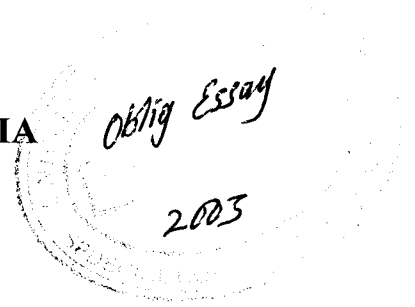


THE UNIVERSITY OF ZAMBIA
SCHOOL OF LAW



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**AN EXAMINATION OF THE EFFICACY OF THE LAW ON THE
SALE AND SUPPLY OF LIQUORS: IMPACT ON JUVENILES.**

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.....
MR. ENOCH MULEMBE
SUPERVISOR

02/12/03

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AN EXAMINATION OF THE EFFICACY OF THE LAW ON THE SALE AND SUPPLY OF LIQUORS: IMPACT ON JUVENILES

By

ANNA MWITWA

A Directed Research paper submitted to the University of Zambia Law Faculty in partial fulfillment of the requirements for the award of the Degree of Bachelor of Laws (LL.B.)

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NOVEMBER 2003

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DEDICATION

In loving memory, of my late parents, Mrs. Rosemary Mwitwa and Mr. Arnold Chris Mwitwa. Words alone cannot express how I feel without you. You devoted your energies, your talent for the betterment of our lives. I no longer ask myself if this or that is expedient but only if it is right in your eyes. Borrowing Mark Anthony's statement when he was mourning his best friend Julius Caesar he said, "the evil that men do lives after them, the good is often interred with their bones". To me the converse is true; you meant a lot and loved us with all the proper ingredients of the word love. It hasn't been an easy road without you but with God's guidance and direction, I must say today we have won the day and you could be very proud of all of us.

I miss you!

No man bears sorry better, you are both dead but needless to say that, my 'heart' is in the coffin there with you.

May the Almighty God remember you during resurrection and may your souls rest in eternal peace..

ACKNOWLEDGMENT

“Trust in the Lord with all your heart and lean not on your own understanding. In all your ways acknowledge him and he shall direct your paths”. (Proverbs 3: 5-6)

I would like to thank God for guiding me through out my life. Lord you have given me the strength to do what man cannot do alone and even the times I thought I would fail, you gave me the strength to stand up on my feet and carry on, I am highly indebted to you, thank-you for directing my paths, I can proudly say that I am what I am because of you.

My deepest gratitude and many thanks go to my supervisor Mr. Enoch Mulembe for accepting to supervise me and for directing me. I must say that it was a privilege to be supervised by him. I also wish to thank Ms. Bertha Kabwela for typing part of my dissertation and all the people who assisted me with a number of materials during my research, especially my very good friend Chisanga Katwishi.

I also thank my entire family, my brothers, for believing in me. I thank Eddie Mwitwa for having been a guide in my stay at UNZA and for being the inspiration he is to me. I'm proud of you.

Finally, I would like to thank my friends, named and unnamed, Mwenya Kapasa, Chisanga Katwishi, Ikayi Kachimba, Bertha Chileshe, Chileshe Nkole, Joy Chisompola, Chisala Chibesa, Belinda Musopelo, Catherine Lombe, Audrey Cornhill, Chituwa. S. Mwamba and Succeed Mubanga, for having made my life worthwhile and a maturity experience, especially. And to all those people who take me for what I am and leave me that way. I'll never walk alone, many thanks.

I wish you all God's Abundant Blessings...

INTRODUCTION.

In the study of juvenile justice, it has become common to explain child misconduct as a special category of criminality known as juvenile delinquency.

This dissertation looks at the impact of the sale and supply of intoxicating liquors to juveniles as a cause of juvenile delinquency. It will therefore evaluate the efficacy of the Liquor Licensing Act Chapter 167 of the Laws of Zambia.

Taking intoxicating liquors by juveniles is a habit that has reached alarming levels in Zambia today. It is amazing how this once frowned upon practice has become fashionable these days. Usually juveniles who are involved in such acts waste their years of development and are unprepared to deal with life, and thus become irresponsible adults. This is so because once a juvenile starts doing such acts, they will usually not be able to exercise restraint of the amount of liquor to take and this leads him or her into all sorts of delinquent conduct that finally become to him or her a way of life. Alcohol, therefore may take away the intelligence of the mind and the energy of the body and indeed the correlation between alcohol and other vices such as teenage pregnancy, drug abuse, rape, violence and so on are worsened.

A child therefore needs to be directed where such habits are concerned, as many get involved in such acts because of peers, television and sometimes, even parents do influence such acts.

Therefore, the sale and supply of intoxicating liquors to juveniles is one social factor that may lead to juvenile delinquency.

The question that would be posed at this stage would be why are nightclubs, hotels and other drinking places selling and allowing juveniles to consume and purchase intoxicating liquors? What has happened to the rules and regulations prohibiting such measures? Street kids are also victims of taking intoxicating liquors as they are easily

accessible sold at the markets at a minimum fee. Thus a large number of these kids have ended up becoming delinquents, which is a sad note.

The public should therefore, be aware of its responsibility in as far as this social problem is concerned.

The problem of juvenile delinquency in Zambia is neglected not only in terms of research or scholarly investigation but also in terms of attention paid to it by the authorities and the apathetic attitude of the general public. Public attention to this social ill is badly wanting in this country. Parents as well as children have to be helped to improve their habits and environment, in order to reduce juvenile crime. As one writer commenting on delinquency in the United States said:

The theoretical account of delinquency largely absolved children from responsibility because they had little control over defective, intelligence, uncaring parents and a poor home environment. Thus the moral and social condition of the child is more important than the act he or she commits.¹

This view has persisted in contemporary societies that delinquency is due to parents' failure to develop a firm sense of social responsibility in the child. This theoretical perspective assumes that social factors exist that contribute to delinquency in that poverty, illiteracy, mental inadequacies and cultural conflict in the urban industrial environment must be the central focus of the explanation of the breakdown of the proper family units.

Much of the responsibility to mould the child therefore lies in the communities, schools and families into which these juveniles have been born.

The gradual breakdown of social control in the family should enhance the involvement of the state in the management of children and the eventual social construction of juvenile delinquency. It should also place much emphasis on the communities and families in that they must play a vital role in controlling juvenile crime and must encourage appropriate preventive measures. There is no doubt that the community has the capacity to alter some

¹ L. T. Empey, (1979), "From optimism to Despair: New Doctrines in Juvenile Justice "in": C. A Murray & L. A. Cox, Jr. (eds): Beyond Probation; Juvenile corrections and the chronic delinquent. (Beverly Hills: Sage) p. 455

behavior in some youths in some instances. Their task is to acknowledge the complexity of the challenge of helping juveniles from indulging in habits such as consuming liquors rather than resorting to drastic measures of control, which may be harmful to the child.

Therefore, the Government has a responsibility to take all appropriate measures, including legislative, administrative, social and educational measures, to protect juveniles from consuming intoxicating liquors, as they require proper socialization to minimize tendencies for deviant behavior.

