 Objectives of road traffic enforcement

The most important objective in traffic enforcement is to reduce the amount of road accidents that cost the life, bodily injury and damage of property. Other objectives are to make aware drivers and pedestrians about the traffic rules and regulations so that they can contribute their share in minimizing traffic accidents. However, road users do not know the regulations alone. Road users need to be informed about traffic regulations.

Many road users in Addis Ababa roads are unaware of the meaning of traffic signs and regulations intended for pedestrians. Traffic rules and regulation information are very vital for pedestrians.

1.2.1 Objectives of the study

The following objectives are required to be achieved when the study ends.

- Analyzing and discussing the typical problem of traffic mismanagement in Addis Ababa city;
- Discussing and analyzing the factors that increase traffic accident in Addis Ababa city;
- Showing the relevant points that are uncovered by the law and proposing measures to be taken concerning legislation.

1.3 The significance of the study

Like many other capital cities of developing countries Addis Ababa is currently facing rapid urbanization growth, which has contributed an impact on traffic administration. Although the magnitude of the contributing factors to the problem is not so far clearly pointed out, however, an attempt has been carried out her and their. Therefore, the study does not only focusing on traffic law enforcement alone but also in utilization of modern traffic controlling system such has the use of equipments, trained manpower, proper use of road by pedestrians, reallocation of master plan in the construction of roads, etc.

Hence, solving these problems are very important to overall development of the city of Addis Ababa which enable to enhances the safety of the city in one hand and attract national and international organization to carryout their business in Addis Ababa city on the other hand.

1.4 Scope of the study

The scope of this study is limited to the problem of traffic law enforcement and the reason of traffic accident in Addis Ababa.

1.5 Research methodology

Two sources are used in the collection of information. They are primary and secondary sources.

To enrich the paper references will highly considered, such as books, legislation, newspapers, journals, reports etc. On top of this interview, questionnaires, group discussion will be conducted with concerned authorities and road users.

More over, purposive (judgmental) sampling technique was served in this study in order to select key persons based on their relevance in providing adequate information for the study undergoing.

1.5.1 Tools to collect data

The two main sources of data employed to collect necessary information are primary and secondary sources of data.

a) Primary source of data

- **Interview:** was the other means used to gather information from key persons, who are supposed to provide important and reliable information.

b) Secondary source of data

- **Document analysis:** in addition to the previous major techniques document analysis will be used to analyze documents related to traffic rules and regulations so as to compare it with the findings of the study.

1.6 Organization of the paper

The study undergoing through in this paper has comprised the following parts. The first part deals with the problem of the study and its approach. Definition, historical background of the police force in Ethiopia and the role of different departments in the enforcement of traffic rules and regulations will be discussed in the second part. The third part deals with different kinds of traffic problems related to law enforcement and practical problems. Finally it concludes perspectives of the study and poses the recommendation that possibly interrelated to overcome the problem realizing and suggestion some prospects for problem of road traffic law enforcement.

CHAPTER TWO

Definition and Establishment of Police Force in Ethiopia

2.1 Definition

Law

- The regime that orders human activities and relations through systematic application of the force of politically organized society, or through social pressure, backed by force, in such a society; the legal system;
- The aggregate of legislation, judicial precedents, and accepted legal principles, the body of authoritative grounds of judicial and administrative action, esp. the body of rules, standards, and principles that the courts of a particular jurisdiction apply in deciding controversies brought before them;
- The set of rules or principles dealing with a specific area of legal system;
- The judicial and administrative process, legal action and proceedings;
- A statute;
- The legal profession¹

Law enforcement officer

- The detection and punishment of violations of law.
- Police officers and other members of executive branch of government charged with carrying out and enforcing the criminal law.²

Law enforcement officer

- A person who's enforces the laws and preserves the peace.³

Law and economics

- A discipline advocating the economic analysis of the law, where by legal rules are subjected to a cost benefit analysis of the law, where by legal rules are subjected to a cost benefit analysis to determine whether a change form one legal rule to another will increase or decrease a locative efficiency and social wealth.⁴

Road

- That part of a high way, secondary road or district road intended for vehicular traffic, or which has been metal led or otherwise prepared for such traffic of which is generally used by vehicular traffic, excluding however, the shoulder of the roadway.⁵

Transportation

- From earliest times the conditions in which man lives have been powerfully influenced by the ease and speed with which he has been able to move himself and his materials from point A to B on the earth's surface. By harnessing nature directly and indirectly man has been able to explore and exploit the earth's resources. The chief and landmarks in the history of transportation the wheel, the soil, the steam engine, the internal combustion engine, the electric motor, and the great technological break through of flight-promise, as the 21st century approaches, to be capped by the rocket engine, which frees man from dependence on earth's atmosphere and permits him to visualize traveling to other planets.⁶

Transportation law

- Transportation law is a collective term for the branches of jurisprudence that govern the movement of passengers or goods from one place to another by means of carriers, on land or water or in the air.⁷

Traffic

- People or things being transported along a route;
- The passing to and fro of people, animals, vehicles, and vessels along a transportation route;⁸
- Pedestrians, animals, whether ridden, driven, herded or led vehicles and other conveyances either single or together, while using any road for purposes of travel or locomotion.⁹

Traffic regulation

- A prescribed rule of conduct for traffic a rule intended to promote the orderly and safe flow of traffic.¹⁰

Transportation for economic development

- People naturally congregate in communities of various sizes and endeavor to live in harmony with each other. Transportation is one of the important sectors, which plays vital role in the economic activities such as supply and demand which moves goods from one place to another for the satisfaction of human needs.¹¹

Transportation for social development

- Transportation is necessary in communicating community to each other. It enhances social interaction and social development. So it is a means of the fulfilling human needs. It is also a means in creating cultural and religious ties.¹²

2.2 Establishment of Police Force in Ethiopia.

2.2.1 Historical background and formation

The formation of modern bureaucracy and Ethiopian police starts during emperor Menelik II. During that time the police was named “Guard of the Center of the City,” (Arada Zebegn). The history of the Ethiopia police starts in 1887. By this time the organization had 10 (Ten) police stations and departments of criminal investigation and prevention.¹³

The government of Belgium trained the forces. There was a sort of military nature who come from surrounding villages to protect governmental offices. The Arada Zebegn was consolidated in 1922 and the structure was organized in to 8 departments. By 1940 their number reached 5,630. This professional police force could not continue due to the Italian occupation. Then the Italian formed their own police called police colonial. The Italian police had full right to imprison who ever they wanted. . However, the Italian police brought with them modern policing and a philosophy of western countries. They involved Ethiopians who worked with them and they shared modern policing experience.¹⁴

After the defeat of the Italians, the British took the mandate to run the existing Italian police force structure by changing the personnel of the enemy force. Soon the British formed special force, which was led by a Greek commander. From that time until 1940 the Ethiopian police force was led by the British by the name “occupied enemy territory administration.” During that time, there were 10 police stations in Addis Ababa and 22 regional police stations through out the country with British police officers as commanders. These officers made almost all decisions. The Ethiopian government had little say in the police affairs. However, there was an agreement with the British to let Ethiopian officers work as translators until the police is transferred to Ethiopians. In 1941 the first regulation, “the Ethiopian police and prison force order,” was published detailing new uniform, salary; medical benefits as part of this order.

