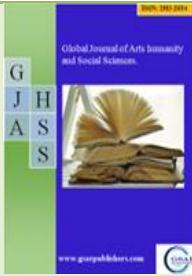


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ANALYSIS OF THE LEGAL AND INSTITUTIONAL FRAMEWORK ON ROAD TRAFFIC LAWS IN COMBATING OF ROAD ACCIDENTS IN TANZANIA

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Abstract

The article aimed to make analysis of the legal and institution framework on road traffic laws in combating of road accident in Tanzania by analyzing the laws and institutions focusing on that, despite of having the laws which govern road traffic on combating road accident and established institutions which include National Roads Safety Council, Roads Authority, Regional Road Board, TANROADS, TARURA, Judiciary and Police Force, still the prevention of road accident has not been dealt with effective measures as the number of road accidents, death and injuries is increasing. The study analyzed and concluded that legal and institution framework governing road traffic laws on combating of the road accidents is not effective as the laws and institutions are not linked and harmonized, police officers who are the law enforcers have not given full legal power on road traffic and road safety as the law gives more power to the court and national road safety council to combat road accidents in the country.

Keywords: Road Traffic, Road Accidents, Legal and Institution Framework.

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1.0 GENERAL OVERVIEW

1.1 Introduction

The laws governing road traffic on combating of road accident in Tanzania aimed to combat the road accidents in the country and achieved through the enacted legal framework and established institution under the Road Traffic Act of 1973 with amendment of 2021 and its Regulations as a core legislation for combating the road accidents in Tanzania, The Road Act, 2007 and The Land Transport Regulatory Authorities Act, 2019. The study focuses on analyzing the laws and institutions as the possible solutions to overcome the road accidents in Tanzania.

1.2 Key Terms

1.2.1 Road Traffic

This refer to the number of vehicles moving along roads or the amount of aircraft, trains or ships moving along a route.¹ It is the movement of vehicles and pedestrians through, on and along any

section of a proclaimed public road network² and includes the movement vehicles, ships, railway, persons in an area, along a street,³ the system comprising road infrastructure, road users such as vehicles, drivers, cyclist and pedestrian environment. It covers factors affecting infrastructure performance such as supply, demand, weather conditions and energy supply⁴. Section 4 of the Road Traffic Act⁵ introduced a traffic officer who appointed by the Minister through government gazette for the purpose of vehicle inspection and examination through vehicle inspector and examination officers. Roads Traffic includes roads sign which include any object, device or marks whether fixed or portable and in the case of marks whether painted or otherwise displayed for conveying to traffic on the roads or any specified description of traffic, warning, information, requirements, restrictions or

² <https://www.lawinsider.com/dictionary/road-traffic> accessed on August 2024.

³ <https://www.dictionary.com/browse/traffic> accessed on August 2024

⁴ <https://www.sciencedirect.com/topic/social-sciences/road-traffic> accessed on August 2024.

⁵ Act No 30 of 1973.

¹ <https://dictionary.cambridge.org>..In July 2024.



prohibitions of any description specified by the minister by regulations and any line or mark on road for so conveying such warnings, information, requirements, restrictions or prohibitions.⁶ It is a sign raised along the edge to give warning and control street client imposed by the government for safety of the people. The prescribed distance from the site to the sign is treated separately for each type of sign. This is because the signs and the legend on the signs are designed to be understood from a certain distance and during a certain minimum lap vehicle to observe and understand a sign and should therefore be seen from a certain distance depending on the speed on the road.⁷

1.2.2 Road accident

This means an event that occurs during the movement and with the participation of a vehicle on a road, in which people are killed or injured, vehicles, equipment or goods are damaged and any other material damage is caused⁸. It is an incidence on a road or in a place to which the public have access involving a vehicle, which causes injury or damage to a person, animal or property. Road accident are caused by several reasons including driver errors, poor road condition, mechanical failure, inadequate road safety measures such as poor road conditions, driver behaviour, vehicle conditions, overloading, pedestrian behaviour, inadequate law enforcement, poor driver training and cultural factors⁹.

Road accident is controlled by the presence of Road Safety which means the quality of being safe, freedom from danger or risk of injury, a contrivance or device designed to prevent injury¹⁰. The road safety could be conceptualized as that the condition of being protected against the road traffic accidents. Roads Act¹¹ under section 31-34 roads act examined the road safety to include speedy limit control and the road users and pedestrian to ensure use of public roads in a manner that does not pose safety hazard to themselves, vehicles or any other road users.

2.0 THE LEGAL FRAMEWORK GOVERNING ROAD TRAFFIC LAWS ON COMBATING OF ROAD ACCIDENTS.

This article analysed the legal and institutional framework on combating road accidents in Tanzania on combating road accidents responsible and effective for combating road accidents in the country. This include the Constitution of United Republic of Tanzania, The Road Traffic Act, The Land Transport Regulatory Authority Act, The Transport Licensing Act and The Roads Act as used to govern and involve in combating of road accidents in Tanzania.

2.1 The Constitution of United Republic of Tanzania, 1977

The Constitution¹² provides for the basic rights and duties of the citizens¹³ which indicates country's commitment and makes a clear link between protection of the life and the well-being of the citizens in the country. The right to life is a fundamental right which needs to be protected by law as guaranteed under article 14 of the constitution that every person has the right to live and to protection of life by the society in accordance with the law. The parliament of Tanzania which has the constitutional duty to enact laws as per article 63 of the Constitution, enacted different laws which involved in road traffic and combating of road accident with the purpose of protecting the life and property of citizen through road safety which combat road accidents.

2.2 The Road Traffic Act, 1973

This is the Act which provide for the control and regulation of road traffic¹⁴ and was amended on 2021¹⁵ for the purpose of addressing challenges encountered in the course of its implementation,¹⁶ as a basic legislation in the regulations of road traffic and road safety which covers various offences and penalties, provides for registration of motor vehicle,¹⁷ driving licence,¹⁸ use of motor vehicle,¹⁹ control of traffic,²⁰ enforcement²¹ and institution proceedings.²²

Registration of motor vehicle²³ in the country prohibit a person to use motor vehicle on any road without registration and before registration satisfaction of its fitness and proper condition for the purpose for which is intended,²⁴ so, no motor vehicle or trailer to be used on any road or other public places unless are in good repair and in efficient working order such that its chassis, engine, gear system, brake system, bodywork or any part or tyres and lights.²⁵ The act on registration of motor vehicle failed to provide provisions which put conditions for deregistration of motor vehicle when it occurred to be in a condition not proper for road use²⁶.

