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## Traffic accidents between the reality and hope socio-legal study

حوادث المرور بين الواقع والمأمول - دراسة سوسيوقانونية

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**Abstract:**

This research paper aims to deal with the phenomenon of traffic accidents in terms of definition and clarification of the most important actors and interveners involved in it, this phenomenon which has recently exacerbated, has been termed road terrorism, because it is increasing day after day and heighten the volume of material losses and loss of human lives despite of the constant care of those in charge of this matter, but without achieving the aimed goal.

This requires to reconsider the ways and mechanisms taken to deal with this difficult phenomenon in order to reach a real diagnosis to help us to dispel it then control their variables and put in place mechanisms for proper treatment and prevention.

**Keywords:** Traffic accidents – Human- Law – Vehicle - Ocean

**الملخص:**

تهدف هذه الورقة البحثية الى معالجة ظاهرة حوادث المرور من حيث التعريف والتوضيح لأهم الفاعلين والمتدخلين فيها ، فهذه الظاهرة التي إستفحلت في الأونة الأخيرة قد أصطلح على تسميتها بإرهاب الطرقات ، لأنها تتفاقم يوماً بعد يوم وتزيد من حجم الخسائر المادية وإزهاق الأرواح البشرية رغم الحرص المستمر للقائمين على هذا الشأن لكن دون تحقيق المبتغى المطلوب. مما يستوجب إعادة النظر في السبل والآليات المتخذة لمعالجة هذه الظاهرة العويصة حتى نصل إلى التشخيص الحقيقي الذي يساعدنا على فك طلاسمها والتحكم في متغيراتها ووضع الآليات الحقيقية للوقاية والمعالجة السليمة لها.

الكلمات المفتاحية : حوادث المرور. الإنسان.القانون.المركبة.المحيط.

• **Introduction:**

God says: "we sent down iron in which there is great strength and benefits for people". (surat El-hadid.verse 25) it is from iron that man made different means by which he made the tools of life in aim of self-defense and the homeland ,overcoming difficulties and reducing effort, cost and time , because of this innovation man could create means that walk ,fly and swim ,thanks to it , distances are covered and travels across countries in a short time without much trouble or hardship ,but it is not devoid of dangers that make a blessing a curse , whether it is related to a person a machine , the environment, or the legislable that regulates the ways of human life ,human remains the first and last responsible for all the achievements and failures, because they were found by his making , and walked thinking and using it , therefore, he bears the burden of failure, because he is required to be rational in use, to be careful about maintenance, to update the appropriate regulatory legislation, and to create an appropriate environment that is compatible with good and proper use.

The world has witnessed a great momentum and a quantum leap in the manufacture of boats of various types and levels , but what the people and commodities industry is witnessing in particular has a special and exciting character, not only in terms of quantity or quality , but even in terms of the possibility of owning it by most individuals and families ,this requires careful follow-up and organization in terms of efficiency and care for the spaces allocated to it ,and not only in terms of the training of drivers, and this explains the great pressure raised by this method due to the terrible traffic accidents it causes, until it became described as road

terrorism due to the loss of many human lives and great material losses , it recorded 16245 traffic accident in 2015. And he caused in 809 dead and 9337 blessing.(Fatma masani.2018.p254). which made it an inevitable necessity that imposes itself on researchers to give it full attention and care , by highlighting it ,in order to reveal the secrets and mysteries of this phenomenon, which is constantly exacerbating, despite the constant alerts legal amendments, and deterrent penalties, but it did not succeed in limiting or curbing it, and why not reduce them to the extent required and reasonable .

Algeria as a country wasn't an exception to the previous rule, in terms of rapid increase in traffic accidents. Enormous damages in human being caused by man referring to the statistic 2017 a rate of 96.67 % for man cause comparing to 1.25 % for cars and 2.08 % to road and neighborhood.( Fatma masani.2018.p256).This later fact lead to push the politicians and decision makers to modify regularly the traffic law by applying strict control and amendment. But it fails in spite of repeat modification of traffic law started from 2001 until the last one in 2022 that contains rude punishment. high amendment each time like, even some cases were classified as misdemeanors and crimes, with imposing significant financial fine and penalties on confine. That between 2.000 DA at 50.000 DA, with assign the driver at judicition in conation relase a misdemeanor , and that penalty on the confine from six months at two years. according constitution artcul n: 16 from the law17/05 in 22/02/2017.