This research therefore, has evaluated the extent of the efficacy of the law in Zambia pertaining to the sale and supply of intoxicating liquors to juveniles. In order to understand the subject matter well, this research will be divided into four chapters.

The first chapter of this essay will define a juvenile and juvenile delinquency in general and some of its causes will be discussed.

The second chapter attempts to evaluate the efficacy of the law pertaining to the sale and supply of intoxicating liquor to juvenile with regard to the Liquor Licensing Act Cap 167. It shall then briefly look at the role of the police, parents and the general public in Zambia in preventing juvenile delinquency as a result of intoxicating liquors.

Chapter three is dedicated on the comparative study of how other countries, namely Australia, New Zealand and the United States, have dealt with the problem at hand.

Lastly, chapter four provides the conclusions of the dissertation by briefly summarizing portions of each chapter.

It also provides recommendations on how best the problem of the sale and supply of intoxicating liquor to juveniles can be solved.

CHAPTER ONE

A. AGE: WHO IS A JUVENILE?

To frame the question in such a wide term will give us a wider spectrum for discussion. It will also give us enough room for thorough consideration of a juvenile in general and juvenile delinquency in particular. It is appropriate at this stage to know who is regarded as a juvenile.

In Zambia, Section 2 of the Juveniles Act¹ defines a juvenile as “a person who has not attained the age of nineteen and includes a child and a young person.” A child under the same section has been defined as “a person who has attained the age of sixteen” where a young person has been defined as “a person who has attained the age of sixteen but has not attained the age of nineteen”.

According to the Convention on the Rights of the Child, a child means every human being up to the age of eighteen years, unless under the law applicable to the child, majority is attained earlier.²

From this definition therefore, in Zambia, a juvenile is said to be any person that is under the age of eighteen.

In almost every language juveniles have a name, usually derogatory epithet by which the community calls them. In England, they are known as ‘Teddy boys’, ‘Nozem’ in the Netherlands, the ‘Ragore’ in Sweden, ‘the blousons noirs’ in France, ‘the Tsotsi’ in South Africa, ‘the Bodgies’ in Australia³.

The topic on juveniles has a large following among academicians, sociologists, lawyers, criminologists etc. The reason for this keen interest may be for the fact that it is a topic that affects the section of the population of a tender age. A juvenile is both a legal and

¹ Chapter 53 of the Laws of Zambia

² Article 1, of the Convention on The Rights of the Child, 1989.

³ Mudenda, M. /C. Obligatory Essay, UNZA, 1976/77p. 11-12

social infant. Therefore, a juvenile is always the object of protection by society, under the law of that society. It is however up to every person's concerted and combined efforts in Zambia to protect the child against adverse effects of the society.

The law should protect juveniles for they are the generation of tomorrow – as the Bemba saying goes “*Imiti Ikula Empanga*”, which literally means growing trees make the bush. The quality of the future generation wholly depends on what facilities are available to them.

The central place of human offspring in the African society is a child. Following from this fact, the children were fully protected in traditional pre-colonial Zambia but with the coming of western culture, the traditional institutions of juvenile protection were supplanted.

B. WHAT IS JUVENILE DELINQUENCY?

The definition of what constitutes juvenile delinquency elicits different and conflicting views. The label delinquency is a very general concept and an umbrella term that refers to numerous types of behavior and diverse conditions and was never given a statutory definition. As Joel handler has observed:

The critical philosophical position of the reform movement was that no formal, legal distinction should be made between the delinquent and the dependent or neglected⁴.

This means that delinquency includes acts that violate the crucial code and would be criminal if committed by adults. It also includes acts that violate the special rules of conduct that only apply to juveniles, for example the age of driving motor vehicles, the age for entering premises that sell alcohol. Lastly it includes children who are victims of family conditions or others who need the protection of the court, for instance, children whose parents turn to alcoholism or who are being sexually abused by parents or who

⁴ Joel Handler (1965) “The Juvenile Court and Adversary System: Problems of function and form” Wincousin Law Rev. p. 9

lack parental control so that they are found begging or wondering without means of subsistence. Platt classified them:

violations of vaguely defined catchalls, such as vicious immoral behavior, incorrigibility, truancy, profane or indecent language, growing up in idleness, living with any vicious or disrepute person⁵.

Thus a social worker writes that delinquency consists of socially acceptable acts, then a psychiatrist suggests that delinquent behavior is activity, which deviates from the normal. A lawyer would say that juvenile delinquency is what the law says it is, just as it says what a crime is.

This lawyers' definition of juvenile delinquency cannot go unchallenged in the Zambian context. A critical analysis of the Juvenile Act reveals that instances envisaged to be delinquent behavior are so vague and general that a dividing line between actual delinquency and mere behavior is difficult to draw. The Act only legislates that a child who is exposed to moral or physical danger is a child "in need of care". However from the definition of a child "in need of care", offered in section 9 of the Act, one gets the impression that with such a broad meaning attached to it, "in need of care" could be labeled as delinquent.

In "need of care" in this instance goes beyond a child needing material welfare, more importantly it refers to a child who needs stability and security, a loving, understanding caring , warm and compassionate relationship, that are essential for the full development of the child's own character, personality and talents, that he or she is likely to suffer significant harm attributed, for example, to his being beyond parental control.

This, it is contended is a wrong approach because if such a broad meaning is adopted, a large number of juveniles in the so-called "shanty compounds could at any rate be labeled as delinquents, a stigma which the courts generally try to avoid imposing. Hence, giving juvenile delinquency such a sweeping definition would be inappropriate, suffice to say

⁵ A Platt (1969) The Child Saver (Chicago University Press) p. 138

that the social welfare department did attempt to define it in 1985, which definition for this purpose, I choose to adopt, which is:

It is behavior of juveniles, which is anti social, and conflicts with the law. Some of the characteristics of delinquency and criminal behavior are so damaging that the product is usually an ill motivated adult hardly able to make a positive contribution to the community and maturing a low opinion in himself or herself.⁶

Therefore, a juvenile delinquent is a child, boy or girl who comes into conflict with the socially accepted social and legal norms, thus violating a criminal norm.

It should be noted however, that delinquency is relatively a social creation of recent times. It is a concept intended to focus our attention upon forms of youthful behavior, which though they have been common through history, have become of increasing concern in recent years.⁷

C. CAUSES OF JUVENILE DELINQUENCY

Delinquency as a social problem is as old as life itself. Various authors have advanced factors of juvenile delinquency. To simplify the approach to this complex study, three factors have been identified as being the root of delinquency, namely, environment, heredity and will. Thomas Travis has written that:

It would take a volume on the psychological phrases of heredity, will and environment to hence the operations of these three great factors as they cause offences, for the further back we go, the more clear it becomes that, delinquency has its rise in the subnormal, abnormal or remittent factors of will, heredity and environment".⁸

In this study Thomas Travis places under 'will' all individual causes, under "heredity" disposition and psychological causes, while under 'environment' places all economic, physical and social causes.