Driving licence under part III of the Act²⁷ as amended in section 8 of Act²⁸ prohibited driving without licence²⁹ and the court has given mandatory power of cancellation or suspension of driving

¹²The Constitution of United Republic of Tanzania 1977 Cap. 2

¹³ Article 12-29 of Cap. 2.

¹⁴ Long title of Act No 30 of 1973 Cap. 168 [R.E 2002].

¹⁵ The Road Traffic (Amendment) Act No 7 of 2021

¹⁶ Parliamentary Bill of Amendment of The Road Traffic Act, 2021 pg 25

¹⁷ Part II of Act No. 30 of 1973 Cap. 168 [R.E 2002].

¹⁸ Part III of Act No. 30 of 1973 Cap. 168 [R.E 2002].

¹⁹ Part IV of Act No. 30 of 1973 Cap. 168 [R.E 2002].

²⁰ Part V of Act No. 30 of 1973 Cap. 168 [R.E 2002].

²¹ Part VI of Act No. 30 of 1973 Cap. 168 [R.E 2002].

²² Part VI of Act No. 30 of 1973 Cap. 168 [R.E 2002].

²³ Part II of Act No. 30 of 1973 Cap. 168 [R.E 2002].

²⁴ Section 8 & 11 of Act No. 30 of 1973 Cap.168 [R.E 2002].

²⁵ Section 39 of Act No. 30 of 1973 Cap.168 [R.E 2002].

²⁶ Respondent: Traffic officer

²⁷ Part III of Act No. 30 of 1973 Cap. 168 [R.E 2002].

²⁸ Act No 7 of 2021

²⁹ Section 19 of Act No. 30 of 1973 Cap.168 [R.E 2002].

⁶ Section 2 of The Road Traffic Act Cap 168 R.E 2002

⁷ Section 2 of The Road Traffic Act Cap 168 R.E 2002

⁸ <https://www.lawinsider.com/dictionary/road-accident>

⁹ <https://www.researchgates.net.> > accessed July 2024

¹⁰ Collins English Dictionary (2012)

¹¹ Act No 13 of 2007



licence for a period of not less than three years³⁰ in case of causing bodily injury or death through dangerous driving, carelessness, reckless or dangerous driving, obstruction of official motorcade, driving motor vehicle while under influence of drink or drugs and blood alcohol concentration above prescribed limit.³¹ Also the court has power under section 62A of the Act to order for forfeiture of vehicle used in the commission of offence or disqualification from driving. The court as the final authority to make decision has given more administrative power by the Act to cancel and suspend business licence than the law enforcers such as Police and National Road safety council.³² The power to cancel and suspend supposed to be done administrative by police officer so as to combat and control the behaviour of drivers on the roads hence combat road accident and not the court power which has power to interpret and make decision. The analysis show that the drivers are reluctant as they know that the law enforcer has no ability to cancel or suspend driving licence, hence difficult to combat road accident.

The use of motor vehicle under section 39 to 63 of the Act³³ as amended by section 22, 23, 24 of Act³⁴ make provisions and conditions on use of motor vehicle, no motor vehicle is allowed to be used in roads which is not in good condition and conditions of carrying of children on motor vehicles.³⁵ The act directed the owner of motor vehicle to cover for all damaged in case of accident if the vehicles is not insured.³⁶ So, there is no specific provisions which govern and control the owner of the motor vehicle on the consequences occurred by the use of motor vehicle in case of noncompliance with the provision of the use of motor vehicles as the owner.³⁷ Also, it provided reluctant provision on the issue of insurance without strict provision which will make all owner to insure the motor vehicle.³⁸

In controlling of road traffic the Act³⁹ which required the Engineer in chief to make traffic signs of different kinds, design, material, size and colours to be erected or marked on the ground⁴⁰ and every person using the road to exercise due care, attention, cautious not endanger or obstruct traffic or to endanger other road users.⁴¹ Section 65 of the Act provides for pedestrian crossings in which each signs for pedestrian is lawful and every user has to respect when using roads and it shall contain traffic lights, signals and a traffic officer. The Act failed to provide clearly on the responsibility, office and to whom the chief engineer reports, from which office and the consequences for failure to perform the function of road signs. Also the design of road signs not subject to

approval as the law makes a vacuum. The Act also, gives power the minister to make order and gazette on the special parking such as bus stop, taxi cab stands and loading zone for goods⁴². This made impossible to the law enforcers such as police officer to implement the combating of road accident as declaration of parking areas needs a consent of the minister who is the policy and regulation maker. So the law failed to make provisions which would involve all stakeholders, law enforcers, community and the village or town councils to decide which would be the proper and safe area for parking.⁴³

The enforcement of the Act⁴⁴ for the control of traffic and road safety is vested to the police officer who have a duty to regulate all traffic and keep order,⁴⁵ examination of vehicles on roads and power to order examinations.⁴⁶ The police has not given full statutory power on the enforcement of the law as the power were concentrated to the minister and the court on its implementation. Police officers has no room to cancel and suspend driving licence, the power has given to the court something is more administratively. The Act also failed to provide clear provisions of the offences and penalties which to be enforced by the police officer to combat road accidents. Moreover, the driver under section 77 of the Act⁴⁷ is mandated to produce driving licence to the police and such act is not an offence, hence this lead to the presence of unprofessional drivers as a driver may refuse to produce the licence while knowingly he has no valid licence and the police officer has no legal power to empower produce of licence as it is not an offence.