The first cadets were graduated, investigation manual was prepared and ideas of the forensic science started.¹⁵

The first police proclamation came to force in 1948. From this time on the name had changed from occupied enemy territory to “Ethiopian Imperial police Force”. Most commanders were Ethiopians, except the commander-in-chief who was a British with few British experts. It had 2376 manpower. In 1945 most British officers went back. In 1948 the security and police were joined and a special rapid deployment force was formed. This time the force numbered 19,250. In 1946, sixteen British police officers came back in order to reorganize Ethiopian police. The first police college was created and Swedish trainers were brought in the same year to lecture at the newly established police college. About 300 officers were sent to India, Germany, Canada and Israel for further training. From that time on the Ethiopian police had begun to enter the age of modern policing in its proper sense.¹⁶

Between the years 1948 and 1991 the Ethiopian police force was centralized and was commanded from a central HQ. It was Para-military in nature and was involved in all war fronts beyond its professional mandate. The monarchy used the police force as a machine to keep its system. The police was so much involved in politics as a means of best ruling instrument of the existing government to the extent that it was hated and perceived by the public as cruel tool of the regime.¹⁷

Public participation in policing was weak; however, people with guns “militias” were active to maintain security, but this does not show that the police had community base. Among the early attempts to involve the community in crime prevention and investigation the institution of “Awchachinge” is the one to be mentioned here, the method of gathering people in public gathering places so that the people discuss and decide as to who is a suspect is. The police also uses official news letter to reach the community. There was also a program in all school in which they had their own traffic police from the students.¹⁸

Members of the police force were organized in social organization in donating some percentage of their salary in order to build hospitals, police clubs, and associations where members would help each other. These and other institutions link the police with the community so that it can use the community in its fight of crime. The Ethiopian police structure and training continued without change until 1974, and in 1974 the monarchical regime was removed by the military junta called “Derg.” At that time most of the professional police officers were taken to the army for the war mobilized by Somalia against Ethiopia and for the civil war broke out in northern part of the country. Some of them were also taken to the central security investigation. Thus, the police lost most of its trained officers and remained symbolically as institution of peace and security. Its main function was replaced by the institution of kebele the police was left without any real power, “kebele” or local community organization took most of the police mandate. The kebele was empowered with the

authority to detain and investigate. Practically the police was left without any power until the eve of the fall of the Derg regime. When the authoritarian military regime was defeated in 1991, the police was reorganized, and important police decisions were made. The first policy of the new government was that it's policy of reorganization and its policy of reorientation. The transitional government adopted a policy that avoids Derg party members from joining the newly reorganized force. Even though this was a rational decision, it had an impact on the professional capacity of the police. The police lost many of its qualified officers; the whole structure was reorganized under the policy of decentralization. Every region had its own police force and all policing matters were left to the regional governments. The aim of the decentralization was that police would remain a civil servant. Local and operational matters were left to regions and that the federal police would handle the wide duties that fall under its jurisdiction. But later on the decentralization process had gone too far. Almost the connection between the federal and the regional police was cut. This has the uniformity of the Ethiopian police.¹⁹

2.3 Road traffic regulations in general

2.3.1 Historical development

In the early days of automobiles there was little concern for regulating traffic, as there were only a few vehicles and their capacity of speed was low as compared to the present technological achievement. Technological achievement regarding road construction was also the other factor that enhanced vehicle speed. In line with technological development of engines road construction technology traffic control devices have become advanced. The technological advancement concerning traffic control devices helped much in giving pertinent information to the drivers and pedestrians.²⁰

Much of the existing network of roads and streets was laid out and in use before the automobiles came into being with appropriate regard for economy of time and distance; horse-drawn vehicles were operated in both directions with little or no hazard. However, when the first automobiles appeared, they were widely scattered and rare and have slow speed and light weight. Head-on collisions of two automobiles were not real problems for many years.²¹

As the number of automobiles increased and as their reliability improved, the probability of head-on and intersections increased. As the speeds and weights increased, the severity and relative importance of such accidents increased.²²

Traffic congestion, often bad enough to require drastic control measures, was a future of a city life at least as early as roman times."²³ A basic cause then, as now, was poor city planning, with roads laid out in such a way as to bring traffic from all quarters to central crossing points.

Congestion was severe enough in European cities of the 17th century to require ordinance prohibiting parking on certain streets and establishing one-way traffic.²⁴ Additional regulations have been imposed from time to time define proffer conduct more precisely, both to guide the driver and provide the courts with clear definitions in collisions were personal injury or damage occurred.²⁵

“The automobiles, with their increased in speed and then in number over house-drawn transport, rapidly created a new situation than was industrialized society in the 20th century.”²⁶ The term “traffic” was first proclaimed in 1935, in England.²⁷ In 1930 and 1934 the regulation was presented to the British parliament and the signs ratified.²⁸

Even before that in 1899 in America a man named William Philips created a foundation called a “foundation for way traffic” and began to control the city of New York.²⁹ In 1949 the United Nations made similar regulation in Geneva.³⁰

In 1950 to 1952 the United Nations issued international road signs and in traditional traffic languages, so that they are been in world wide use.³¹ As a result, any driver in any country was able to travel freely on the condition that he had learned and understood all international traffic signs and lines found in the middle of the roads.³²

We have seen how the traffic signs were created; the next step is how it came to Ethiopia. Motor vehicles were introduced to Ethiopia in 1907 road signs came along. The law that enforces road signs however did not applicable as the signs came to the country. By the time the signs came to the country they were effectively utilized by Europeans. The history of road traffic regulation in Ethiopia is the outcome of introduction of the motor vehicles into the country, which dates back to the era of Minilik II. The first Ethiopian licensed driver was Emperor Minilik II, for which he had to pass test both driving capacity and his knowledge of the mechanical parts of the car which would help him to repair when the need arises.³³

Starting from 1908, the very few vehicles introduced to Addis Ababa had started causing accidents; laws that aimed at regulating the movement of vehicles and travelers on foot were issued and were used by people as a result.³⁴

Afterwards again in 1915 in March, a regulation with “18” paragraphs were issued. This regulation aimed at solving the problems caused to pedestrians walk on the left.³⁵ Latter around 1942 the drivers were to take back the right side and the rule for driving took its present form.³⁶

When the limited road network and the limited vehicle population gradually change the need for systematizes handling arises, hence the first comprehensive attempt and systematized legislation concerning road dates back to 1943. The 1943 proclamations were changed with the importation of motor vehicles and the relative fast development of the construction of roads. Starting from this year on various proclamations and

regulations have been issued and put into operation. Legal notice of 2791/1962 Transport Amendment regulation issued in 1963 to direct pedestrians in modern ways is one of them.³⁷ This regulation was repealed by proclamation 256/1968 which was issued to control transport. But later the 1963 regulations reinstated by legal notice 335/1968 issued to reinstate road transport regulations.³⁸ Later on the Addis Ababa city government proclaimed regulation 5/1998 to encourage law-abiding drivers and to ensure modern traffic order in the city.³⁹

