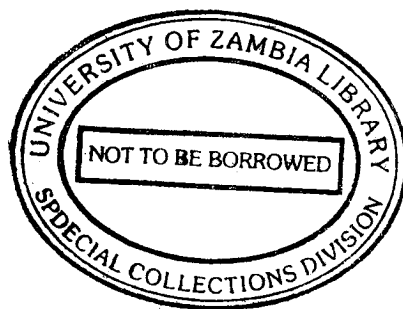


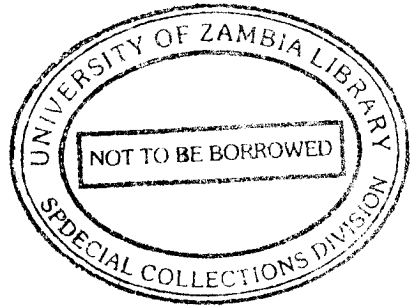
**THE EFFICACY OF ROAD TRAFFIC LAWS IN PREVENTING ROAD
TRAFFIC ACCIDENTS IN ZAMBIA.**



BY

MUKUMBA MULELE

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MUKUMBA MULELE

**A DISSERTATION SUBMITTED TO THE UNIVERSITY OF ZAMBIA IN
PARTIAL FULFILMENT OF THE REQUIREMENT FOR THE AWARD OF A
BACHELOR DEGREE IN LAW. LLB**

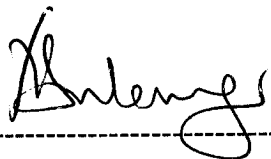
THE UNIVERSITY OF ZAMBIA
SCHOOL OF LAW

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THE EFFICACY OF ROAD TRAFFIC LAWS IN PREVENTING ROAD TRAFFIC
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Be accepted for examination. I have checked it carefully and I am satisfied that it ^{substantially} fulfils
the requirements relating to the format as laid down in the regulations governing
obligatory essays.



G. MULENGA (Mr.)
Supervisor

9th December 2020

Date

DEDICATION.

This paper is dedicated to my family;

To my parents, Mr. Russell Mulele and Mrs. Clothilda Mulele.

Mum and Dad, you have given me all that I or any other son in the world could ever want. You have taught me the value of education, hard work and prayer which I shall forever treasure in my heart. Your love and wise guidance through out my life is what has brought me to where I am today and it will propel me to higher heights. I shall forever remain indebted to you for all this and only hope and pray that I shall be there for you the same way you have been there for me. I love you!

To my only brother Maketo Mulele (Big brother) and my only sister Maipepi Mulele (senior counsel), you guys have made my growing up a worthwhile experience full of love, joy and peace. You have been fantastic and I could not ask for a better brother and sister than you. I love you!

The good Lord has blessed me with a beautiful family! I shall always rejoice and be glad with them!

ACKNOWLEDGEMENTS.

The successful completion of this work was by no means an individual effort. Its completion is owed to a number of people to whom I am highly indebted. Firstly to the Lord God Almighty for granting me good health and strength to complete this work.

Secondly, I am highly indebted to my supervisor Mr. G. Mulenga whose valuable time I consumed in my quest to complete this work. Thank you very much for your guidance and direction in my work from start to finish. I want to express my gratitude to the members of staff at the traffic department of the Zambia Police service and the Road Transport and Safety Agency for their contribution in making this work a reality. I also want to extend my thanks to my very good friends; Njelembo (lil nje), Gideon (chi roomie), Fredrick (bo ndate), Mutumu, Chisha, Andrew (Nsungei) Lynda (x2), Vwane, Alick, Given and Douglas. You people have made my stay at UNZA a very pleasant and memorable experience. Lastly but not the least I want to thank my classmates Lawrence, Etambuyu, Garla, Kanji (chi mummy), Mutinta, Major Makanta, Kahumbu, Gift, Maya, Namuchana, Angellah, Abigail, Matale, Obbister, Dominic, Mando and everyone else for their help during my stay in Law school.

God bless you all!

ABSTRACT.