The national road safety council as a body corporate established by the Act⁴⁸ and amended by section 37 of the Act⁴⁹ as the lead agency on road safety matters and established different committees such as enforcement and operation, education information, training and publicity, road safety infrastructure, evaluation and research and emergence, rescue and support committees. The council has the functions among others to provide among others an effective central organization to intensify road safety activities, exploit full knowledge and experiment in all matters connected to road safety.⁵⁰ The council though required to collaborate with other relevant sector ministry⁵¹ but failed to recognize which specific ministries sectors. Also the Act requires LATRA report quarterly to the council on all regulated vehicles in transportation industry, the question raises whether regulated vehicles are the same with road safety issues as lacks a direct connection. The National Road Safety Council which is the institution empowered to control road safety in the country and the police force with a general duty to

³⁰ Section 27, 28, 32,37&38 of Act No. 30 of 1973 Cap. 168 [R.E 2002].

³¹ Section 40-45 of Act No. 30 of 1973 Cap. 168 [R.E 2002].

³² Respondent: Police officer

³³ Act No. 30 of 1973 Cap. 168 [R.E 2002].

³⁴ Act No 7 of 2021.

³⁵ Section 22, 23 & 24 of Act No 7 of 2021.

³⁶ Section 25 of Act No 7 of 2021.

³⁷ Respondent: Magistrate.

³⁸ Respondent: pedestrian.

³⁹ Part V of Act No. 30 of 1973 Cap. 168 [R.E 2002].

⁴⁰ Section 64 of Act No. 30 of 1973 Cap.168 [R.E 2002].

⁴¹ Section 64A of Act No. 30 of 1973 Cap.168 [R.E 2002].

⁴² Section 70, 71 and 72 of Act No 30 of 1973

⁴³ Respondent: Traffic Officer.

⁴⁴ Part VI of Act No. 30 of 1973 Cap. 168 [R.E 2002].

⁴⁵ Section 73 of Act No. 30 of 1973 Cap.168 [R.E 2002].

⁴⁶ Section 81 & 82 of Act No. 30 of 1973 Cap. 168 [R.E 2002]

⁴⁷ Act No 30 of 973.

⁴⁸ Section 96 of Act No. 30 of 1973 Cap.168 [R.E 2002].

⁴⁹ Act No 7 of 2021.

⁵⁰ Section 37 of Act No. 7 of 2021.

⁵¹ Section 97 of Act No 7 of 2021.



regulate all traffic, to keep order and prevent obstruction in all roads.⁵² The institutions are not well coordinated and not harmonized with other laws and institutions which used to control road traffic and road safety as well as the institution used in construction of roads in the country for the purpose of combating road accidents. Lastly the Act provides for offences and penalties for contravention of the provisions,⁵³ which has not specifically which offences can be enforced by police administratively and which can be enforced by the court of laws.

In controlling of road traffic the Act required the Engineer in chief to make traffic signs of different kinds, design, material, size and colours to be erected or marked on the ground⁵⁴ and every person using the road to exercise due care, attention, cautious not endanger or obstruct traffic or to endanger other road users.⁵⁵ Section 65 of the Act provides for pedestrian crossings in which each sign for pedestrian is lawful and every user has to respect when using roads and it shall contain traffic lights, signals and a traffic officer. Moreover, the Act provides for closure of roads, restriction of traffic on roads, one way traffic, parking places, requirement for parking and standings and special parking which includes bus stop, taxicab stands and loading zones for goods vehicles.⁵⁶

The enforcement of the Act which includes the control of traffic and road safety is vested to the police officer who have a duty to regulate all traffic and keep order,⁵⁷ examination of vehicles on roads and power to order examinations.⁵⁸ The national road safety council is established by the Act⁵⁹ to provide among others an effective central organization to intensify road safety activities, exploit full knowledge and experiment in all matters connected to road safety.⁶⁰ Lastly the Act provides for offences and penalties for contravention of the provisions.⁶¹ Generally, the Act not harmonized other laws and institutions which used to control road traffic and safety and the institution used in construction of roads in the country.

2.3 The Roads Act, 2007

The Act⁶² was enacted for road financing, development, maintenance, management and other related matters.⁶³ It includes institutions such as Roads Authority⁶⁴, Regional Road Board⁶⁵ and

TANROADS⁶⁶ for the proper management of roads in the country. The Act classifies roads as national, regional and district roads⁶⁷ and the road safety which include road furniture, speed limit, safety to road users and driving in public roads conditions⁶⁸ are governed by the roads authority. So the National Road Safety Council not recognized by the roads Act on governing road safety on roads despite of the Road Traffic Act which mandated power the council to control all road safety issues. This contradictions of the laws makes the combating of road accident in the country difficult as the institutions and the laws are not harmonized to combat accidents and regulate traffic. The Act Also prohibits certain classes of traffic on road access in the public interest the use of such road for traffic,⁶⁹ offences and penalties for destroying of bridges⁷⁰, causing damage to public roads⁷¹, obstruction on roads⁷² and nuisance in roads⁷³ as the way used to combat road accident by providing traffic control to the road users. All these were enforced by the roads authority in which Regional road board, police officers, LATRA and National road safety council are not recognized as road users hence cannot enforce road safety.

2.4 The Land Transport Regulatory Authority Act, 2019

This is Act established the Land Transport Regulatory Authority⁷⁴ which regulate land transport sector and other related matters. It is responsible for all transport in land ways where it regulate the provision of licence for those who wish to conduct transport business⁷⁵. Section 56 of the Act transferred powers and functions of the Transport Licensing Act to LATRA so as to issue, renew and cancel permit or licence, to establish standards for regulated goods and regulated services, establish standards for the terms and conditions of supply of the regulated goods and services, to coordinate land transport safety activities, to register crew and certify drivers of regulated, to certify worthiness of rolling stock and road worthiness of public service vehicles and goods vehicles, to monitor the performance of the regulated sectors such as levels of investment and availability of safe, quality and standards of services.⁷⁶ From the above provided function of LATRA it is clear that LATRA regulate transport safety activities on which the national road safety council also regulate the road safety issues as well as the road authority but all are not coordinated and harmonized. Also LATRA regulated register crew and certify drivers while driving license and drivers is regulated by police force under the Road Traffic Act.⁷⁷ Moreover, despite of the requirement of section 5 (1) (j) of the Act⁷⁸ which required

⁵²Section 73(1) of Act No. 30 of 1973 Cap.168 [R.E 2002].