⁶ Department of Social Welfare Annual Reports of 1991

⁷ L. T. Empey (1992) American Delinquency: Its meaning and construction (Homewood: Dorsey Press) p.15

⁸ Thomas Travis.(1912) The Young Male Factor , p. 100

Each factor is discussed and an example or two will be given to support the factor.

1.THE ENVIRONMENT FACTOR.

There is an approach to the factor of juvenile delinquency, which proceeds on the theory that a child learns delinquent behavior just as he learns other kinds of behavior. The process of learning delinquent values and behavior involves not only conscious imitation but all of the cultural influences which surround the child are presumably part of his learning environment, for instance social causes and economic causes.

(a) Social Causes.

The way of living in present day Zambia is completely different from say thirty years ago. Since then, it has undergone an amazing social change, which change has to a greater extent had a negative impact to juveniles generally compared to the old customs and way of life. A lot has to be learnt regarding the bringing up of children. Discipline in the olden days was swift, precise, clear and strict, with children growing up as society dictated. Societies then were settled in fairly limited numbers always protecting the interests of each person. The child enjoyed in addition to the support of its parents that of the community:

The child..... enjoys the emotional security of the extended family where he or she has multiple fathers, mothers, brothers, sisters, aunties and uncles. All the attention the child gets is well reflected in the societal values and hence is obligatory.⁹

As the child grows he has access to neighbours and relatives without reservation. The child is handed to the relatives who in turn hand him over to the community. During this time, any adult can discipline, send, educate and even own him or her as theirs. Today due to tight domestic budgets, extended family ties have been severed giving way to nuclear families living in urban environment without support from relatives. Inevitably,

⁹ N. O. Bwino & P. Onyango . 1996.Child Abuse and Child Labor. Paper presented at Workshop on Criminal Justice in Nairobi, Kenya in April . p. 2

most of these nuclear families are failing to provide the most basic needs for their homes. Regrettably, in an effort to help supplement the little that is provided at home, juveniles have ended up becoming delinquents.

(b) Economic Causes

The economic causes of juvenile delinquency are the most prevalent ones involving virtually all causes known so far. It is now beyond question that in developed countries, its' economic affluence and technological advancement, for instance, the internet, that puts the youth in a state of permanent rebellion against parental authority and the law, where as in developing countries like Zambia, it is poverty which is the culprit. For example, defective housing plays a part in juvenile delinquency. A family of so many children is forced to share one small house. By trying to look for alternative shelter among friends, juveniles pick up all sorts of ideas. The houses therein are so crowded together such that there is hardly any space left for use as play grounds for the children save the streets. At an early age therefore, a child is introduced to life on the streets. This causes delinquency.

2.THE HEREDITARY FACTOR.

The biological approach to delinquency was based on the assumption that delinquency is inherited. Dispositional causes and psychological causes under 'hereditary' will be discussed.

(a) Dispositional Causes

It is true that children will usually entertain an adventurous disposition more so if they are enjoying excellent health. It is the entertainment of this disposition that causes the child to engage in all sorts of mischievous behavior which behavior more often than not offends legislation or moral codes of child behavior acceptable to society. Most juveniles will indulge in such activities just for fun, but the desire for lawlessness transcends all humanity. The mere fact that a certain course of conduct may or is against the law, rules or regulations of a home or indeed the express commands of a school or anyone in whose

care the children are in is enough to excite a desire to do just that. No cause can therefore be shown in the courts to justify such conduct as it is often devoid of malicious intent but for the desire to be pursued by those charged with their care. When such occurrences keep recurring, it is of no surprise, all unless carefully guided to find such a child appearing before the Courts of Law.

(b) Psychological Causes

It is quite normal for children to be full of life but the maximum period generally of delinquency is fourteen to sixteen years of age, the age of puberty. At this age, the child is more susceptible, more nervous and more easily influenced for good or bad than any other period. This course is attributed to the rapid growth and conflicts taking place in a young person's mind, which may be hard to understand at that age. Thus, this age is vulnerable to delinquent behaviour.

3.THE WILL FACTOR.

Thomas Travis places all individual causes under 'will'.¹⁰ This is the core of this dissertation. Individual causes are mainly bad habits such as intoxication. The number of beer drinking juveniles in this country today has reached alarming levels and the trend continues to worsen. It is no longer surprising to find juveniles in night clubs, hotels and other drinking places at any time of the day which leaves one wondering as to what has happened to the rules and regulations prohibiting admittance of juveniles to such places. This therefore promotes delinquency. A young person will usually not be able to exercise restraint in the amount of beer to take such that it leads him or her to all sorts of delinquent conduct that may finally become to him or her a way of life.

¹⁰ Ibid Thomas Travis p.102

CONCLUSION

In conclusion, this chapter has basically dealt with the definition of a juvenile and juvenile delinquency. It has also brought out the various causes of juvenile delinquency. It has shown that both poor and rich parents can be victims of parenting delinquents, but this can only happen if there is irresponsibility on the part of first, the parents, second, the government whose duty is to see that the welfare of every Zambian is taken care of and thirdly an effective police force who should ensure that laws are obeyed.

CHAPTER TWO

AN EVALUATION OF THE LIQUOR LICENSING ACT: THE ROLE OF THE POLICE, PARENTS AND THE PUBLIC IN COMBATING JUVENILES FROM CONSUMING AND BEING SUPPLIED INTOXICATING LIQUORS.

A. INTRODUCTION

This chapter will help us understand the problem of juveniles consuming and being supplied intoxicating liquors in Zambia today. It will therefore evaluate the efficacy of the Liquor Licensing Act¹, the role of the police and the public in ensuring that the problem is prevented, thus protecting the moral well being of a juvenile.

B. THE LIQUOR LICENSING ACT

The Act restricts young persons below the age of eighteen from consuming and being supplied intoxicating liquors. It also goes further in protecting young persons from working at places where intoxicating liquors are sold. "Intoxicating Liquor" as defined by this Act includes any spirits, wine, ale, beer porter, cider, perry, or other potable liquor containing more than three per centum of proof spirits, but does not include traditional beer as defined in the Traditional Beer Act². The Act spells out appropriate provisions dealing with young persons consuming and being supplied intoxicating liquors. As regards employment, of persons less than eighteen years old, at places where intoxicating liquor is sold: Section 45 (i) reads:

If any person who is under the age of eighteen years or whose license has been forfeited is employed in any bar licensed premises at a time when the bar is open for the sale or consumption of intoxicating liquor, the licensee shall be guilty of an offence and shall be liable on a first conviction to a fine not exceeding one

¹ Chapter 167 of the Laws of Zambia.

² Ibid P. 7

hundred and fifty penalties units and an subsequent conviction, to a fine not exceeding ix hundred penalty units.

Further section 46 subsection 1 and 2, deals with the restriction on the sale of liquor to children, which reads:

A licensee shall not knowingly sell or deliver, or allow any other person to sell or deliver, intoxicating liquors to a person under the age of fourteen years.

A person shall not knowingly send any person under the age of fourteen years to any place where intoxicating liquor is sold or delivered in pursuance of a sale for the purpose of obtaining intoxicating liquor except for the purpose of obtaining it in sealed vessels in quantities not less than one reputed pint for consumption off the premises only.