2.4 Traffic police, Ministry of Transport, other related offices and the court

The 1943 proclamations give power of enforcement to Ministry of transport and Traffic police. The traffic police based on its legal power had the duty to follow up, control, and investigate traffic accidents so that violators may face justice. The courts use different types of punishments such as money for damages, imprisonment, taking individual driving license. The degree on punishment varies according to the nature of violations. This shows that there should be a close cooperation between the police, the transport and the court. It is the duty of traffic police to enforce the traffic laws. The occurrence of an accident necessarily requires the police to conduct an investigation. The police have the legal right to collect evidence pertaining to the conditions of driver or the vehicles. In orders to perform such functions the police must know the basic traffic rules and regulations in addition to its technical know-how. Traffic safety education for the road user is not the sole responsibility of the police. It has to be given also by related authorities such as the road transport authority. Police training institutions and law schools have the responsibility to educate about traffic safety. There are different departments directly or indirectly involved in traffic related issues. These are the following: -

1. The Addis Ababa municipality
2. The ministry of transport
3. The ministry of justice
4. The traffic police
5. The court

One special problem of traffic police of the city of Addis Ababa is testifying accident case. The testimony given by the traffic police and other patrol police is different. The patrol police witnesses as any individual road user witnesses while the traffic police testifies using his professional capacity.

CHAPTER THREE

Nature Of Liability Under Traffic Regulation

3.1 General

Some government recognized that motor vehicle operation was presenting a high way safety problem, and they established systems regulating their use. According to them if drivers could be made to operate “safety” the problem would be solved. In order to force drivers to be “safe” government legislatives determined that acts of driver failure should be made criminal conduct in order to deter their occurrence.¹

The Chicago Traffic court best exemplifies this viewpoint and it is not responsive to suggestions that some violations should be decriminalized.²

An American criminologist, Largio Vicki is not convinced by this argument, and he has not taken this position. Surveying different legal literatures on road traffic, Vicki concluded that “traffic regulation violators are not movably natural, and that if they are not taken seriously by the public these attitudes could be changed by treating the violation criminally criminal treatment is most defensible for violations producing actual harm or involving intentional or conscious endangering of others³ Vicki’s next step was to determine which punishments should be applied to which violations. According to him “the sanction with the” “gravest” and most defamatory legal consequence is of course, less of freedom. “This punishment is appropriate for violation causing serious results; fatality, grave body injury mass injury, and substantial material loss.”⁴ He added that for less serious offences, however, even short-term loss of freedom should be used owing to its harmful effect.⁵

Finally Vicki proposes for the use of official warning for minor offences and compulsory medical treatment for motorists found to be insane or intoxicated⁶ which is not incorporated in Road Traffic regulation of the Addis Ababa city No 5 of 1998. A better approach, how to identify the violator, who should be punished as vick stated is that “to weigh factors which can be objectively measured such as degree of harm done and recidivism. The combination of these factors would then determine the proper level of punishment for each violator. For example “drunker driving with no harmful result, when committed for the first time does not call for loss of freedom. On the other hand, the road traffic regulation should provide for loss of freedom punishment irrespective of the result if the drunken driver is a special recidivist.”⁷

It seems to me that the intention of Vick is that certain road traffic offences are criminal by their very nature and these violations should be subject to the full impact of the criminal

law. It seems difficult, if not impossible, to distinguish between serious and none serious traffic offences.

I made interview regarding this issue and most interviewees /motorists/ responded to classification questions in terms of their perceptions of the offence. Generally I found that a willingness to accept formal reclassification depend upon the interviewees acceptance of the nation that all road traffic offences are not criminal in nature, and that the use of full-blown criminal procedures is not the only way to provide a fair hearing. According to them offences such as vehicular, driving while intoxicated and driving under suspension may remain classified and processed as criminal offence in all systems. They added that other violations are generally considered of minor important and are treated differently.⁸

I also made interview with few traffic policemen. In this interview I surveyed that it is unanimously agreed that driving while intoxicated, driving while license is suspended or revoked, homicide by motor vehicle and reckless driving should be treated as crime.⁹

Admittedly speaking there are some variations between the two groups of interviewees, but there is general agreement on what types of driving misbehavior should be considered as crimes. Unlike the traffic police, motorists have said that, traffic offences other than those classed as serious should be considered to be sufficiently significant to warrant decriminalization. The decriminalization may occur formally through legislation.¹⁰

As it is written in this chapter previously in New York, road traffic violations are classified as minor and serious offences, and minor violations are classified by statue to be non-criminal traffic liabilities. Regulation no 5/1998 of the Addis Ababa city is silent about this issue, except the insufficient implication of Art.4 (5). This article says that any person who commits offences prescribed for by other transport laws and not by the annexes of these regulations shall be punished in accordance with the appropriate penal law.”

This is mandatory provision that lacks clarity. Does it mean that penal law therefore should govern all traffic offences, if the regulation is silent? Or does it mean that penal law is the only gap filling to the regulation? What would be the solution if the offence committed is not prescribed in the penal code?

In the situation with regard to road traffic offences, clear provisions are very vital. If we are going to administer true justice in the road traffic regulatory field, I think it is absolutely necessary that we restudy these problems involved in designating criminal regulatory offences. I think we have to examine the specific provisions and make a determination as to whether we want it to be crime, and if so specify it as such and the penalty that shall apply. If we do not want a certain act to be a crime, then we should make it clear under the provisions of the regulation that it is a road traffic regulation. With regard to these offences there are two types of proceedings, which should be distinguished.¹¹

On the one hand there are proceedings in the grave or more serious cases.¹² On the other hand there are proceedings of minor violations of road traffic regulations. Defendants are convicted even though not at fault, and they lacked the knowledge necessary to avoid transgression.¹³

In this classified group of offences liability is based not upon traffic offence. The reason is that there is not objective standard that avoids subjective bias. .

This is because the slightness of the penalty prevents individual interests from being jeopardized; and it would be practically impossible for courts to investigate states of mind where adequate enforcement depends upon prosecution.

In as much as strict liability means that regardless of lack of intent, recklessness, negligence and etc, penal liability must nonetheless be imposed; it is impossible to defend strict liability in terms of or by reference to the only criteria that are available to evaluate the influence of legal controls on human conduct.¹⁴

Here the important clue is that what is actually the principal support of strict liability is provided by the fact that from the very beginning of road traffic offences to the present there has been an unvarying instance on the difficulty on the defense would be to allow every violator of the road traffic regulation to avoid liability merely by pleading lack of knowledge and thus, practically nullify the regulation.”¹⁵ This argument implies that even though *mens rea* exists it is impossible to prove it presumably because there are distinctive features in such cases that make this proof peculiarly difficult.

Another argument in support of strict liability is that it serves as a proof to stimulate increased care and efficiency even by those who are already careful and efficient.¹⁶ The object of most of these road traffic offences for which one is now strict responsible is to impose a high standard of care. Generally, the new emphasis being laid upon the protection of social interest fostered the growth of a specialized type of road traffic regulatory offence involving a social inquiry so direct and widespread and the penalty so light that in such exceptional cases court or administrative agencies could safely override the interests of innocent defendants and punish with out proof of any guilt intent.

The invention and extensive use of high-powered automobiles require new forms of road traffic regulations. “The old cumbrous machinery of the criminal law designed to try the subjective blame worthiness of individual offenders is not adopted for exercising petty road traffic regulation on its violators.”¹⁷ And consequently this regulation has been placed under administrative control.