⁵³Section 18, 37, 38, 62A, 63 &69 of Act No. 30 of 1973 Cap.168 [R.E 2002].

⁵⁴Section 64 of Act No. 30 of 1973 Cap.168 [R.E 2002].

⁵⁵Section 64A of Act No. 30 of 1973 Cap.168 [R.E 2002].

⁵⁶Section 68-72 of Act No. 30 of 1973 Cap. 168 [R.E 2002].

⁵⁷Section 73 of Act No. 30 of 1973 Cap.168 [R.E 2002].

⁵⁸Section 81 & 82 of Act No. 30 of 1973 Cap. 168 [R.E 2002].

⁵⁹Section 96 of Act No. 30 of 1973 Cap.168 [R.E 2002].

⁶⁰Section 97 of Act No. 30 of 1973 Cap.168 [R.E 2002].

⁶¹Section 18, 37, 38, 62A, 63 &69 of Act No. 30 of 1973 Cap.168 [R.E 2002].

⁶²Act No 13 of 2007.

⁶³Long Title of Act No 13 of 2007.

⁶⁴Section 6 of Act No 13 of 2007.

⁶⁵Section 7 of Act No 13 of 2007.

⁶⁶Section 5 of Act No 13 of 2007.

⁶⁷Section 12 of Act No 13 of 2007.

⁶⁸Section 31-34 of Act No 13 of 2007.

⁶⁹Section 39 of Act No. 13 of 2007.

⁷⁰Section 48 of Act No. 13 of 2007.

⁷¹Section 49 of Act No. 13 of 2007.

⁷²Section 50 of Act No. 13 of 2007.

⁷³Section 51 of Act No. 13 of 2007.

⁷⁴Section 3 (1) Act No 3 of 2019.

⁷⁵Long Title of the Act No 3 of 2019.

⁷⁶Section 5 (1) of Act No 3 of 2019.

⁷⁷Respondent: magistrate

⁷⁸Act No 3 of 2019.



LATRA to consult with other regulatory authorities or bodies or institution, the law failed to harmonize such institution required to be consulted and such consultation does not mean coordination as it may consult but not coordinate with such body.

3.0 THE INSTITUTIONAL FRAMEWORK REGULATING ROAD TRAFFIC AND USED IN COMBATING ROAD ACCIDENT IN TANZANIA

The Institutions which control and regulate road traffic and used in combating road accident in Tanzania.

3.1 The National Road Safety Council

The institution is established under section 96 of The Road Traffic Act⁷⁹ which consists with a chairman, vice chairman and not less than ten members appointed by the minister. The function of the council under section 97 include an effective central organization to intensify road safety activities, exploit available knowledge and experience in all matters connected with road safety, make proposals for amending traffic and road traffic legislations with a view to reduce road traffic accidents, increase road users knowledge of particular hazards, how they arise and how to cope with them, identify local accident hazards, devise, suggest remedies and advise the authorities, promote research on causes of road accidents and induce a more positive attitude to road safety through lectures, demonstrations, campaigns or any other means. So, the council had a mandated statutory functions of combating road accidents through its functions given.

3.2 Roads Authority

This includes any local government authority, institutions, agency or any other body entrusted by the minister with the duties to develop, manage and maintain roads.⁸⁰ The authority is appointed by the Minister who specifies the area or roads under which the authority exercise its jurisdiction in relation to construction, maintenance, alteration, protection and supervision of such roads⁸¹. Section 6 of the Roads Act⁸² provides for the functions of the authority such as develop roads based on the National roads investment and programmes, monitor road project and policy, make sure roads project is within national goals, policy maker and ensure efficiency use of resources and advice the government on matter relating road development and management and control the use of roads with the aim of providing safe and adequate infrastructure for road transportation commensurate with the economic development of the country. Hence road safety and combating of road accident is the cross cutting issues which involves different sectors.

3.3 The Regional Road Board

This is the road board established in each region under section 7 of the Roads Act consisted of the Regional Commissioner who is a

⁷⁹ Cap 168 R.E 2002

⁸⁰ Section 3 of Act No 13 of 2007

⁸¹ Section 5 of Act No 13 of 2007

⁸² Act No 13 of 2007

chairman, Regional Administrative secretary as a secretary, members of parliament, district commissioner, council director, three members from private sector road users, mayor, chairman of the council, council director, regional engineer, council engineer and TANROADS manager.⁸³ Section 8 of the Act provides for the board functions such as to advice and make recommendation to the minister, receive and consider annual progress reports on roads construction and maintenance and to receive and consider annual work plan from roads authority. The Board has no statutory power to control road traffic and road users in the region for the purpose of combating road accidents.

3.4 Tanzania National Roads Agency (TANROADS)

The Tanzania National Road Agency (TANROADS) is an Executive Agency under the Ministry of works, transport and communications established under section 3(1) of The Executive Agencies Act cap 245. The agency is responsible for the maintenance and development of the trunk and regional road network in Tanzania mainland. As one of the roads authority has power for ensuring road safety such as road furniture, speed limit, safety to road users and driving in public roads conditions⁸⁴ and to prohibits certain classes of traffic on road access in the public interest the use of such road for traffic⁸⁵. The agency has authority to enforce differences offences and penalties for destroying of bridges⁸⁶, causing damage to public roads⁸⁷, obstruction on roads⁸⁸ and nuisance in roads⁸⁹. Hence responsible in one way or another in combating of road accidents in the country.

3.5 Tanzania Rural and Urban Roads Agency (TARURA)

The agency was established under Executive Agency Act Cap 245, through Government Notice⁹⁰ and operates under ministry of President's Office Regional Administration and Local Government, responsible for management of rural and urban roads across the country aiming on improving and maintaining infrastructure social and economic activities and enhance the effectiveness in management, maintenance and development of rural and Urban road as among government efforts to decentralize road management and improvement of infrastructure. The agency facilitated road maintenance and development, planning budget for construction and habitation of rural and urban road and ensure that resources allocated as intended,⁹¹ provide skills and knowledge on capacity building on staff and stakeholder in road management, manages data relating to urban and rural to include inventory, data surveyor, traffic data to inform planning and decision making.