Section 47 subsections 1 and 2 deals with the restriction on the sale of liquor to young person for consumption on premises. It reads:

A licensee shall not knowingly sell or allow any other person to sell and a servant of a licensee shall not knowingly sell intoxicating liquor to be consumed on the premises to a person under the age of eighteen years”

A person under the age of eighteen years shall not buy or attempt to buy in licensed premises intoxicating liquor to be consumed by him on the premises.

However, this section does not restrict any person who has attained the age of sixteen to consume intoxicating liquor at a meal in a part of the premises usually set apart for the service of meals that is not a bar. Therefore, from the above provisions, it is evident that there is a law in Zambia, which restricts juveniles from consuming and being supplied intoxicating liquors. It provides safeguards against juveniles from becoming delinquents.

The question, which would be posed, would be if there is a law, why are juveniles consuming and being supplied intoxicating liquors in Zambia today? Where is the problem? Can it be with the police, prevents or the public?

C. THE ROLE OF THE POLICE

It should be noted that there is a close relationship between the police and juvenile delinquency trends. With the evaluation of the Liquor Licensing Act which offers restrictions on juveniles to consume intoxicating liquors and the penalties clearly laid down for licensees who sell and supply intoxicating liquors to juveniles and juveniles who consume alcohol, the police role is enforce this law.

The police should be the key middlemen in their role as mediators and interpreters of the necessary action to be taken on the basis of reports from the members of the public. They should take an active role in patrolling places where intoxicating liquors are sold and help enforce the law.

However, the police do not take this role today. When the bars were run by the councils in the one party state, problems of juveniles consuming and being supplied intoxicating liquors was not on the rampage. Today there are not enough policemen to patrol places that sell and supply intoxicating liquors as these places are now being owned by private persons and have increased in number. The councils do not have a way of monitoring bars and nightspots to determine whether they are following the law or not. That is why liquor is now being sold and consumed on the streets, market places or any licensed

premises. More often than not, an offence may be unrecorded despite being witnessed by the police themselves. The reason for such behavior may be economic, as the consumption of liquors by juveniles may be seen as trivial, that to set the machinery of justice in motion may be considered to be a waste of public funds. The police may also be too busy to attend to such minor infractions or may have no transport to conduct follow-ups especially in victimless crimes. In this case therefore, nothing will be reported.

Further, it should be noted that the lack of the police enforcing this law might be related to population growth. The police cannot manage to follow-up such a large population, as they have no personnel as mentioned earlier in the chapter. Therefore the role of the police in ensuring that juveniles are not consuming or being supplied intoxicating liquors is more or less attributed to economic reasons, thus the decline in detecting such acts.

D. THE ROLE OF PARENTS

Despite the protection accorded by the law, the practice of juveniles consuming and being supplied intoxicating liquors is on the increase in Zambia today.

It is believed that home background is the major causes of delinquency, particularly where parents have separated or broken up or where there are constant quarrels and lack of support. It is also believed that delinquents are usually children who come from big families. This is so because as the family grows, the older children are left to look after themselves as the attention is now focused on the younger children.

This fact is made worse by lack of money resulting in the inability of parents to meet the demands of their children. A juvenile needs to be directed where habits of consuming

intoxicating liquors come into play. It is the role of the parents to ensure that they do not influence such acts. Usually, some parents influence juveniles to consume intoxicating liquors.

The author managed to have an interview with a few children in Lusaka, she asked them why they consumed intoxicating liquors, and the following were the various responses:

Dennis³: I started drinking at about age of 14 or so. My father was a pretty heavy drinker. There were always cocktail parties at eh house. As a child I saw that drinking was the thing to do socially. Then when I got older, I got in with a wild crowd, I used to drink to be accepted by the other kids.

Paul⁴: my father is an alcoholic, now I can see that the reason we had so many problems was alcoholism. I was trying to escape from it. Ironically that is one reason I turned to drinking.

Joan⁵: my parents usually don't drink much, but I remember one thing about my dad, on social occasions he used to brag about how much he could drink. I kind of developed that attitude, thinking I was unique. One time when I was 13 years old. I went on a drinking barge, for hours we were drinking. It really didn't affect me like others; I remember thinking 'am just like my dad.' I guess his attitude about alcohol really did affect me.

³ Dennis Chama, 18 years old, Woodlands, Lusaka-September 26,2003.

⁴ Paul Chungu, 16 years old, North mead, Lusaka-September 27,2003.

⁵ Joan Chinkobele, 17 years old, Lusaka-September 26,2003.

Kondwani⁶: I was affected very much by what I saw on TV. I used to see the characters drinking. It looked so great.

Mark⁷: I never learned how to communicate with people on my level. I turned to alcohol as a friend and abused it.

Mubanga⁸: I drink because I want to get drunk. I really don't care for the taste, because when my mother drinks, she makes look appealing.

Chisanga⁹: as early as 10, I used to take 'Mosi' beer; my mother would always make me taste it whenever she sent me to get her a beer from the fridge.

Frank¹⁰: when my father wanted some beers, he would send me to buy, it was an early practice and I found myself buying beers for myself, I felt like an adult.

From the interviews, it can be seen how parents' acts influence juveniles. A parent should always lead by example. Some parents are hot-tempered, immoral or drunkards. Such homes no doubt breed vicious and rough juveniles but this should not deter parents from raising responsible children with good moral values. Thus preventing them from becoming delinquents. Parents who are lazy, ignorant or simply incompetent in all areas

⁶ Kondwani Chirwa, 15 years old, Woodlands Extension, Lusaka, September 26, 2003.

⁷ Mark Nguni, 15 years old, Handsworth, Lusaks, September 27, 2003.

⁸ Mubanga Mwila, 16 years old, Northmead, Lusaka. September 27, 2003.

⁹ Chisanga Mulenga, 18 years old, Rhodes Park, Lusaka, September 2003.

¹⁰ Frank Chibale, 17 years, Rhodes Park, Lusaka, September 27, 2003.

of life except perhaps procreation can not be expected to guide a child away from delinquent conduct. A child will not become a drunkard if the parents are concerned about his or her welfare. Instead such parents claim to be busy.

‘It is the lack of persistent, unrelenting yet tactful efforts on the part of the guardian which allow a child with such tendencies to indulge in them.’¹¹

One solution to irresponsible parents would be to make parents responsible for the crimes of their children. This is so because it is parents more than anyone else who knows and has a parental role in the upbringing of the child, molding them to become better people, but this role is indeed lacking.

E.THE ROLE OF THE PUBLIC

The public involves a responsible adult. A responsible adult can be an adult who has parental rights, duties and responsibilities in relation to the minor or anyone older than a minor.

It is surprising how adults permit juveniles to consume intoxicating liquors. They just look at juveniles do this without taking the law in their hands. Some acts that are detected are never even reported to the police because friends and neighbors agree to “take care” of the problem informally as they fear to be insulted by the juveniles, as they are not their relatives and there are some individuals in society who can never report such a crime to the police. In other cases, victims of delinquent conduct or witnesses thereto may be apprehensive of consequences of reporting to the police from the offenders. Others may just handle the case informally and warn the juvenile not to repeat the offence. Therefore,

¹¹Crime and the Child in Zambia, Paper Presented to the School in 1982.

the public should take an active role in combating the sale and supply of intoxicating liquors to juveniles.