Having said this about the classification of road traffic offences and the nature of liability of violators of road traffic regulation in general form I shall turn to see whether the nature of liability is subjective or objective under the traffic regulation of the Addis Ababa city.

3.2 Liability under Regulation 5/1998

On the nature of liability, the Road traffic Regulation of Addis Ababa city is far from clear. It is not clear on “strict” liability. Strict liability is how absolute “absolute” liability is or how subjective “subjective” liability is nor is there any rule and certain method determining whether the offence is one of strict liability or not.

In strict liability the defense, “I do not mean to break the law or I did not know the facts were such as to make any conduct illegal is not helping.”¹⁸ Strict liability means liability with out fault.

The Road Traffic Regulation of the Addis Ababa city has 12(Twelve) Articles and includes two tables grouped as “A” and “B”. Articles from 1 to 11 raise different issues. Table “B” classifies different vehicles in use.

The Regulation was prepared so that it could as much as possible includes all the possible crimes that had any relation with traffic safety; it was also considered that there could be crimes that are not included under it. Based on this, it was stated in Art.4 (5) of it “if any offence not prescribed for by other transport law and penal law shall be punished in accordance with appropriate.”¹⁹ According to this Article, the appropriate penal law, which should be applied for minor traffic violations, “petty offences” Offences created by the regulation are viewed by the first instance court of municipal court of Addis Ababa or by the administrative agencies /the authority and the commission/ as being petty offences, and that they are more prepared to conserve them as imposing strict liability.

As stated above, “strict liability” is the term used to describe the imposition of criminal liability without proof of fault on the part of the defendant. As such it differs and exception to one of the basic principles of criminal liability that mens rea be proved. As mentioned above the road traffic regulation of Addis Ababa on the nature of liability that it imposes on the offenders is not clear.

Usually a glance at provisions of the regulation will tell if they create an offence. Obviously most provisions of the regulation using words like guilty, conviction, offences, punishment and certain other words would prima facie create an offence²⁰ of strict liability.²¹ Most of the provisions of rode traffic regulation of Addis Ababa administration are “strict liability.”

“Whose ever, by omission or commission contravenes what is laid down under road traffic regulation of Addis Ababa shall, depending on the gravity of the offence committed, be punished as follows.”²² This provision clearly creates an offence of strict liability, as it uses the word “offence” and “be punished.”

After having concluded that the nature of liability under the road traffic regulation of Addis Ababa city is “strict liability”, I proceed to answer the question’ should the road traffic

regulation offences require guilty mind?” For while most people whom I interviewed agree that the law should be clarified and that the real crimes should require mens rea, fewer agree that it should be required in these road traffic regulatory offences too, where more deference and simple enforcement are the aim.²³ The interviewees added that “even with out imprisonment penalties for road traffic offence are harsh enough; loss of driving license, with resulting loss of livelihood, can sometimes be far more severe than imprisonment itself. So far example a man convicted without fault of strict liability driving offence can loss his driving license and his job.²⁴

In the opinion of the writer of this paper too, disqualification from driving has a great affect both upon the convicted person and upon those within social circle insofar they are aware of it.

The constitution of FDRE says that, “every Ethiopian has the right to engage fully in economic activity and to pursue a livelihood of his choice any where within the national territory.”²⁵ On the other hand the road traffic regulation of Addis Ababa administration revokes one’s driving license for life (Art. 4/C). What we can conclude from this is that depriving of one’s driving license for life is unconstitutional even if it is done in accordance with the regulation as far as the regulation is inconsistent with the constitution. It violates the general principle of the consistent with the constitution. It is against the right to work. It violates the economic right of the citizens of the country. Therefore depriving one’s driving license for life is unconstitutional.

According to the interviewees the imposition of fines has sharply increased, but this, the fine hits the poor man harder than the wealthy. The impact of this fine is not effective on the financially irresponsible offenders too. There fore, fine is not the most appropriate for some of traffic offenders.²⁶

Surly, the financial penalty in accordance to the category of offences under Art.3 of road traffic regulation of Addis Ababa administration would have a deference effect on the violator. As a reasonable man, one cannot fully agree with this position. The principal justification for inflicting greater fiscal retribution on the violator would seem lie in its value as deferent against future violations, what then is the impact of this concept on the financially irresponsible offender or rich offenders?

The imposition of such sanction is neither the sole nor the primary means of fighting traffic violations and even less for reducing the number of traffic accidents obviously such sanctions have a secondary role as compared to other means and potentialities for the general prevention of accidents and it is from the technological development that the decisive change can and must be hoped for.

Scholars of criminal laws have argued against the application of strict liability on the violators of road traffic regulations. They said, “Strict liability in road traffic regulation offences is irrational;²⁷ it involves trying to deter which can not be detered Reasonable

ignorance and mistake, which is all the faultless offender is “guilt” cannot be avoided or deterred.”²⁸

Critiques of strict liability argue however, “There is no purpose to be served in finishing a defendant who had no reason to suspect that he was committing an offence or who had taken all reasonable and practically steps to avoid it.”²⁹

A Penalty form is given notifying that a motive commits one or more offences that are set out under the regulation.³⁰ The accused /motorist/ may disagree to accept the penalty form that he has actually violated any of the regulation, yet we coerce pleas of guilt from transient because of the inconvenience of returning to answer the charge. Generally the system of punishment envisaged by the Addis Ababa Administration road traffic regulation creates hard ships and inconveniences to almost all drivers.

3.3 Enforcement of the Regulation

The enforcement of the regulation has been the responsibility of the police commission and the bureau and to their designated officials in respect of the provisions of the regulation. These enforcement agencies are responsible for ensuring that the various policies of traffic regulations are complied with.

3.3.1 Transport and communication Authority with the responsibility to implement the regulation

It is the Transport and communication Authority that has been responsible for the laws concerning the road traffic regulations. It has been given power to issue directive under the regulation Art. (10); “Notwithstanding the power conferred upon the executive committee of Addis Ababa city government by the charter proclamation the authority may issue in order to implement these regulations.”³¹ In addition, the authority has all powers to control and regulate vehicles and vehicle operators using the road;³² it also has the authority to license and control persons driving vehicles on the road.³³ The purpose of the establishment of the authority is to enforce road transport laws and regulation of the administration and the federal government.³⁴

The authority seems to have less commitment on the issue of practical solutions to road softy problem and the enforcement of the existing laws in relation to road safety Art.33 (2) of regulation 360/1969 states the following. “.....The vehicles roadworthiness, its capability of performing in a safe manner when engaged for the purpose indicated in the application for the annual inspection.”³⁵

Although the main issue is to what extent is the authority concerned the annual inspection in relation with the road safety? Art.35 of the same regulation states “the vehicle once inspected some other time with in the same year.”³⁶ As the federal Inland Revenue authority collects most of the revenue annually so also does the authority.