Nevertheless, the analysis read of the social phenomenon even it concerns public or private, the interested or actors, responsible with it in purpose to find

prevention and treatment to reduce the spread and losses of souls. It is clear that the responsible concerned couldn't put the finger on the wound as it should. Therefore the treatment was in reforming attempts not preventive or curative to tip the scales from negative to positive, and to decipher the overlapping hierarchies between the various actors to determine the actual responsibility for this difficult phenomenon.

The observer of the various reports of the interventionists about the phenomenon of road terrorism, they were pointing the finger of accusation in an almost absolute way at the human factor only, which is estimated at more than 90% , but the question raised is whether it is possible for a person to kill himself so simply.

but the truth that imposes its self says that everything affects everything, so where are the rest of the other factors? if a person made himself cheap degree, it would have been better for him to commit suicide with the simplest things. The god say: "if hereafter of the loss home with allah without the others then long for death if you are truthful, they will never long for it because of what their hands have sent before them.". (surat El-bakara.verse 94.95). haven't to waste his money to this great extent, which is considered honored to the human soul, because he works hard and strives to collect it a penny at the expense of his comfort, health and others, so how can he waste it so simply?. the question is: what are the contributing factors to the exacerbation of the phenomenon of traffic accidents in such a terrible and horrible way?.

- **First axis: personality real of traffic accidents:**

In order to answer this question , concepts must be dismantled and the overlapping axes identified in order to

clarify the real actors who have an actual contribution to resolving this dilemma and identifying responsibilities and causes. In the beginning we discover four major axes, which are the human factor, the legal factor, the vehicle factor, and the environmental factor.

- **First subtitle: role of the human factor:**

It is represented in that social being that possesses a distinguished mind unlike the rest of other creatures, and is able to think, express, communicate with others and give solutions to the problems that confront it, according to god's saying: "we created man in the best form". ( surat El-tin.verse4).

Man is a rational and social human being by nature, he needs to interact with others of his own skin, live with them in peace and security, and adapt to the rest of the other creatures that surround him. this involve respecting the social settings that entitle him to a set of rights ,in exchange for performing due duties, which is a fulfillment of others within the framework of interaction , harmony with the members of his community in a hierarchical organizational arrangement that defines roles and responsibilities according to the social status of each individual or social group, social interaction in fact, is nothing but a learning process that includes changes in the behavior of the organism,(Abu el ala ahmed.2002.p14). therefore, we note that this framework includes a set of functional levels that define the tasks of each of them separately, which are as follows:

- **First secondary title: at the legislature:**

It consists of members of parliament in both chambers who were agreed by the people in the elections, except for the presidential third, to ratify draft laws proposed by it or by the executive body after

revision, amendment, enrichment, end presidential orders issued by the president of the republic in the event of a recess or vacancy in the legislative body, or in urgent cases, according to article 142 of the constitutional amendment 2020. Laws have the legal and mandatory character of application starting from the date of their issuance in the official journal to preserve the hopes and aspiration of the members of society so that they may be reflected in reassurance tranquility and harmony.

- **Second secondary title :at the executive authority:**

Boutros-ghali defines it as the authority that implements laws and consists of state employees from the president of the republic to all its extensions in the various administrative departments up to the simplest employee, with the exception of judges (freidja.2009.p 23).

So that James Anderson believes that the role of the executive authority can be in drawing up the general policy of the state and its implementation refers to the large number of issues that require specialized technical expertise, (Anderson.2007.p 58). the executive authority consists of the governmental staff of the various ministries of the republic and their regional and local extensions, and it undertakes the implementation of laws approved by the legislature and presidential orders.

- **Third secondary title: at the Judiciary:**

The independence of the judiciary is considered a pillar of consolidating justice and guaranteeing freedoms and rights, by embodying the freedom of the judge who practices his duties without bias or submitting to any pressure or temptation and is independent towards his superiors or any other authorities.(mannaa.2000.p 61).

The judicial body is represented by the public prosecution judges, agents of the republic, their assistants and various agents supervisors of the judicial departments that are responsible for ensuring the application of the law, conforming to its constitutionality, resolving disputes, redressing rights, and eliminating various legal and social deviations.