Lord Atkins in the case of the **Donoghue V. Stevenson**¹² said reasonable care must be taken to avoid acts that may cause injury to people. The standard of care required is that of a 'reasonable man'. This is a man guided upon these considerations which ordinary regulate the conduct of human affairs and a man who would act as a prudent and reasonable man would ordinarily do. The public should not ignore crimes by juveniles. They should prevent acts caused by them, which would or are likely to cause injury to them and other people. Their role is to act as a reasonable man would act if they see children indulging in acts such as taking intoxicating liquors which may have a correlation with serious diseases such as AIDS and defilement cases which Zambia is trying to fight today.

The license holders, where intoxicating liquors are sold should also be responsible. The duty to enforce the regulations provided by the Liquor Licensing Act lies with them. They should ensure that juveniles do not enter their premises. Their concern should not be about making money but should look at what the impact of the sale and consumption of liquors by juveniles has on them.

A general survey of the various places of entertainment in Lusaka reveals that juveniles are being sold and supplied intoxicating liquors. This was seen by the Vice President of Zambia, Dr. Nevers Mumba's visit the three bars in Lusaka namely, Lusaka's Tall Trees

¹² [1932] AC 562at 580

Club in Makeni, Ale House Nightclub in Kabwata and Alpha Night Club in Northmead. In all the three clubs, he found the bars operating without licenses with underage patrons. The vice president said, ideally he was not supposed to have toured the bars but it was because there was a breakdown in the Law that required him to do so. He observed that young people were falling into prostitution and other vices because the regulations were not being followed. He threatened that the business would be shut if found admitting underage children next time¹³

CONCLUSION

In conclusion, this chapter has discussed the law relating to the sale and supply of intoxicating liquors to juveniles in Zambia. It has revealed that the implementation of the law has slackened and disorder has crept in, many people have thrown out the law through the window. The chapter also looked at the role of parents, the police and the public in safeguarding juveniles from consuming intoxicating liquors. It revealed that there is a lax on the police in patrolling bars for purposes of enforcing any regulation to arrest any juvenile consuming liquor and the bar owners who permit these juveniles to consume liquors at their places. This attitude was attributed to the fact that under the liberalized economy where bar owners are in private hands including politicians, the police due to circumstance mentioned in the chapter have been frustrated in their efforts to enforce the law. Therefore, due to economic reasons, the enforcement of these regulations were possible in the second republic because there was political will and also that the politicians were restricted under the Leadership Code, in engaging in any

¹³ Saturfay Post, September 27, 2003, ' We Wont Allow Anarchy', Mumba Warns Bar Owners.p5

business of that nature, as such there was no political interference in the operations of the police.

The public and the parents' attitude are also seen to be pathetic. This explains therefore why many children are found consuming intoxicating liquors as the police have relaxed its' muscle to deal with the situation. Thus juveniles end up becoming delinquents and indulge in acts such as sexual activities, which lead to diseases such as AIDS, thus the Nation comprising of unproductive persons.

CHAPTER THREE

WHAT HAS BEEN DONE IN OTHER COUNTRIES.

A. INTRODUCTION

There is no single easy answer as to why a juvenile breaks into a home, steals a car, inhales illegal drugs or consumes intoxicating liquors or assaults someone. Juveniles all over the world should have opportunities to connect in a positive manner with adults who mould for them the virtues of responsibility, caring, respect and hard work, coupled with rules and regulations, which should be enforced to mould them into responsible citizens. Problems within different sectors of society disclose weaknesses in the organization of the systems and structures affecting children. Responsibility among children is often split amongst sectors. An overall view of conditions for children is often lacking¹.

This chapter shows how the problem of juveniles consuming and being supplied intoxicating liquors is dealt with in other capitalist communities.

B. A COMPARATIVE STUDY OF AUSTRALIA, NEWZEALAND & UNITED STATES OF AMERICA

1. The study in Australia has been conducted with full appreciation of the differences in the law between states. The law pertaining to sale and supply of intoxicating liquors to juveniles, in Queens land will be discussed.

¹ Malfrid Guide Flekboy , 1991. A voice for children speaking out as their Ombudsman: Jessica publishers, London : pg. 145

(i) The Liquor Licensing Division² of Australia defines a minor as any person

below the age of eighteen. It is an offence to sell and supply liquor to a minor.

The only times when a minor is allowed on licensed premises are if the minor:

- Lives on the premises
- Is an employee or receiving work experience or training
- Is attending a function e. g. a wedding
- Is eating a meal on the premises
- Is accompanied by a responsible adult

In the case of an on-premises (cabaret) license, minors are not permitted at all on the premises after 5:00 pm unless the premises are not used for cabaret entertainment and then only in accordance with the above conditions. To ensure that one is not minor, and should not consume or to be supplied intoxicating liquors, there is acceptable proof. These are a photographic driver license, a proof of age. Only three forms of identification are acceptable as proof of age card issued by a government department of approved entity (eg card 18+, key pass): or an Australian or foreign passport. For all other licenses it is an offence for a minor to be on licensed premises and the maximum fine for failing to comply is \$7 500.

(ii) In Queen's land, the sale and supply of liquor is regulated by the Liquor Act³.

It defines liquor as any spirituous or fermented fluid of an intoxicating nature

² Liquor Licensing Division, Department of Tourism, Racing and fans trading, Queens Land, Australia 1999-2002.

³ Administered by the Liquor Licensing Divisions Department of Tourism and Racing and jointly enforced by the Division and the Queens Land Police Service.1992

Intended for human consumption. It also defines a minor as any person less than eighteen years of age.

Liquor may not be sold, supplied and consumed on licensed premises and in public places to or by persons who are under eighteen years of age. It is an offence to be drunk in a public place or to consume liquor in a public place. Acceptable proof of age is a photographic driver's license, proof of age or passport.

Minors cannot be on licensed premises unless:

- They are eating a meal; or
- Accompanied by a responsible adult; or
- Are conducting a lawful business (i.e cleaner, cellar person etc); or
- Receiving training; or
- Performing duties as an employee; or
- Attending a bona fide function (ie wedding reception); or
- They are on- premises which have a club license and the minor presence does not break the club rules.

The licensed premises must be responsible in the way that they serve or supply alcohol. If one sees licensed premises selling alcohol in a way that is not responsible, such as getting harassed by drinks when walking past licensed premises, one can report them to the liquor licensing division who will investigate. The Liquor Act and the Police Powers and Responsibilities Act⁴, also contain offences and powers for:-

- Security staff to seize false identification
- Police and Liquor Licensing Division Investigators to require answers to certain questions.