⁸³ Section 7 (2) of Act No. 13 of 2007

⁸⁴ Section 31-34 of Act No 13 of 2007

⁸⁵ Section 39 of Act No. 13 of 2007

⁸⁶ Section 48 of Act No. 13 of 2007

⁸⁷ Section 49 of Act No. 13 of 2007

⁸⁸ Section 50 of Act No. 13 of 2007

⁸⁹ Section 51 of Act No. 13 of 2007

⁹⁰ G.N No 211 of 2017

⁹¹ G.N No 211 of 2017.



3.6 The Police Force

This force is established under section 3 of the Police Force and Auxiliary Service Act⁹² as the police force of United Republic and constituted in accordance with the Act, to include Inspector-General, commissioner, deputy commissioner, assistant commissioner, senior superintendent, superintendent, assistant superintendent, inspectors to include Inspector-general, assistant inspector, non-commissioned officers to include sergeant major, staff sergeant, corporal and constables to include constable, recruit, police cadet. Law enforcement in Tanzania is primarily the responsibility on the road accidents is vested to the Police Force. The force has a daily duty to ensure road safety is maintained as per the requirement of the Road Traffic Act⁹³ The police force has the general duty under section 73 of the Road Traffic Act⁹⁴ to regulate all traffic and keep order, prevent obstruction in all roads, parking places and other places of public resort, to divert traffic, to close and deny public access to any roads. Hence every road user required to comply with instructions conveyed by traffic signs, traffic signals, road markings and instructions given by the police.

3.7 The Land Transport Regulatory Authority (LATRA)

The Land Transport Regulatory Authority was established as a regulatory authority under section 3(2) of *The Land Transport Regulatory Authority Act*,⁹⁵ to regulate rail and road transport services in Tanzania. The key mission of LATRA is to ensure a competitive, quality and safe transport service in Tanzania and the authority oversees land transportation through its functions provided under section 5(1) of the Act⁹⁶ which include to issue, renew and cancel permits or licences, establish standards for regulated goods and regulated services, establish standards for the terms and conditions of supply of the regulated goods and services, to coordinate land transport safety activities, to register crew and certify drivers of regulated, to certify worthiness of rolling stock and road worthiness of public service vehicles and goods vehicles, availability of safe, quality and standards of services and efficiency of production and distribution of services. The authority's functions not coordinated with other institutions concerned with road safety and traffic control in the country which used to combat road accidents.

3.8 Judiciary

This as organ of the state is vested with power by Article 4 (2) of the constitution of United Republic of Tanzania of 1977,⁹⁷ the authority to make final decision in dispensation of justice and being impartial,⁹⁸ being independent while exercising its power,⁹⁹ and not to delay dispensation of justice,¹⁰⁰ to promote and enhance

dispute resolution¹⁰¹ and to avoid technicalities which may hinder dispensation of justice.¹⁰² The court has been given discretionary power to make cancellation and suspension of driving licence,¹⁰³ endorsement on driving licence,¹⁰⁴ and section 62A of the Act¹⁰⁵ provides for the power of the court to order forfeiture of a vehicle used in commission of the offence and disqualification of drivers. Also the court has power to provide penalties for offences by imposing fines on traffic offences.¹⁰⁶

4.0 Challenges Facing Legal and Institution Framework in Combating Road Accidents

4.1 Insufficient provisions of the Road Traffic Act in Preventing Road Traffic Accidents

The Road Traffic Act which provides for offences and penalties for contravention of the provisions of the Act.¹⁰⁷ This is inadequate to cure the road traffic offence despite presence offence and punishment but these punishment is not sufficient to prevent these offence in Tanzania.¹⁰⁸ The law enforcers and road users on implementing the law have not well articulated for the purpose of combating road accidents¹⁰⁹. the Act is insufficient in curbing road traffic offences in Tanzania because the law itself is inadequate on the punishment as the gravity of offence and the penalty provided are not attractive on combating road accident thus why the road user can break the law at any time without any fear of the punishment, authority or road users and this lead the law not be obeyed or implemented by the road users¹¹⁰.

These offences that occurred in the road as provided under part IV of *the Road Traffic Act*,¹¹¹ categorized into major and minor offences, whereby major offences are those incidents after occurring may cause deaths, injuries and damage to properties and minor offence are those incidents include wrong parking, driving without license, over speeding and passing no entry, in these circumstances an offender can be fined by notifications or given warning.¹¹² The offences such as over speed, drink or drug driving, dangerous and careless driving, use phone while driving or not wearing seatbelt and their punishment for those offences are ranging from fifteen thousand and one hundred thousand or imprisonment not less than six months and not exceeding five

¹⁰¹ Article 107A (2) (d) of Cap 2.

¹⁰² Article 107A (2) (e) of Cap 2.

¹⁰³ Section 28 (1) of Act No. 30 of 1973.

¹⁰⁴ Section 29 of Act No 30 of 1973.

¹⁰⁵ Act No 30 of 1973 Cap. 168.

¹⁰⁶ Section 63 of Act No 30 of 1973.

¹⁰⁷ Section 18, 37, 38, 62A, 63 & 69 of Act No. 30 of 1973 Cap.168 [R.E 2002].

¹⁰⁸ Responder: anonymous magistrate from Nyamagana District in July 2024.

¹⁰⁹ Responder: anonymous police Officers from Buhongwa in July 2024.

¹¹⁰ Responder: anonymous Pedestrian of Nyamagana municipality in Nyamagana District.

¹¹¹ Act No 30 of 1973.

¹¹² Tanzania Police Force, "Crime Statistics Report", January-December, 2014, p 10

⁹² Cap 322 of 1939 [R.E 2002]

⁹³ Cap. 168

⁹⁴ Act No 30 of 1973 Cap. 168

⁹⁵ Act No 3 of 2019

⁹⁶ Act No 3 of 2019

⁹⁷ Cap 2.