- **Fourth secondary title :at the citizens:**

they are the individuals who enjoy the nationality regardless of their ranks, jobs and social positions, so that all individuals are committed to applying the law, no matter how small or great, in the various aspects of family, social and functional life, whether individually or collectively, the ignorant of his ignorance of the law, ignorance of it does not prevent its application. According to article 74 of the Algerian constitution.

- **Fifth secondary title : at the foreigners:**

They are the people who are in the territory of the state and are obligated to respect its laws throughout the period of their presence, like the rest of the citizens of the country, in exchange for their enjoyment of protection, security, and a decent life, and what is permitted by the legal legislation regulation to the foreign community that is legally present on the national soil.

- **Second subtitle :role of legal factor:**

It is represented in the total legal texts that contribute to addressing different social phenomena, preserving the rights and duties of individuals and regulating the relations between them.(El sadah.1978.p7). in order to achieve justice and security in society,(foda.2005.p7).

The origin of the word "law" dates back to the Greek era, and it means, the straight stick, principle or system. It is used in the legal field as a criterion to measure the extent of an individual's respect for what the

legal rule commands or forbids,(jaafour .2004.p14)

The law is a set of general and abstract rules that regulate the behavior of individuals and their relations in society, which are accompanied by the penalty signed by the authority, as necessary.(jaafour.2004.p34).

the law includes a set of rules that are established and applied by the state to maintain public order and regulate the behavior of individuals, groups, institutions, and even the state's relationship with other countries in order to achieve justice, equality, and guarantee the rights and duties of all parties.

Because the law derives from Islamic law, the legislation of state institutions, the judiciary and the social custom of the human group, and it is a general and abstract rule that does not pertain to specific people and only establishes a society that needs legal rules to regulate relations between individuals and institutions in order to guarantee rights and duties so that it is characterized by commitment to all through penalties imposed on violators by the state.

If the law is superior to it, and in order for this to be achieved, no person or body should be excluded from that, whatever their functional and social status, and thus it is respected and greatly respected by everyone because when its implementation is implemented well and properly, it will guarantee rights and duties and receive satisfaction and circumvention from everyone without exception.

But what is noticeable about the Algerian traffic law is that witnessed several amendments, starting from the first legislation after independence when the

French law was canceled, which was by presidential decree under no:74/107 of 06 December 1974 (the official journal.p1306).Then order no: 75/60 of 26 September 1975. (the official journal.p1062) then law no: 84/01 of 02 January 1984. (the official journal.p 04). then law no: 87/09 of 10 February 1987. (the official journal.P 225). then law no: 01/14 of 19 august 2001.(the official journal.p 04 ). then order no: 09/03 of 29 July 2009.(the official journal.p 04). then law no: 17/05 of 16 February 2017.(the official journal.p 03).

We note that the state always resorts to amending and adapting the law to developments and tightening penalties so that it is more effective, but this did not lead it to the aimed goal. It is time to pay attention to other aspects surrounding traffic life, by involving the rest of the stakeholders until they reach reasonable and satisfactory results for all that preserve lives. Humanity and avoid costly material losses to the state treasury, a huge amount of money, capabilities, effort and time.

• **Third subtitle: role of vehicle operator:**

This word is derived from the act of riding, and it means everything that is ridden on with the intention of moving from one place to another, whether for individuals or goods, according to god's saying: "horses and mules and donkeys for you to ride and as an adornment and he creates what you do not know".(surat El-nahel.verse 08). Rather it brings him comfort and reassurance and above all, it is considered an ornament.

but man did not remain confined to this means of movement and travel, but rather strived to devise other models and ways to save time and effort and achieve more luxury. God's said: "Great harm and benefits to people". (surat El-hadid.verse 25). from which man made means of transportation,

starting with wooden and then iron carts, then self-moving means such as the car, truck,, plane, steamship, etc. the beginning of the automobile industry was the end of the nineteenth century, which modified and improved in shape, size and performance, and it continues in this case until the present day.

Likewise, the availability of qualified technicians for repair and monitoring is required, while ensuring their periodic qualification to acquire new knowledge, because the field of manufacturing is constantly evolving in form and content, as well as good monitoring of spare parts and conformity to international specifications, and combating every imitation or the like while respecting the traffic law in its entirety and ensuring its strict application to exception whatever their jobs, status or relationship.