Under the regulation it is an offence to drive a vehicle that has not undergone a proper annual technical inspection, a driver who has been found driving such car will be served a penalty form and his vehicles will be arrested.³⁷ The very purpose of the annual inspection is to prevent road traffic accidents but how could this purpose be achieved with out avoiding or solving the above problem? The laws in force are either those not conforming to the situation and the pressing needs of time or even when they could conform, the authority does not seem to have felt the responsibility of their implementation. There could be some other problems that could hinder the implementation /enforcement/ of the road traffic regulations on the part of the authority. But why should the inspection be directed mainly towards collecting founds rather than directing it to the reduction of road accidents, which could be caused by the vehicles roadworthiness?

It has been mentioned earlier that for particular day of inspection it is a very common practice to rent or borrow the part of a vehicle which does not function and to return the mal-functioning vehicle on the road for the remaining 364 “sound and safe”, once the annual inspection sticker has been obtained.³⁸

Legal notice 362/69 as amended by legal notices 41/76 states that each class of license shall be valid for a period of one year from the date issued.³⁹ It has been found out from the files and interviews with the concerned and responsible staff of authority that the authority renews license for indefinite periods to the future in as far as the applicant is willing to pay the fee.⁴⁰ The law clearly states that renewal is for each year, but if any licensed driver could afford he could renew at once for the coming few years at least.⁴¹ Under the second category penalty (no.17) of the new regulation, if a person is found driving while his driving license is not renewed timely, he will have served a penalty form and his car will be arrested until he produces the necessary document.⁴² But what is the rational behind the punishment? Is it a “driving license tax”? Not renewing timely is an offence, what about untimely renewing? Now the problem remains that until such few years period for which renewal has been obtained lapses, there is no legally empowered authority to change the validity of the license, even if there is a reasonable cause to suspect that a particular drives is not capable of performing the driving task safely. The authority should not be less concerned with the road safety aspect and focus on the “tax” collection aspect, since the tax collected be so insignificant in proportion to the loss the city suffer due to road accidents which could have been reduced if the authority cared to care to this aspect of the problem as well.

3.3.2 Traffic Police with the responsibility to implement the regulation

Traffic police work to ensure three basic purposive aims, these are: -

1. To prevent accidents;
2. To ensure the free movement of traffic ; and
3. To enforce the traffic laws

We are constantly reminded and destruction in automobile accidents impose a continuing and increasing demand for laws that will safe our citizens themselves on traffic roads.⁴³ It is understandable that traffic safety is extremely important and that road traffic toll is a cause for great traffic police concern.

Art.5 of the road traffic safety regulation of Addis Ababa no.5 of 1998 empowers the traffic police to stop a vehicle violating the regulation and not to let proceed until the regulation is being violated is complied with.⁴⁴

It would not be surprising for reasons that would examine later if this power were abused or not. In the Addis Ababa city it has been found out the pedestrian traffic police /foot-patrol/ and those motor-bicycles are not fewer equally.⁴⁵ In addition to this the inefficiency caused due to lack of sufficient motor vehicles and the few number of traffic police on the streets who could hardly communicate among themselves give a wide option for those violating the regulation and escape undetected.

There is a speed limit /minimum/ of 60 km/hr in the city for motor vehicle, but how is a traffic police to detect the speed at which a vehicle with a motor bicycle if speed at which a vehicle with a motor bicycle if available and in addition provided the speed meter of the motor bicycle functions properly. Under the regulation of Addis Ababa, 6th category penalty, it is an offence to drive a car exceeding the legally determined speed. However, if the traffic police are unable to direct it, how could the regulation be applied? Unless otherwise the traffic police are well equipped with instruments, which detect the speed of the vehicle on the road, it would leave a room for power abuse.

Most traffic police officers are not given any intensive training in relation to traffic laws and related road safety problems other than few hours lectures they received while being trained for general police purpose.⁴⁶ Having this in mind how efficient are the traffic police officers in general? Would on the job training reduce the hazards that are being caused on the road city of Addis Ababa?

For the better functioning of traffic police under the existing conditions it would have been sufficient, at least, if the following levels of training were followed. These are: proper and systematic departmental administration, the training of the traffic police, so that they would construe a reliable expert witness, and if they could be trained to be operator technical added to this a sufficiently trained patrol force.⁴⁷

Many traffic offences are prevented by mere fact that the traffic police offices on the road.⁴⁸ Could prevent or reduce the accident, and then it confirms to the conviction that it is the certainty of being caught and penalized than the severity of the auction, which is more effective on most drivers.

There are many problems that need examining in relation to the traffic police and the regulation. Driving while drunk or having taken drug or chat is an offence under the regulation,⁴⁹ how the traffic police determine whether a drunken driving offence has been committed or not?

When we go about exterminating whether an offence has been committed or not, it should be born in mind that we have innocent people in mind that might be charged for neither committed nor could prove that they do not commit. “The high value which people place on individual rights requires that there be effective controls to assure that such power is not exceeded or abused.”⁵⁰

The need for control is especially acute with regard to the traffic police of the Addis Ababa administration for their authority, as they are made prosecutors, judges and executors of a case under the regulation. As a general principle “no person shall be a judge of his own case”, however the traffic police are given such power contrary to the general principle of rule of law. The arrest, to detain, to search and to use force is unique among traffic police powers in the degree to which is disruptive of freedoms, invasive of privacy and sudden and direct in its impact upon the individual.⁵¹

The traffic police function in Addis Ababa is much more complex than is general recognized. This is particularly true today in the congested areas of the capital which the demand for the traffic police service is especially great and where the traffic police are confronted with an increasing variety of difficult situations in traffic movements.

The issues that are involved in those aspects of the law enforcement problem with which the traffic police themselves can do are much more difficult to resolve than those that are raised in the attempt to increase operating efficiency. They relate for the most part, to highly sensitive and delicate function of exercising the traffic police authority. The solution, difficult as it may be, is essential if the traffic police are not achieving a system of laws enforcement that is not only efficient, but also fair and effective.⁵²

The regulation of Addis Ababa city administration is silent about the controlling mechanisms of the traffic police officers power. Due to this there are administrative problems in controlling the exercise of the traffic police authority, as there are several forms of misconduct. Power abuse is one of the several forms of the misconduct of traffic police.

While the actions of an individual traffic controller may appear on the surface to be improper there is often no basis in such cases on which his superior can take

disciplinary action against him, since his conduct violates neither the regulation nor any clearly stated and existing departmental policies. In such a situation, the police administrator is caught in a conflict between his desire to be responsive to a citizen who has reason to complain about the traffic controller's behavior and his fear concerning the reaction of his force to seemingly arbitrary discipline where there is not clear breach of a pronounced standard of police conduct.⁵³

The promulgation of clear policies which is made to be known by the people and to which the traffic controllers are required by regulation to and here would provide a basis for disciplining those who violate such policies. Progress in elevating the quality of law enforcement is much more likely to be realized if one views clear and defensive standards as a basis for eliciting a proper response from the traffic controller rather than considering such standards primarily as the basis for the taking of disciplinary actions against the traffic controller.