⁹⁸ Article 107A (1) of Cap. 2.

⁹⁹ Article 107B of Cap 2.

¹⁰⁰ Article 107A (2) (b) of Cap. 2.



years¹¹³ as most of traffic offences are punished with fifty thousand only led to the out dated laws and need to be amended to match with the currently requirement of the road users and need to be enforced effectively as the best way to curb the problem as that loophole of the law made an authority who has a mandate to enforce and observe the laws not obeyed and take advantage to violate the law because of the law does not provide strict punishment for those who violate the road traffic rules.¹¹⁴

Also, the provision of section 64 (1)¹¹⁵ effects that the Engineer-in-Chief may cause traffic signs of such kinds, design, material, size and colour as may be prescribed to be erected or marked on the ground at such place as he may determine. The provision itself does not provide and specify what should be the standard so as to ensure safety of the road users. But the law compelled the control traffic to be lawful while in real sense does not specify to the extent the standard to be used as provided subsection (2),¹¹⁶ which provides that in any proceedings under this Act, every sign for pedestrian crossing be presumed to have been lawfully places and to be in a lawful form until the contrary is proved.

Let be born in mind that the provision of subsection (3)¹¹⁷ is to the effect that no board or notice which might be confused with a traffic design other traffic device which might render them less visible or effective or might dazzle road users or distract, the attention in a way prejudicial to traffic safety be erected on or near a road. crossings such form as may be prescribed to be placed a cross road at such places as he may determine, this is the matter of law but as the matter of practice that is not adhered since when you're in the road you can find a lot of notices place side of the road which are totally confusing the road user, a good example nowadays there are many notices place like those of Vodacom, Airtel, Tigo and other advertising businesses around Nyamagana Streets and country wise.¹¹⁸

The problem in the law in combating road traffic offences is within the law which regulating road users, there are no strict punishment for authority and road user who infringe the law, this discourse has further revealed that the existing legal and regulatory mechanism neither provide for sound management nor contain sufficient deterrent measures. Therefore, as of now the law in the road transport regime is not in tune with the ever-changing demands of road use¹¹⁹.

Therefore, the increases of road traffic offence in Tanzania means the law governing road traffic offence is insufficient or not

¹¹³Section 63 of Act No 30 of 1973.

¹¹⁴ Respondent: anonymous drivers and pedestrians of Nyamagana municipality in Nyamagana District.

¹¹⁵The Road Traffic Act, [CAP168 R.E 2002].

¹¹⁶Ibid.

¹¹⁷Ibid.

¹¹⁸ Respondent: anonymous Drivers from Nyegezi, Nyamagana District in July 2024.

¹¹⁹ Respondent: anonymous Magistrate of Nyamagana municipality in Nyamagana District.

implemented by the road users and enforcers of the law such as police traffic officers.

4.2 Legal Gap to Link the Legal Framework

The Government of Tanzania enacted different laws which used to control traffic, road safety and combat road accident such laws include the Road Traffic Act¹²⁰, the Roads Act¹²¹, Transport Licensing Act¹²² and the LATRA Act¹²³. These Acts are not linked and harmonized to the extent that each Act functions without coordinating to the function of another law.¹²⁴ It is unfortunately that the Road Traffic Act linked only the Criminal Procedure Act¹²⁵, the LATRA Act linked only the Transport Licencing Act as the implementation of the Act was given to the LATRA.¹²⁶ So, the provisions governing Road safety under the Roads Act¹²⁷ which aimed to control road traffic are not linked with the provisions which control traffic under the traffic Act.¹²⁸ Moreover, the LATRA Act which empowered to take implementation on transporting license not linked with other laws on considering when wanted to grant transporting license.

Generally, the legal framework for controlling of traffic in the country are not linked to allow combating of road accidents as result there are tremendous increase of road accident despite of having the laws.

4.3 Unlinked Institutions on Combating Road Accident

The legal framework of Tanzania established different institutions such as National Road Safety Council for road safety and traffic control,¹²⁹ police force for general enforcement and regulation of all traffic,¹³⁰ Regional Road Board for managing of regional and district roads,¹³¹ TANROADS for construction, maintenance and rehabilitation of roads in the country,¹³² TARURA for maintenance of urban and rural roads,¹³³ Roads authority for managing of roads and road safety¹³⁴ and LATRA for regulating land transport¹³⁵ all these institutions are not linked as all they concerned with road users, traffic control and road safety in combating of road accidents. The functions of these institution are not linked to the extent that each performed it power without considering the power of another as there is no legal linkage.¹³⁶

¹²⁰ Act No 30 of 1973.

¹²¹ Act No 13 of 2007.

¹²² Act No 1 of 1973.

¹²³ Act No 3 of 2019.

¹²⁴ Respondent: anonymous Traffic Officer of Nyamagana municipality in Nyamagana District.

¹²⁵ Section 91 of Act No 30 of 1973.

¹²⁶ Section 56 of Act No 3 of 1973.

¹²⁷ Section 31-34 of Act No 13 of 2007.

¹²⁸ Part V of Act No 30 of 1973.

¹²⁹ Section 37 of Act No 7 of 2021.

¹³⁰ Section 73 of Act No 30 of 1973.

¹³¹ Section 7 of Act No 13 of 2007.

¹³² Section 9 of Act No 13 of 2007.

¹³³ G.N No 211 of 2017

¹³⁴ Section 5 of Act No 13 of 2007.

¹³⁵ Act No 3 of 2019.

¹³⁶ Responder: anonymous Magistrate in Nyamagana District in July 2024.



The Government amended the Road Traffic Act of 1973 in 2021 by the Road Traffic (Amendment) Act¹³⁷ in which section 37 repealed and replaced the National Road Safety Council its establishment, composition and functions. The council included members from different ministries of Works and transport, health, local government, Attorney General, information, education and NGO as representative of road users.¹³⁸ Still the inclusion of members doesn't mean the Act harmonized as only appointed members from other institution but lacked legal linkage of the institution.