Where the number of vehicles in Algeria in 2019 according to the national bureau of statistics, reached 6.5 million vehicles, with more than 11% of them concentrated in the capital, alone followed by Blida, then Constantine, then m'sila , then setif, where these five wilayas are the largest incubators for the number of cars, estimated at 29.87% of the total number of cars. An-nahar (Algerian newspaper 2021).

• **Fourth subtitle :role of ocean factor:**

It is the environmental space in which we live and includes all material, human, animal and plant components so that we interact with them according to our needs and take into account in order to benefit from exploitation or to avoid obstructing us while performing our duties. Therefore, we can say that traffic accidents are affected by the quality of road, bridges, bumps, traffic lights ,terrain and climate so that it has a major role in regulation traffic and avoiding

accidents if we take it into account as required. Therefore we will slice this matter as follows:

• **First secondary title: impact ways roads:**

Roads are considered the lifeblood of individuals and communities for the purpose of movement, travel trade, tourism, treatment, fulfilling need, etc. they vary in shape and type, we find wide and long national roads, state roads of medium length and width, municipal and local roads of less length and width and unpaved dirt paths designated for the purposes of agriculture, forestry and rescue, and used by rural and desert residents. Which requires quality and workmanship regardless of its quality or classification ,because it is the basis for movement and travel, and the first rule for protecting people and vehicles from deviation.

• **Second secondary title: impact bridges roads:**

They are technical standards for connecting the two ends over rivers, valleys and reefs to facilitate the smooth movement of vehicles and their ease of movement and to maintain their quality and effectiveness, in which it is required that they be appropriate and road without causing any change or defect that impedes movement or poses a danger to individuals and vehicles.

• **Third secondary title: impact terrain roads paths:**

They are natural manifestation consisting of mountains, plateaus, plains, valleys, and reefs through which roads and paths pass through which movement and life abound, and which require special care in the event of road construction or even during walking because movement differs in it through the required effort, load , speed, etc, and

therefore all characteristics and differences must be taken into consideration.

- **Fourth secondary title: impact the climate at the driving on the roads:**

It is the state of the atmosphere that includes heat, humidity, rain, snow and frost, which has a significant impact on traffic accidents if it is not taken into account when driving of the appropriate condition for them and the speed compatible with them and the seriousness and commitment they require and take them seriously and with Consideration to provide the necessary protection from any deviation.

- **Fifth secondary title: impact bumps the roads:**

They are those transverse barriers raised from the road by a known legal amount, and they are asphalt, iron, or plastic, and are placed on the roads in order to reduce the speed of vehicles it fulfills the required purpose provided that it is placed with a license and after a technical study, according to what is stipulated in executive decree no: 05/499 of 29 December 2005. which specifies the use of delays, the conditions for their placement and their locations. (the Official journal.p25).

- **Sixth secondary title: impact traffic lights on the roads:**

They are well-known and codified signals according to the aforementioned Algerian traffic law, so that they have shapes, colors, and fixed standards that drivers are trained on during training to obtain a driver's license for vehicles so that they are placed on the edges of roads in cities villages, rural areas, and are installed in studied places to achieve the aimed goal of maintaining smooth traffic. Safety of vehicles, pedestrians and drivers.

- **Second axis: the hope from phenomnon traffic accidents:**

Souls refuse loss, because their condition is similar to the situation of societies and states, because in loss there is a reduction in status and achievement regarding to the of the rest of countries, so multiplicity means, strength victory, protection, and slandering fear in the hearts of others, according to the words of the holy prophet: "marry the kind and fertile children, for I will be multiplied by you among the nations on the day of resurrection".

And god says: "whoever kills a soul without a soul, or corruption in the land it is as if he killed all mankind, and whoever saves one, t is as though he saved all mankind". (Surat El-maidah.verse 32).

Accordingly, it is obligatory for every human being to strive for this praiseworthy message of preserving oneself and offspring, whether he is a responsible or a simple citizen,( penalties law.182). or covering up for any person in violation of the law.(penalties law.144).