The other problem is that when a traffic controller is found abusing his power, persons most likely to see and witness his actions are other traffic police officers. This attitude understandably grows out of the defensive posture, which the traffic police have traditionally assumed in this administration.⁵⁴

“Practically all forms of control over the traffic police behavior depend heavily upon the filing of complaints by aggrieved citizens.”⁵⁵ In Addis Ababa, individuals most subject to abuse of traffic police power are those with the least standing to complain, they are mostly unaware of how one goes about challenging the exercise of the traffic controller power.⁵⁶ Many of drivers lack an understanding of the limitations on the traffic police powers. But even if they are aware that a given action was illegal and they are made familiar with the process by which complaints may be filed, the aggrieved parties may choose not to file a complaint. They fear that their future conduct might be subject to special scrutiny. And they fear danger a relationship with the traffic police which they depend upon should the need for a variety of emergency service arises in the future.⁵⁷

To reduce this problem the control of the traffic controller conduct must be placed upon strong internal system of control by which the administrator and his agency with his superior are held strictly and continually accountable for the performance of their subordinates. There is a considerable potential for realizing improved control over the exercise of the traffic police authority by adopting clear and publicity known administrative procedures.

A primary requisite is a stronger commitment on the part of the traffic police administrator to this goal.

“A strongly traffic police chief, however, is not likely to achieve total effectiveness on his own because of the isolated conditions under which the individual traffic controller

normally functions.⁵⁸ An added requirement and the most difficult of realization is the development of a norm of self-discipline and personal commitment on the part of individual traffic controller that subverts the predominate concern for efficiency to overriding concern for fairness of his actions.⁵⁹

External controls, over the traffic police conduct is essential too, citizens dissatisfied with the manner in which they're compliant handled ought to have the opportunity for an independent review before the judgment of the traffic controller is executed. And an external critic ought to be available to protect and support the traffic police administrator against contrary pressure in his efforts to attain proper goals.⁶⁰

Whether one is concerned with the effectiveness of internal or external controls the currently wide gap between the regulation and the practice would in the same manner be narrowed if there is to be a basis for review. The propriety of the traffic police exercising discretion must be formally recognized and a means designed that will serve to systematized decision making in this discretionary areas, that will provide guidelines for operating personnel; and that will provide a basis of the desired control.

The need for all of these is to reduce the factors that contribute to the complexity of controlling the traffic police conduct, as the traffic police, nowadays are richer interims of discretionary power, And this wide discretion would be abused wider discretion in the hands of the traffic police themselves or the administrators of the traffic police department, tends by its natural to be arbitrary, unless we do our best control them.

3.4 Practice and procedure to Implement the Regulation

3.4.1 Procedure In the Transport and communication Authority

Whoever, by commission or omission, commits the offences laid down under the road traffic regulation of Addis Ababa city:

- a. Would be made to pay a fine:
- b. Would be made to state the traffic rules examination
- c. Would be subject to a suspension of his driving license, which could last for different specified periods.
- d. Would be subject to a revocation of his driving license.

A traffic controller shall sign and serve the original copy of a penalty form declaring the offenses and the amount of penalty offenses. Then the accused will take the venality form, which is served, to him to the authority.⁶¹

The authority shall prepare a card upon retained copy of the penalty form shall record and open a file for it in a computer with a view to facilitating the implementation of what are provided by the regulation Art (8) of regulation No5 of 1998.⁶²

The accused, to execute his punishment for the traffic offense, he committed, should first appeal and submit the penalty form to the transport control department of the authority.

The record officer of the department shall then check whether the person has any previous record of traffic violation and shall direct him to the cashier to pay the fine after indicating on the penalty form the category of the offence committed.

Finally, the accused driver, after showing the receipt he has received for the payment of his fine, shall collect his driving license from the traffic controller office.⁶³

When the level of penalty to be executed is one which would subject the driver, who has committed any of the traffic regulation offence, to the suspension of his driving license, the record officer, after showing to the accused driver the records relating to his situation, shall issue a letter of suspension to him. The office will make this known to the head office of the drivers' affairs department of the authority through a copy so as to make the accused driver retake a new driving license.⁶⁴

When the category of the offence committed is, one which lead to the revocation of the driving license, the record office of the authority shall, after having it signed by the proper authority, cause a letter of revocation reach the accused driver who has committed the traffic regulation offence. The record office shall also inform the head officer of the drivers' affairs and other regional transportation offices by distributing copies of the letter so that the driver would not attain a new license until which the specified period has lapsed.⁶⁵

In addition to this the record office shall give information regarding offence record as regulated by drivers; it shall also give written answers for requests made by other offences it shall examine files of every driver and cause cancellation every two years in accordance with the provisions of Art. (9). Moreover, it shall investigate driving licenses that need to be suspended and caused further action to be taken on them. Further more, the record office of the authority shall carefully keep files of drivers and shall register daily reports submitted to it on the card or in a computer file. It shall also follow-up and ensure that the records are safely kept.⁶⁶ The record office can not in any way cancel penalty records before two years lapses unless the conditions which are listed under Art. (9) of the regulation are satisfied. This is the procedure of implementing the regulation in the transport and communication authority. Theoretically it seems good, but practically, as I witnessed and interviewed some accused drivers whom I met while paying their fine, it is time killing. In addition to the bureaucracy they face in the authority they waste their time without doing any thing.

The improper conduct of the officers of the authority is common. They do not serve all drivers equally. Either the personal conduct or financial position of an individual or both plays a great role in the authority.

As most of the interview agreed, the problem needs much more attention to be solved it is very complex.

3.4.2 Procedure in the traffic police department

The traffic controlled has been given the power under Art (5) and (6) of the regulation to arrest a vehicle or/and to seize a rear number plate of a vehicle. In addition to this the traffic controller stops automobiles on the road when the occupants of the automobiles have committed an offence of the traffic regulation. However, the difficult question is whether an arrest occurs when a traffic violator is stopped for a certain period by the traffic controller.

Recent incidents have brought into dramatic focus the conflict between effective law enforcement and the constitutional rights of citizens who have violated one or more of the innumerable traffic regulations. The question whether a driver and his vehicle may be arrested following a traffic violation is indeed a complex one.⁶⁷

Of course, neither the constitution nor the regulation gives an absolute immunity from arrest and refigures. Effective law enforcement requires that the traffic police have authority to arrest and seize under certain circumstances. "Due to the fact that a traffic stop constitutes a limited arrest and seizure of the person of each occupant of an automobile, the law enforcement officers act of stopping a vehicle must be justified at its inception and the seizure must be reasonably related in scope including its length, to the circumstances which initially justified the detention."⁶⁸ The duration of the arrest or seizure may be extended without creating a constitutional violation if the additional factor circumstances, which provide the controller with reasonable suspicion that one or more of the occupants of the stopped vehicle are engaged in criminal activity.⁶⁹ In fact most traffic offences are not of a nature, which gives rise to an inference that, the offenders are engaged in what is generally understood as criminal activity.

The constitutional provisions speak in terms of "unreasonable", It is only these unreasonable acts of the traffic controller that are condemned. And whether a seizure or an arrest is unreasonable within the constitutional mandate is a judicial question and not one for the traffic police to determine.⁷⁰

The traffic controller stops of vehicles on the road are legal only pursuant to routine, non pretext traffic checks in order to enforce the traffic regulation or when there exists at least a reasonable suspicion that the driver or occupants of the vehicle committed or are committing or are about to commit a crime.⁷¹

Sometimes an arrest of a vehicle may result in search without warrant. In order to search the arrested driver and vehicle, there must be facts and circumstances observed by the traffic controller to cause them in good faith to believe that the motorist is assumed, is dangerous, or apparently to escape.⁷²

When the traffic violation is so serious that there may be reason to believe that the violator may attempt an escape or there are additional circumstances which would give the traffic controller grounds to believe his person may be endangered, a search of the driver and the immediate surroundings of the vehicle may be made for the controller's protection. But in the absence of additional circumstances the search of the person and vehicle following an arrest for a minor traffic violation would violate the constitutional provisions.