⁴ 2000

- Answers to questions asked by police and Liquor Licensing Division Investigators must not be false or misleading.
- Police can arrest, summons, notice to appear or give an on the spot fine for people who breach the Liquor Act.
- Stop and search cars, boats and aircrafts if police reasonably believe they are being used to breach the Liquor Act.
- Seizure of evidence of an offence against the Liquor Act, such as take away and keep a can of beer that could be evidence of an offence of consuming liquor in a public place⁵.

2. A COMPARATIVE STUDY OF NEW ZEALAND

In August 1999, the New Zealand parliament passed the Sale of Liquor Amendment Act. Included in this Act are a number of changes to the way that alcohol can be sold or supplied in the country. The minimum legal drinking age became eighteen years as at 1 December 1999. This means that anyone who is eighteen years of age or older is able to be in a licensed premises and can purchase and consume alcohol.

The new drinking age is being described as a hard eighteen, previously young people under the minimum drinking age could be sold alcohol if they were with their parents, guardians, and spouses or in some situations, an older family member. No one under the age of eighteen can now be sold or supplied alcohol on licensed premises with one exception. The only situation in which a person under eighteen may be supplied with

⁵ Drug and Alcohol Coordination. Queens land Police Service October 2000

alcohol in licensed premises is if that alcohol is given to them by either parent or legal guardian.

Under section 160⁶, it is illegal to purchase or acquire alcohol from a licensed premises with the purpose of supplying it to a minor. The Act provides for two exceptions, parents and legal guardians may purchase and supply alcohol to their child as may any other person who is attending a private function. Someone over the legal drinking age cannot however, buy alcohol on behalf of a younger person. The fine for this is up to \$2000.

There are three possible designations licensed premises can have, restricted, supervised or undesignated. These designations relate to whether or not someone under the legal minimum age can be on the premises or not and under what conditions.

Under the restricted premises, no one under eighteen may be on that part of the premises unless they are employed to prepare or serve a meal, clean or repair, remove or replace equipment, stock take, check or remove cash. The supervised premises does not allow any one under eighteen on that part of the premises unless they are accompanied by their parents or legal guardian, or are employed as above or are employed for the sale and supply of alcohol.

In the undesignated premises, any one of any age can be on that premises.

That Act also makes provision for four forms of evidence of age documents, a New Zealand passport, an overseas passport, New Zealand drivers' license and 18+ photo ID cards. Licensed premises now require people to provide one of this specified evidence of

⁶ Sale of Liquor Act

age documents before entering licensed premises. Therefore management and staff of licensed premises however, need to assure themselves that their patrons are at least eighteen and will want to see a photograph evidence of age document.

PENALTIES

OFFENCE	LICENSEE	MANAGER	OTHER
Sale and supply to minors	Up to \$10, 000 suspension of license up to 7 days or both	Up to \$10,000	Up to \$ 2000
Unauthorized sale and supply	Up to \$20, 000 suspension of license up to 7 days or both	Up to \$20, 000	
Sale of supply of alcohol to an intoxicated person	Up to \$10, 00 suspension of license up to 7 days or both	Up to \$10,00	Up to \$ 2000

The police are required to report a conviction for any of the above offences to the liquor licensing authority. These can then suspend the license for up to six months or cancel it.

3. A COMPARATIVE STUDY OF THE UNITED STATES OF AMERICA

In 1984, Congress enacted the National Minimum Drinking Age, which required that states prohibit persons under the age twenty-one from purchasing or publicly possessing alcohol. Accordingly most states specially prohibit minors from purchasing alcohol. However, four states; Delaware, Indiana, New York and Vermont prohibit minors from purchasing alcohol only if the minor uses fraudulent identification or false statements. It is unclear how significant this variation is in practice. A purchase made in these states

without using fraudulent means is probably still illegal under possession statutes. In addition, several states have exception to their purchase statutes that allow minors to purchase alcohol under limited circumstances. Exceptions included are defined as follows;

- Employment – one state permits minors to purchase alcohol if it is in connection with their employment.
- Student – two states allow minors to purchase alcohol if it is in connection with being a student or for educational purposes.
- Religious services – one state permits minors to purchase alcohol if it is in connection with religious services.
- Medical treatment – two states permit minors to purchase alcohol if in connection with medical treatment.
- Parents, guardian, or custodian consent or person – two states allow minors to purchase alcohol in the presence of, accompanied by, or with consent of parent, guardian or custodian.
- Spouse consent or presence – one state allows minors to purchase alcohol in the presence of or with the consent of their legal aged spouse.
- Law enforcement – two states permit minors to purchase alcohol in connection with an investigation or ‘sting’ operation conducted in conjunction with the law enforcement officials to identify legal alcohol sales. This exception often requires parents consent and specifies a minimum age at which minor can participate; many states require minors to be at least 18 years old. Many states may have exception as part of an administrative decision even though there is no statutory provision.

The same exceptions apply or can be applied by application to statutory provisions that prohibit attempted purchase of alcohol by minors. States that do not explicitly include, ‘attempted purchase’, probably still permit prosecution for such an offence.

Attempted Purchase/Purchase of Alcohol by Minors

	Attempted purchase by minors	Purchase by minors	EXCEPTIONS						
			Employment	Student	Religious services	Medical treatment	Parent/ Guardian/ Custodian consent/ Presence	Spouse consent/ presence	Law Enforcement
Alabama	*	*							
Alaska		*							
Arizona		*							*
Arkansas		*							
California	*	*							*
Colorado	*	*							
Connecticut	*	*							
Delaware ⁷									
District of Columbia	*	*							
Florida	*	*							
Georgia	*	*			*	*			
Hawaii		*							*

	Attempted purchase by minors	Purchase by minors	EXCEPTIONS						
			Employment	Student	Religious services	Medical treatment	Parent/ Guardian/ Custodian consent/ Presence	Spouse consent/ presence	Law Enforcement
Idaho	*	*							
Illinois ⁸		*							*

⁷ Delaware does not have a statute that specifically prohibits attempted purchase but does prohibit “obtaining” alcohol in connection with making a false statement.

Indiana ⁹									
Iowa	*	*							
Kansas ¹⁰	*	*							
Kentucky	*	*							
Louisiana		*				*			
Maine		*							
Maryland		*							
Massachusetts	*	*							
Michigan ¹¹	*	*							
Minnesota ¹²	*	*		*					
Mississippi		*							
Missouri	*	*							
Montana	*	*							
Nebraska	*	*							
Nevada		*							
New Hampshire	*	*							
New Jersey	*	*							
New Mexico	*	*							
New York ¹³									
North Carolina	*	*							
North Dakota	*	*							
Ohio	*	*							
Oklahoma	*	*					*		*
Oregon ¹⁴	*	*							*
Pennsylvania	*	*							*
Rhode island	*	*							
South Carolina		*	*	*					
South Dakota	*	*							

⁸ Illinois' exception allows minors to purchase or possess alcohol if they are participating in a license 'sting operation'.

⁹ Indiana does not have a statute that specifically prohibits attempted purchase or purchases, but does prohibit attempted purchase or purchase in connection with making a false statement of age. Enforcement officials indicated that they use the possession statute or law prohibiting minors in taverns.