- **First subtitle : the legislative side:**

Every person or responsible hopes to face these negative phenomenon, especially the exacerbation of traffic accidents, which is described as road terrorism, causing heavy losses in souls and equipments. Therefore, we find everyone claiming for reining this phenomenon either strange to Algerian society, which was recently standing united fighting the brutal colonizer to liberate the country and ends crimes of killing and genocide for all aspects of life so how does one accept today these negative behaviors that weaken the nation's capabilities in development progress and stability? Therefore, we find the Algerian legislator working hard to adapt to reduce the danger of road terrorism in response to the call of citizens , inspired by specialists' analyzes and community activities.

The Algerian legislator always strives to respond to the call and work to curb this recklessness that threatens people's lives and property by providing a set of laws regulating the flow of traffic and constantly amending them by addressing the imbalances and tightening the penalties until it reaches the required level and when it does not achieve zero accidents, as well as the administration praise to digitization which means zero paper due to the availability of modern high-precision technology and assistance in managing the wheels of the state.

• **Second subtitle :the organizational side:**

Reducing traffic accidents is neither strange nor difficult if the will and capacities are available with careful study and dissection of the status and the involvement of all actors without exclusion. Algeria is capable and Various studies show that punishment is not the best and only solution in dealing with social deviations, not to mention the modifications of law traffic and overlapping of the various actors in the traffic issue, which we have mentioned below in detail surrounding this issue, from the human being, who is considered the main actor, to the legal legislation and its supremacy over all and touching the crux of the matter, as well as adapting the vehicle and its compatibility with the environment technical repair, natural topography and climate, and the proper and thoughtful distribution of traffic lights putting bumps that conform to scientific standards that help reduce the speed of the vehicle.

And why not digitized the sector by setting up a central network to monitor all deviations and violations committed on the roads and the penalties imposed and reconsider at what extent is it effective in

term of legal legislation, following-up their implantation, and to limit the interference and favoritism that help violators to evade the application of the law as a master and prevail over all, which increases its effectiveness and respect by all. It will achieve positive results in the field and becomes a culture in the ears of citizens, not just a punitive measures.

• **Third subtitle :the physical side:**

It is represented in all the material possibilities surrounding the phenomenon of traffic life, which brings good manners and awareness of man wherever he finds his role and effectiveness to achieve the aimed goal, in addition to the application of various scientific knowledge and experiences necessary in traffic life, as well as the strict application of legal legislation governing traffic and international standards for traffic safety, whether related to the training of drivers, the quality of roads, their compatibility with the volume of traffic, the quality of spare parts, the efficiency of repair and maintenance workshops, and everything related to the matter, whether large or small, near or far.

• **Conclusion:**

the phenomenon of traffic accidents is considered one of the natural phenomena in the life of societies, and it is not a difficult matter that we were stunned to face or we failed even with the capacities that our society abounds in, comparing to the difficult one that our society suffered from such as the colonial era and the issue of terrorism in the black decade, so everyone must be mobilized to fight it with all the available and legitimate means, starting from the training of the future generation on the traffic education, as the poet says: "nations are morals, and if their morals are gone, they are gone". because education,

especially when it touches the coming generation, like engravings on a stone does not transform or disappear according to the words of the holy prophet: "every child is born on instinct, so his parents make him a jew or a Christian or touch him".

Therefore, we say that hope is still existing depending on the contribution of all in reform, with the involvement of everyone without exclusion, regardless of the level, status, ideas and careful treatment to come up with a magic solution that ends this worse situation which is intensified from one period to another, and what is easier if the efforts of our country's sons are unified.

The time has come to give the opportunity to all the actors and investors in different sciences and knowledge to solve the difficult issues and problems that they face with the arms of the people of the nation who made glories in the east and west and outside the homeland, so how can be possible that they fail to find solution for their fellow citizens, whether those who are still living in its bosom or those who left it for immigration. Accordingly, we can say that if the political will meets with scientific knowledge of the various security legal psychological and social fields, and the various actors who can provide an addition, the solution will be simple and final, to this scourge that afflicts our society, because the treatment that relies on punishment was not fruitful to treat such as complex social phenomenon. This later have parties and components which combine possessiveness, fanaticism, arrogance and mockery, so definitely it requires wisdom, statesmanship and good measures.

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