The traffic police of Addis Ababa administration are entrusted with substantive power of controlling the movement of traffic and will in all likelihood take "unjust" measures, as there is no regulatory procedure such as prior consultation with victims of the decision of the traffic police themselves. The regulation is silent as to the power of the traffic police and procedures, therefore, courts should step in by way of regulatory construction to fill the procedural gap and thereby infuse an element of fairness in the administration of the appeal cases of traffic violations.

A part from the traditional procedures that is followed by the traffic police in exercise of their power, appellate courts should have relied on very general construction precepts to hold the presence of implied procedure with which the traffic police must comply in the exercise of their power: if this is not the case the violation of the rights of most drivers will continue as it is seen now, as far as the traffic police are performing their duty based on the non-statutory procedures or based on procedure which are not found clearly stated in the new road traffic regulation of the Addis Ababa administration.

3.4.3 Judicial review procedure

Judicial review proceeding is an issue whereby a party argues that the administration acted without any legal support and thus its acts are illegal *per se*. The review proceedings are therefore, limited to test the "legality".

In review proceeding the court would stick to the law statutes or constitution to ascertain whether or not constitutional limitations authorities are as well bound to bow to the regulation issued by them.

As it has been said judicial control is, however, limited to the review of only those aspects of traffic police functioning that relate to acquiring evidence in cases in which there is an intention to initiate a prosecution.

Most drivers are not familiar with this procedure and hence I did not see anyone who initiated a prosecution for judicial review.

The usual illegalities that are attacked in review proceeding are doing the wrong thing, doing the right thing but in wrong procedure and doing something that are

unreasonable. Judicial review is, therefore, held to afford protection against unauthorized decisions, but erroneous decisions. Hence, unless otherwise, the traffic police and the authority act without authorization or give erroneous decisions, no initiation of prosecution for the need of judicial review.

The FDRE constitution succeeded in setting effective legal limits to the exercise of the powers and thereby laid foundation for the rule of law. The judiciary is entrusted with wider judicial power, and therefore, elevates to such higher position so that is enabled to enforce rule of law at least theoretically.

The municipal courts, based on their power under the constitution shall do enterprising constitutional interpretation to assert their reviewing power over the authority and the police department. And it is constitutional right for any aggrieved driver to initiate a prosecution for judicial review. The courts, in many instances should also construe the “due process” clause of the FDRE constitution to confirm their power of review.

3.5 Encountered problems to enforce the regulation

3.5.1 Drivers training and behavior as a cause of problem and accident

Although the relationship between the levels of driver training and road accident are not sufficiently determined in many of the behavioral studies conducted, it is the drivers who has been inherently accepted to be one of the major elements, changes in driver’s behavior, through acquisition of knowledge and skills, are the basis for appropriate driving behavior.

In Ethiopia, absence of uniform procedures in drivers’ training and testing is believed to be the main reason for deteriorating driving behavior. Moreover, there are no detailed instruction and training manuals in almost any place in the country, where driver training and testing is conducted.

Therefore, basic agreement in all the studies is that the provision of adequate training and stringent and comprehensive testing remains vital. In Ethiopia we have one single center established for this particular purpose “driver and mechanic training center”, run by the Ethiopian road authority. The center is of the highest international standard in terms of facilities; equipment and training skill. Flexible training packages are offered in all areas of road use and for all classes of license.

Application of uniform methodologies and minimum standards of driver training throughout the country would have a marked impact on the improvement in road safety statistics. Structured driver training packages would ensure training to a set level. Stringent and comprehensive testing and licensing of drivers and vehicles is vital to the control of set standards and would be best achieved through standardization of testing.⁷³

Research conducted on driver behavior in some developing countries^{74, 75, 76} indicates that the capability in understanding and compliance to traffic regulation is generally very poor and attributed to low levels of training standards.

The behavior of driver in the city in general is poor. At times, in addition to the lack of skill and efficiency, the aggressiveness of the drivers coupled with the conditions of road safety and the chances of minimizing accidents. According to the Addis Ababa road traffic safety regulation it is an offence to overtake a vehicle improperly.

But in reality, it has become a very common practice to increase speed whenever drivers find out that they are going to be overtaken the attempt to overtake and the attempt not to be overtaken usually leads to race which consequently leads to the violation of the regulations. It is true that certain individuals have what is referred as “power compile” and when driving they utilized the power of the vehicle as an extension of themselves.⁷⁷

Seriously speaking, drunk driving is a problem in Addis Ababa, which has almost reached a point of no return. Drunk driving is a treat on the life and property of the citizens.

The aggressiveness such as; chasing another vehicle in anger, deliberately trying to edge another car off the road, fighting with other drivers and difficulty in controlling one’s temper when driving was mainly the character of uncultured drives.⁷⁸

Even though, there is sufficient ground to allege that all traffic accidents do not necessarily arise from the fault of blame worthy person, it could safely be argued that the intentional violation of the traffic regulations is among the main causes for most accidents in this city. (Table one and Table two)

Moreover the questionnaires 1 distributed to the traffic police offices; response shows that the traffic accidents and traffic rule violation record increases year to year.

Table 1

**Road Accident Casualties In Addis Ababa
1995-1999 E.C**

| Year | Total accident | Causalities | | | |
|------|----------------|-------------|---------|---------|-----------------|
| | | Fatal | Sr.inj. | Sl. Ing | Properly damage |
| 1995 | 8636 | 319 | 528 | 1360 | 6429 |
| 1996 | 10189 | 305 | 536 | 1483 | 7839 |
| 1997 | 10543 | 320 | 731 | 1381 | 8111 |
| 1998 | 11014 | 363 | 833 | 1261 | 8557 |
| 1999 | 8949 | 347 | 640 | 850 | 7112 |

Source: - traffic police department of Addis Ababa
Sr.inj. = Serious injuries, Sl.inj = slight injury

Table 2
Traffic offence in Addis Ababa
1999

| Type of offenses | Number | Percent |
|---|----------------|------------|
| Over lodging passengers | 8903 | 3.3 |
| Illegal parking | 3625 | 1.4 |
| Driving faulty vehicles /Not inspected vehicles | 2652 | 1 |
| Failure to stop at signals | 1792 | 0.7 |
| Driving on wrong direction | 2280 | 0.9 |
| Not carrying driver license | 8570 | 3 |
| Preventing right of way | 2063 | 0.8 |
| Sudden/illegal stopping | 3194 | 8.45 |
| Driving with out lights | 701 | 0.3 |
| Other offenses | 235,143 | 87.7 |
| Total | 268,022 | 100 |

Source: - Addis Ababa traffic police department, 1999 the major traffic violation recorded and those perceive to direct and indirect causes for road accidents are listed above.