¹⁰ Kansas' exception allows minors to 'violate the provisions of the Kansas Liquor Control Act' if they are under the direction of a license self compliance programme

¹¹ Michigan's exception allows minors to 'purchase or receive' alcohol as a part of an undercover operation by direction of an employer.

¹² Minnesota's exception allows attempted purchase by minors if they are supervised by a person 21 years or older for 'training, education or research purposes.

¹³ New York does not have a statute that specifically prohibits attempted purchase or purchase but does prohibit attempted purchase or purchase through 'fraudulent means'.

¹⁴ Oregon's exception indicates that its prohibitions do not apply to minors who are acting under the direction of a licensee for the purpose of investigating possible violations by the licensee's employee of laws prohibiting sales to minors.

			EXCEPTIONS						
			Employment	Student	Religious services	Medical treatment	Parent/ Guardian/ Custodian consent/ Presence	Spouse consent/ presence	Law Enforce ment
Tennessee	*	*							*
Texas	*	*							*
Utah	*	*							
Vermont ¹⁵									
Virginia	*	*							
Washington ¹⁶	*	*							*
West Virginia	*	*							*
Wisconsin	*	*					*	*	
Wyoming	*	*							
State Totals	36	47	1	2	1	2	2	1	13

As note above, all states prohibit possession of alcohol by minors to some extent and all appear to be in compliance with the federal statute.

However, states apply various statutory exceptions and these exceptions are more or expansive and more prevalent than those found in purchasing statutes.

Exceptions found in the chart below are defined as follows:

- **Employment** – 45 states permit to possess alcohol in connection with their employment. One state, Wyoming, also allows possession by minors who are licenses.

¹⁵ Vermont does not have a statute that specifically prohibits attempted purchase or purchase but does prohibit ‘procuring’ or ‘attempting to procure’ alcohol in connection with false representations of age

¹⁶ Washington’s exception allows minors 18 years and older to purchase alcohol if they are participating in employer self-compliance checks.

- **Students** – six states permit minors to possess alcohol in connection with being a student or for educational purposes (often specifically linked to culinary schools).
- **Religious services** – 18 states allow minors to possess alcohol in connection with religious services.
- **Medical treatment** – 14 states allow minors to possess alcohol in connection with medical treatment.
- **Parent, guardian, or custodian consent or presence** - 33 states permit minors to possess alcohol in the presence of, accompanied by, or with the consent of a parent, guardian, or custodian. States vary widely, in terms of which relatives must be present for the exception to apply and in what circumstances. For example, Massachusetts allow possession by minors if they are “accompanied by parents or legal guardians”; Delaware allows possession in the ‘private home’ of any ‘members of the same family’; Oregon allows possession of alcohol in ‘private residence ... accompanied by parent or guardian..... with [his or her] consent”, etc.
- **Spouse consent or presence** - nine states permit minors to possess alcohol in the presence of or with the consent of their legal-aged spouse.

Three exceptions are related: the first, any private location, includes private residence, which , in turn, includes only minor’s or parent’s or guardian’s home. States were categorized according to the most narrowly drawn category into which their statutory

provisions fit. States vary in the extent of the private property exception and the specific wording.

- **Any private location** – ten states allow minors to possess alcohol in any private location (including any private residence or venue). This exception is often implied by statutory provisions that indicate the converse –that is, a state prohibits minors from possessing alcohol in any public place.
- **Private residence** – seven states allow minors to possess alcohol only in a private residence.
- **Only minor’s parent’s or guardian’s home** – four states permit minors to possess alcohol only in the minor’s, parent’s or guardian’s home or primary residence
- **Law enforcement** – nine states permit minors to possess alcohol in connection with an investigation or ‘sting’ operation conducted by law enforcement officials (and, in several, licensees or employers –see footnotes below) to identify illegal alcohol sales. This exception often requires parental consent and specifies a minimum age at which minors can participate; many states require minors to be at least 18 years old. Many states may have this exception as part of an administrative decision even though there is no statutory provision. As noted above, our analysis does not include such decisions.

The exception related to possession on private property and in private residences are the most important in terms of underage drinking and related problems. Law enforcement officials report that the exceptions can create significant barriers to preventing or ending

underage drinking parties in private setting, particularly in private residences. Many communities report that these events often involve heavy drinking, drinking and driving, sexual assaults and other forms of violence. Yet in some states, the minors involved in the events are not violating the law, and if no adult is present, no crime is being committed.

Most of the states prohibit consumption of alcohol by minors as well as possession. Possession and consumption are closely linked. One cannot consume alcohol without possessing it, although can possess without consuming it. Possession and consumption are usually treated as equivalent offences and are seldom charged separately.

Exceptions to consumptions of alcohol by minors are identical to those found in the possession statutes.

CONSUMPTION OF ALCOHOL BY MINORS

	Consumption by minors	EXCEPTIONS								
		Student	Religious services	Medical treatment	Parent/guardian/Custodian Consent/ Presence	Spouse consent/ Presence	Any private location	Private residence	Only Minor's/ Parent's/ Guardian's Home	Law enforcement
Alabama	*									
Alaska	*			*	*	*				
Arizona	*		*	*						
Kansas										
California	*									
Colorado ¹⁷	*		*	*	*		*			
Connecticut										
Delaware ¹⁸	*		*		*			*		

¹⁷ Colorado’s exception requires the knowledge and consent of the owner of the private property when minors possess or consume alcohol (in addition to the consent or presence of a parent or guardian). Also, it is an affirmative defense to illegal possession or consumption that existence of ethyl alcohol in minor’s body is due solely to ingested confectionery or a beverage that contained less than 0.5 percent of ethyl alcohol by weight.

¹⁸ Delaware’s exception includes ‘members of the same family’ and allows possession or consumption of alcohol by minors in the ‘private home of any of the said members’ ¹⁸ Delaware’s exception includes ‘members of the same family’ and allows possession or consumption of alcohol by minors in the ‘private home of any of the said members’

District of Columbia	*									
Florida										
Georgia										
Hawaii										

	Consumption by minors	EXCEPTIONS								
		Student	Religious services	Medical treatment	Parent/ guardian/ Custodian Consent/ Presence	Spouse consent/ Presence	Any private location	Private residence	Only Minor's/ Parent's/ Guardian's Home	Law enforcement
West Virginia	*									
Wisconsin	*				*	*				
Wyoming										
State Totals	36	3	17	9	19	6	1	6	2	2

Source for all Tables: Alcohol Beverage Control Enforcement Legal Report, Completed under contract with the National Highway Traffic Safety Administration IDC DTNH22-98-D-35079 April, 2003.

CONCLUSION

In summation, this chapter has looked at how Australian New Zealand and United States of America deal with the problem of juveniles consuming and being supplied intoxicating liquors.