4.4 Corruption Influence

The Act¹³⁹ under section 34 which provides for the penalties of offences which ranges from fifty thousand to five million provides a loophole for police officer to engage in corruption.¹⁴⁰ The duty to ensure that all rules, Regulations and laws regulating the road traffic movements are vested on the Police officers so as to ensure that transportation of goods, human beings as well as properties are safe.¹⁴¹ Police officers on their side they have tried to some extent to safeguard this laws, thus why it happens that it may pass a number of months without hearing an occasion of traffic offences which caused road accident, however there are other group of Police officers who are money oriented without the due respect of their entrusted work they are so influenced with Corruption/ bribery from those people in default whether drivers, owners, pedestrians, or any other road user.¹⁴² An example may be taken in 2023 where it was Reported by many Social Media of a Photo of the Traffic Officer who was found with a lot of folded money in his car, it was claimed that they were the money from different Drivers.¹⁴³

Daily road accidents have been a threat to both Tanzanian travelers and tourists whose means and reliable transport services are roads. Most tourist attractive sites in northern Tanzania are reachable by buses and other passenger vehicles than flights. Tanzania's beleaguered police force charged to enforce traffic rules, is under public debate by daily reports on corruption involving its top brass standing to protect criminals and road traffic offenders.¹⁴⁴ most of Police Officers are influencing the acceleration of Road accident in our country as at the Police Check point the driver puts that Money (bribe) in a piece of news paper and handle it to the Police officer as a gift, from there the Police will just allow the car knowingly that the vehicle is not fit mechanically to carry on the journey but because he has been provided with little money will just let go

¹³⁷ Act No 7 of 2021.

¹³⁸ Section 38 of Act No 7 of 2021.

¹³⁹ Act No 7 of 2021

¹⁴⁰ Respondent: anonymous Magistrate in Nyamagana District in July 2024.

¹⁴¹ Respondent: anonymous Traffic Officer in Nyamagana District in July 2024.

¹⁴² Respondent: anonymous Drivers and Police Officer in Nyamagana District in July 2024.

¹⁴³ Respondent: anonymous Magistrate in Nyamagana District in July 2024.

¹⁴⁴ Respondent: anonymous Police Officer in Nyamagana District in July 2024.

on.¹⁴⁵

Police Officers who have the general duty to regulate traffic in the country as provided under section 73,¹⁴⁶ does not comply with the Road traffic Laws with the view to deter the Road accidents as most of the vehicles which were freed had either defective tyres, lack of seat belts, High speed, lacking Lights, having no Registration Cards, expired Insurance, and expired Motor Vehicle Road License, whereupon no driver was detained for such defaults but they were freed after paying some money as bribe to the police officers¹⁴⁷

4.5 Biasness

Part IV of the Road Traffic Act¹⁴⁸ provides for conditions for use of motor vehicle as no motor vehicles to be used on a road or in public places unless has in good condition and not likely to endanger persons.¹⁴⁹ Despite of the efforts done by the government to cure these road traffic offences by having number of legislations with amendments that enacted to prohibit road traffic offence accompanied with punishment for these who arrested with such offence, still the impacts that lead by the road traffic offence to the public in terms of health and property penalties provided for the improper use of motor vehicle increased.¹⁵⁰

This is caused by nepotism and favoritism among the law enforcers,¹⁵¹ it has been a problem in many institutions including in court and road traffics movements where police officers do favour their bosses, fellow employee police officers, family members, relatives who ought to have committed traffic offences such as driving defective motor vehicles, business passengers vehicles, or even absconding the traffic rules and regulation, by so doing this problem of road traffic offences won't be cured.¹⁵² The police officers should be confined to the law and never be influenced by the taste of relationship of any person who is a wrongdoer.¹⁵³ So, when the law enforcers used nepotism and favoritism in implementing, it the legal presumption enforcement of traffic laws cannot be implemented.

4.6 The presence Unprofessional Drivers

The Road Traffic Act regulated the driving and drivers requirement¹⁵⁴ in which conditions, prohibition, offences and penalties are provided. The number of deaths resulting from accidents which caused by the increase of road traffic offences involving passenger vehicles, the issue of passenger vehicles being

¹⁴⁵ <https://www.jamii-forum/Jerry-Mullo/awaaniika-askari-wala-rushwa-the-home-of-great-thinkers>. accessed on 23th June 2024.

¹⁴⁶ [CAP 168 R.E 2002]

¹⁴⁷ Respondent: anonymous Drivers in Nyamagana District in July 2024.

¹⁴⁸ Act No 30 of 1973.

¹⁴⁹ Section 39 of Act No 30 of 1973.

¹⁵⁰ Respondent: anonymous Pedestrians and drivers in Nyamagana District in July 2024.

¹⁵¹ Respondent: anonymous drivers in Nyamagana District in July 2024.

¹⁵² Respondent: anonymous Drivers and Traffic Officer in Nyamagana District in July 2024.

¹⁵³ Respondent: anonymous Pedestrians in Nyamagana District in July 2024.

¹⁵⁴ Part III of Act No 30 of 1973.



driven those who have attended PSV training should no longer be debated but be implemented forthwith.¹⁵⁵ But also the Road Traffic Act under section 19 provides that no person allowed to drive any motor vehicle unless he is the holder of a valid driving license or a valid learner driving license insured to him in respect of such class of motor vehicle and for the one to be given a driving license must have driving certificate awarded after formal driving training by a registered driving school but some of the drivers not attained driving education from any registered driving school hence found guilty of reckless driving caused a death to the passengers.¹⁵⁶

4.7 Road users not abide of the law

The control of traffic includes the duty of road users to abide the law as provided by part V of the Act,¹⁵⁷ which provides for traffic control and section 31-36 of the Roads Act.¹⁵⁸ The major challenge is road users who failed to abide the laws and cause the increase of road traffic offences.¹⁵⁹ The road accident mainly caused by road users as they have not observed road sign and road rules especially drivers driving in dangerous speed without observe road sign mostly of them are careless and unprofessional.¹⁶⁰ The recklessness on the part of drivers who use of defective vehicles and bus owners share most of the blame for this.¹⁶¹ But again the Vehicle inspectors would testify without any hesitation that most of the buses and other vehicles plying the country's roads are un-roadworthy as they spot a myriad of mechanical defects but due to some human factors the problem is still growing from day to day.¹⁶² So that in order to cure that problem, the road users to obey the law without force from the police/traffic officers or court, so that the issue of corruption (bribe) will not exist between the drivers and traffic officers.