3.5.2 The engineering of road as a cause of accident

The size and the type of the road have much to do with the cause of accidents. When the road is considered as a cause of problem to implement the regulation in Addis Ababa it should not be taken as to refer poorly built, narrow and congested roads. Well-built roads such as “Bole” street also have its contribution to accident causation no less than the other road.

When we talk about roads as one variable among the many problems to implement the regulation mainly the lack of pedestrian walkway, which largely express pedestrians to accidents is to be included in it.

Even if the construction of separate pedestrian walkways and pedestrian crossings could not completely eliminate the accident originating from its lack, it could have largely reduced it.

Art. 25(3) 279 of 69 clearly states that whenever a vehicle is preparing to overtake or is to turn either to right or left proper use of the lanes has to be made. In some of the places where there are lanes, it is doubtful as to whether the drivers’ are aware of the use of the lanes. This is neither to blame neither the drivers nor the traffic police officers who are not much better than the average drivers in as far as their knowledge of traffic safety and problems of accident causation is considered. It might sound to make the road transport authority, the traffic police and Addis Ababa road transport authority collectively responsible for the mess on the roads. It should neither be forgotten nor under looked that roads are the connecting link to human activities.

The traffic engineering involves not only the upkeep and improvement of the existing road system but also includes the designing and building of new roads and motorways.

3.5.3 The vehicle as a cause of accident

Addis Ababa is among the very few cities, which have a large collection of vehicles form, the oldest to the latest. Even though the vehicles of the late 90’s are not common on the roads in the city, the vehicles of the late early 60’s still claim the roads, may be on the bases of we are the oldest friends of the road. If course, it is understandable that a poor country like ours could not afford to meet the transportation requirements of its citizens with the use of new vehicles or city train.

The intention of this paper is concerned is, in as far as vehicles are not in a good condition they remain to be a treat both to life and property.

According to the statistics of the traffic police shows that the old vehicles are more viable to cause of accident than the new ones. This is because of shortage of spare parts, inadequate maintenance and garaging system. Most of the cities vehicles age is more than 5 years and people preferred to have the old or second hands instant of

buying new ones. This preference is based on financial position of the buyers. The preference of old vehicles is among other factors that contribute for the cause of an accident.

Art 32/2 of regulation 30/69 has the following in relation with the vehicle mechanical condition.

If the authority could have engaged it as seriously as it does commit itself for the collection the “automobile tax” to vehicles condition as well, the road safety situation could not have kept on going from bad to worst. A vehicle should never be taken on the road if it is not in perfect road worthy condition. There is a series of simple checks, which should be done before any journey.

3.5.4 Pedestrians as a cause of accident

In Addis Ababa the number of pedestrians is greater than those of vehicle users at least 70% of road users are pedestrians. The pedestrians have a difference in the knowledge of the general traffic rules and regulations and some of them do not have much to do with the road rules.

Article (4) of the road traffic regulation of the Addis Ababa administration NO 5/1998 states about pedestrians and their liability where injured. But the basic remains to be what do you do in practice with pedestrians violating this regulation?

Yugoslavia traffic code Article 101 makes it an offence, if pedestrian crosses a road not on the zebra line while it is within 100 meters the point from which he crossed. And the penalty for violating this rule for the first time is 100 dinars.⁷⁹

The Ethiopian transport amendment regulation 1963 Art.62 (4) had also similar provision “whenever pedestrian crossing have been provided and marked as such, no person shall cross a road except within such marked crossing.” Of course, to apply such law, at the present day, in Addis Ababa is very difficult. With the new existing level of cultural development and the rural-urban migration the problem of controlling pedestrians will be the major areas that require immediate solution.

More than 70% the city traffic accident is occurred on pedestrians. This is because the road capacity is highly utilized by them.

CHAPTER FOUR

4.1 Conclusion

Addis Ababa is the capital city of Ethiopia. And it is also a sit AU headquarters as well as UN agencies. The existence of regional and international organization made the city one of the international political centers. However, the common use of road by vehicles, pedestrians and domesticated animals.

These common usages of road by different groups have been increasing traffic jam, accident and declining the existing quality of the road.

The street of Addis Ababa as every body knows well, all are full of problems that the city administration couldn't solve it. The street boys, the beggars, the prostitutes and unemployed youth who want got loaf away spent all days on the street care ness have been making traffic problems.

The increase of accident records from time to time, lack of co-coordinated effort among or with in departments and the inflexibility of traffic rules and regulations impede the general movement of the city traffic.

Road traffic regulation No. 5/1998 one of the issuance is that to adjust the amount of the previous fine fixed for sanction with the present living standard of the country. The other justification was that to solve the problems which aloes due to current development. Abut it failed to include speed-detection equipments, alcohol measurement devices and others.

On the nature of liability, thought regulation 5/1998 is far from clear usually a glance at the provisions of regulation will tell if they create an offence obviously most provision of the regulation using words like "guilty", "conviction", "offence", "punishment" and certain other words would prime facie create an offence of strict liability.

Road traffic offences that are more likely to cause hazardous effects are not considered more seriously at the enforcement and suctioning levels. It is true that a clear identification of the problem area is very essential, but the general attitude to do away with the effects will the cause is not understood properly does not seem to work out and never succeed. It is certainty than the severity of sanctions that is more effective. This is likely to create problems until it is well understood by all, for the law enforcement people.

The regulation is silent about the controlling mechanisms of the traffic police power, the administrative review, and judicial review, and further appeal and causation. Due to this there are problems in administrating of justice.

4.2 Recommendation

Based on this paper I want to recommend some points as follows. We can reduce traffic accident and make efficient traffic management. Therefore to do better the concerned institutions and the people should take tangible measures.

1. These should be close cooperation between traffic police department and other government institutions. The driver of every government organizations is a member of road users. To use the road according to rules and regulations the driver's knowledge of traffic safety education should be enhanced. The traffic safety education must be given to drivers of different government institution by experienced police officers. I think this may limit the every increasing traffic accident.
2. It is very important to apply rules to punish pedestrian if not followed traffic rules and regulation.
3. The working places should be isolated from dwelling like developed countries and the streets of Addis Ababa should be divided in to deferent levels to be used by different seized vehicles.
4. Every road in the city should be clearly isolated the pedestrian from the vehicles.
5. Different agencies work for the city development. These agencies are Ethiopian electric power authority, Addis Ababa water and sewerage authority and Ethiopian telecommunication agency. They cut streets to provide utility but could not repair as it is. No specification or instruction for carrying out of the works finished. This kind of work should be corrected rather close cooperation and mutual notification should be developed among departments.
6. Fast replacement of worn out traffic lights by new equipment with special light for pedestrians.
7. Proper road marking mainly at intersection but also main roads providing pedestrian crossing, pedestrian loans and bowery of vehicles and Pedestrian Island should be important.
8. The need of introduction of modern scientific equipments to detect such violations as speeding and drunk driving is long overdue.
9. Sanctions could neither minimize the violation of road traffic regulations nor do away with them. A change in the attitude of the public in general and the authorities in particular on this issue could possibly bring about a radical change.
10. My least but not last recommendation will be the prohibition of mobile telephone while driving. Because it normally calls for attention and at times divert ones attention.

If the above-recommended points are considered and taken in to account by the concerned officials of the city then the future growth of the city will be better.

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