This comparative study shown in this chapter is not different from the law provided in Zambia concerning the consumption and sale of liquor to juveniles except the differences in the law in the various states which prohibit underage drinking and also the difference with Zambia could be the various ways in which the law is implemented. However the methods used to combat juvenile consuming and being supplied alcohol are not beyond our means, although there are differences in economic development. It s a question of

¹⁸ Kansas' exception allows minors to 'violate the provisions of the Kansas Liquor Control Act' if they are under the direction of a licensee's self-compliance programme.
¹⁸ Maryland's exception allows possession or consumption of alcohol by minors if an adult member of their immediate family allows it.
¹⁸ New Jersey's exception allows possession or consumption of alcohol by minors with the permission and in the presence of a relative 21 years or older

community 'will' at play and changing our attitude. Zambians have had no regard for this law and therefore children are not being protected.

CHAPTER FOUR

SUMMARY AND RECOMMENDATIONS

A. SUMMARY

This research undertook an examination of the efficacy of the Law on the Sale and Supply of liquors, and the impact it has on juveniles.

In summation, various factors have been advanced as contributing to the problem of delinquency. Consumption of liquors by juveniles was one factor identified under will as leading to delinquent behavior by juveniles.

The provisions of Liquor Licensing Act, chapter 167 of the Laws of Zambia, showed that the law exists which prohibits underage persons from consuming and being supplied intoxicating liquors in Zambia. The problem identified is the implementation of this law by the police, the parents and the public in combating this social ill.

The research also undertook a comparative study with the law of Australia, New Zealand and the United States of America pertaining to the sale and supply of liquors to juveniles. It revealed that there were no significant differences with the law of Zambia except with the issue of acceptable proof of age, which Zambia has not emphasized and the various penalties provided for failing to comply with the law were revealed to be sterner than the ones provided in Zambia. However, it should be noted that the study was conducted with

the full appreciation of the differences in economic development amongst these countries and Zambia.

The research proceeded to recommend a number of ways in which the problem under discussion could be dealt with. The emphasis in all the recommendations was on community participation at all levels. The community, it has been noted offers an opportunity to lift the level of debate and thereby encourage more informed decision making affecting juveniles by all of us especially policy makers. The research recommended that increased public participation is more crucial because the government claims to have no money for juvenile programme. Thus families, schools, churches, civic organizations, law enforcement agents and the government have all been asked to work together to increase public safety and to increase the quality of life for our children. The struggles within ourselves should be seen to combat juvenile crime.

“Mankind owes the child, the best it has to give”¹

All rights imply obligations especially by the powerful towards the powerless such as children. It follows then, that recognizing the particular vulnerability of children entails a needs to provide for law that will protect and benefit children, this was recalled in the Declaration of the rights on the child of 1959 before the Convention on the Rights of the Child of 1989.

B. RECOMMENDATIONS

1. In the opinion of this author, the most critical hindrance to this problem is lack of the Police to enforce the law provided by the Liquor Licensing Act, which prohibits young persons below the age of eighteen from consuming and being

¹ Convention on the rights of the child 1989.

supplied intoxicating liquors. The police on whose shoulders the ultimate responsibility of fighting crime rests, have a duty to advocate measures to prevent crime. The real solution includes prevention. However, it should be noted that the object of the Juveniles Act is that, as far as possible juveniles should be kept out of prison. This was the ruling by the Supreme Court, inter alia in the case of **Mvula V The People**.² Therefore, other penalties should be put in place which should however be sterner than the ones which are provided. The regulating authority for the sale and consumptions of liquor rests with local councils based at every district. It is the duty of these local authorities to ensure that its regulations are obeyed. The councils should therefore work with the Department of the Police and establish a system of communication between them. They should ensure that there is enough personnel to patrol places selling intoxicating liquors, and see whether these bars or night spots are following the law or not. The police should be given powers to confiscate alcohol from young persons, if the police reasonably suspects that a person in a relevant place is in possession of intoxicating liquors and that either he or she is underage or he intends that any of the liquor should be consumed by a person who is underage, the police should be able to require him to surrender anything in his possession which is or which the police reasonably believes to be intoxicating liquor and the juvenile should state his name and address. A person who fails without reasonable excuse to comply with a requirement imposed to him will commit an offence and liable to a fine which the police should introduce together with the local authorities.

² (1976) ZR Pg.80

2. Introduction of Acceptance Proof of Age

Identification should be introduced. Every person should be expected to move or show an ID that proves that he or she is above eighteen years old. This identification should either be a:

- Photographic driver's license
- A proof of a Zambian National Registration Card
- A Zambian or Foreign Passport.

False ID's should be confiscated, and the police should take correct details and one should be fined on the spot. If one uses someone else's ID as theirs or falsely represent themselves to be over eighteen, the police should give a fine on the spot.

3. The other proposals to help solve the problem in discussion is concerned with the responsibility of the schools. The high schools in Zambia work in conjunction with their respective Parents Teachers Associations (P.T.A). These can take special measure to address social problems. In collaboration with the community-based organizations, high schools can hire outreach workers who would go beyond the schools walls and into the community to work closely with families and children. The role of schools in crime prevention is vital. In many cases the school offers the only safe and stable environment in a child's life. Because the hours after school are known to be the most dangerous for children, high schools

should ensure that they provide a variety of after school activities to keep the safe and positively engaged.

4. The Church is another institution that can play a very big role in preventing juveniles from consuming liquors and generally improving the welfare of juveniles. For instance, Reverend Eugene Rivers of Florida, United States of America and other African American Church leaders have created what they call the National Ten Point Leadership Foundation to help African American Christian Churches develop the strategic vision, program structure and financial resources necessary to save juveniles from child abuse and neglect, school failing, street violence, drug abuse, consumption of liquors, spiritual depravity and hopelessness about the future, Churches in Zambia can learn from this and come together and help children become better people.
5. Lastly, this problem involves community 'will' at play. Zambians should play a vital role in preventing juveniles from becoming delinquent. They should curtail juvenile delinquency, realizing that investing in the youth is profitable. The community should be able to break the cycle of crime and violence by responding to the needs of juveniles and families in crisis. Doing so requires the involvement of the whole community and not only among justice agencies but requires teamwork between them and community based groups. Juveniles should be offered guidance if we want them to become productive contributing adults.

Each adult should help make a difference, for instance if they witness juveniles consuming intoxicating liquors, they should help juveniles to refrain from doing such acts, by talking to them and alerting them of the dangers present in involving themselves in such acts. If the juveniles are hostile and fail to refrain, these adults should report such acts to their parents or the police.

The attitude of the community should be positive, they should lead by example. Adults should be careful in the way they handle alcohol, they should not encourage juveniles to consume alcohol or even touch bottles that contain liquors. For instance in the United States, it's a law for adults who consume alcohol to wrap the bottles containing liquor in a Khaki paper, this helps in preventing juveniles from being envious. This should be enshrined in the culture of the Zambian people to help protect juveniles from consuming what they see.

CONCLUSION

Perhaps a better ending point on this subject would be the 1948 Universal Declaration of Human rights which states that;

“Each new generation offers human another chance, if we provide for the survival and development of children everywhere, protected them from harm and exploitation and enable them to participate in decision directly affecting them or their lives, we will surely build the foundation of a just society which all want and that children deserve.”

Acts that are detrimental to the proper development of a child as full and functioning members of society should be safeguarded. Children should therefore be viewed as an important asset for the future development and their interest must be jealously guarded.

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