The effectiveness in curbing road traffic offences is the road users to obey road rules and also some of drivers are careless not only that but also the law enforcers are not implementing the law that hence increase of traffic offences as well as the Road Traffic Act failure to cure the problem. So, although the Act provides the mechanisms in which the road users to follow in order to eliminate road traffic offences that might cause road accidents, but the problem is the road users not obey the law said.

4.3.8 Careless and Negligence of Law Enforcers

Section 73 of the Act¹⁶³ provides for the duty of police officer to enforce the law by regulating all traffic activities. The law enforcers are careless and negligence on implementing the traffic law also the roads authority has no statutory power to enforce

¹⁵⁵ Respondent: anonymous pedestrian in Nyamagana District in July 2024.

¹⁵⁶ Respondent: anonymous Traffic officers in Nyamagana District in July 2024.

¹⁵⁷ Act No 30 of 1973.

¹⁵⁸ Act No 13 of 2007.

¹⁵⁹ Respondent: anonymous Traffic Officer in Nyamagana District in July 2024.

¹⁶⁰ Respondent: anonymous pedestrian in Nyamagana District in July 2024.

¹⁶¹ Respondent: anonymous drivers in Nyamagana District in July 2024.

¹⁶² Respondent: anonymous police/traffic officers at municipality in Nyamagana in July 2024.

¹⁶³ Act No 30 of 1973.

traffic offences on roads though they have statutory power to manage all roads in their jurisdiction.¹⁶⁴ The law provides sufficient mechanisms in order to cure the road traffic offences but the problem is the law enforcers and road users are careless and negligent and not the laws.¹⁶⁵ The essence of drivers not to observe reasonable and safe speed while driving their vehicles, including observance of 50km/h in built-up-area, or where the railway crosses, and the need to empower police officer to have various instruments to measure speed was the rationale of putting the Road Traffic in place.¹⁶⁶ The road user seems to be the problem because does not obey the law said and continue to commit traffic offences through negligence, recklessness and careless in the accidents happen because of recklessness on the part of drivers.¹⁶⁷

Despite of the requirement of the law that require to use pedestrian crossing most of the pedestrian they don't like to cross at the zebra crossing rather they like to cross anywhere, again the drivers of the motor vehicle also are very reluctant since they don't like to stop or even to reduce the speed so as to allow the pedestrian to cross, by so doing the accident cannot be avoided due to the negligence of both parties of not observing the due care when using the road.

5.0 Recommendations

- The legislature is recommended to amend the Road Traffic and safety laws so as to link and harmonize the law and institutions such as TANROADS, TARURA, police Force, LATRA and Local Government Authorities as they both regulate and control road safety and traffic. This would enable the combating of road accident to be implanted in the systematic manner.
- Also, it is recommended to amend the provision which give power the court to be the final in enforcing the laws administratively to be done by police department as the core institutions which regulate and control road safety and traffic. Hence the court remains with duty to interpret the laws when conflict unresolved between road users and police force.
- The legislature is recommended to amend the Road Traffic Act by making provisions which give power police officer to enforce the road traffic, make provisions on cancellation of registered motor vehicles, police officer to have power of cancellation of driving licence, the owner of motor vehicle on the use of motor vehicle be included and liable, failure to insure the motor be the offence and legal compulsory as well as the offences and penalties provided by the Road Traffic Act by providing penalties which should cure the commission of traffic offences rather than the current one which seemed to be

¹⁶⁴ Respondent: anonymous Magistrate in Nyamagana District in July 2024.

¹⁶⁵ Respondent: anonymous LATRA Officer anonymous Magistrate in Nyamagana District in July 2024.

¹⁶⁶ Respondent: anonymous TRA officer at Nyamagana municipality in Nyamagana in July 2024.

¹⁶⁷ Respondent: anonymous Police/traffic officers at Nyamagana municipality in Nyamagana in July 2024.



source of revenue and attract corruption and nepotism in the country.

- The Government is recommended to review the Road Traffic policy and the road traffic regulations so as to ensure it meets with the changing circumstances of the roads traffic on technological development and road users.

6.0 CONCLUSION

This article examined the laws and the institutions that are related to the road traffic in combating of road accidents in Tanzania by analyzing legal and institutional framework. The study revealed that the Road Traffic Act in Tanzania is inadequate as there are no strictly punishment from the law and cases decisions as well as the authority does not implement or enforce the law due to various reasons which influenced the authority to violate the law of road traffic. This loophole has been frequently used by the police/traffic officers and road users to violate the law, as an advantage to safeguard their wrongdoing. So, the study concluded that law which govern road traffic on combating road accident and institutions which include National Roads Safety Council, LATRA, Regional Road Board, Roads Authority, TANROADS, TARURA, Judiciary and Police Force has not been dealt with effectiveness measures as the number of road accidents, death and injuries increased.

The study also concluded that the laws are not linked on the issue of road safety and road traffic to combat road accident, and the institutions established by that laws are not harmonized to the extent that each institution such as Police Force which regulate all traffic activities, LATRA which regulate land transport, National Road Safety Council as the overview of all road safety in the country, Roads Authority as managed road safety and Regional Roads Board for management of regional roads performed their functions without legal link with the function of other institution. Moreover, there is no provisions which cancel the deregistration of motor vehicles, cancellation of driving licence is done by the court not law enforcers, no provisions which include the owner of motor vehicles on the use of motor vehicles, minister has given more power on the control of traffic than the daily enforcers and penalties of road traffic offences are not effective on combating of road accidents in the country as the penalties are based on fines ranging from fifty thousand to five million and imprisonment which lacked legal impact on combating road accidents. It further revealed that the existing legal and regulatory mechanism neither provide for sound management nor contain sufficient deterrent measures as now the law in the road traffic and safety regime is not in tune with the ever-changing demands of road use