The problem of road traffic accidents is one which preoccupies the mind of nearly every Zambian today. Thousands of lives are lost annually through this scourge and it is currently ranked the third cause of death after HIV and Malaria in Zambia. There have been numerous public calls to introduce measures that shall be effective enough to combat the scourge. The law has been identified as one such measure, it is for this reason that the writer decided to undertake this study entitled **The efficacy of road traffic laws in preventing road traffic accidents in Zambia.**

The first chapter is basically introductory and is aimed at showing the reader how serious the scourge of road accidents is in Zambia

The second chapter examines the efficiency of the various provisions of the Road Traffic Act pertaining to road safety and in particular the prevention of road traffic accidents.

The third chapter examines the institutional framework charged with the task of implementing the provisions of the Act.

The fourth chapter is basically the conclusion, recommendations and prospects for the future.

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1.1 GENERAL INTRODUCTION.

Since time immemorial Zambia has been faced with the quandary of road traffic accidents. Media reports of road traffic accidents are countless, thousands of lives are lost each year and thousands more suffer very serious injuries. The extent to which this problem of road traffic accidents has occupied the minds of the public over the years cannot be overemphasized. This public attention however appears to be quite superficial to some extent due to the fact that there is some public belief that this predicament is insurmountable if road users do not pay attention to public exhortations for discipline and respect for each other.

Over the years public exhortation has been commonplace, pointing to a lack of adequate collective will to diminish this scourge on our roads. One writer has argued “we do not have the will perhaps because we are not sufficiently moved by disaster on the road. It is indeed a strange fact of life that the public conscience seems more outraged by the news of a man hacked to death or shot dead by armed robbers than by a count of 800 corpses on the road in a period of twelve months.”¹ And another prominent professor in psychology has put it thus: “Death for death,

murder has a far sharper impact than a fatal accident; there is drama in the former but not in the latter.”²

We can no longer continue to rely on public exhortations beseeching road users to respect and be courteous to each other. Professor Cohen argues that exhortation alone cannot solve the intricate problem of road accidents. He has this to say;

“the philosophy of exhortation for road safety is based on the fact that you can get people to change their behavior by appealing to their better feeling...

The philosophy of exhortation seems to take it for granted that there are no peculiar obstacles to considerate conduct on the part of motorists, no temptation to which even a St. Anthony might succumb. Against this view it could be said that driving in modern traffic is calculated to bring the worst and the most vicious elements out of any man; rather like a career in politics; it frustrates, exasperates and infuriates. It nourishes competitiveness and vanity. So much so that the saintliest of saints could be forgiven for losing his temper in a traffic jam.”

Professor Cohen’s statement is just one of the various pointers to the fact that the public exhortation that we have now become accustomed to with regard to road accidents is not the answer to this scourge. It has been extremely frequent from

both Government officials as well as those from other institutions but has hitherto produced no significant positive results.

According to the Southern African Transport and Communications Council's report of 1998, it had been reported that Zambia had been losing about 2.6% of its Gross Domestic Product to road traffic crashes which was an equivalent of 90 billion kwacha, which was approximately the same as the borrowing for the Road sip programme. Eight years on, Government statistics indicate that road accidents in Zambia have now reached an alarming rate. Last year, about 21,692 road accidents occurred through out the country leading to 1,046 deaths, further more, 2,696 people were critically injured while 5,846 people had slight injuries.³ According to honourable Abel Chambeshi, minister of Communications and Transport in a statement on ZNBC news, road accidents are now rated as the number three cause of death after HIV and Malaria in Zambia and losses arising there from account for over 3 % of Zambia's GDP.

A research on health promotion in Zambia showing that road traffic fatalities in sub-Saharan Africa are predicted to increase by 80% by the year 2020 indicates that this problem is intense and not to be taken lightly, it is one that can not be classified under a single category such as public health for it involves multiple sectors in the whole Zambian community.

There are of course various causes of traffic accidents in Zambia and it also follows that there are also numerous solutions to curbing this scourge. Some sections of society believe public exhortation or calls for increased courtesy from motorists is a solution, however, this as seen in the preceding paragraphs has not been effective. Others believe the solution lies in improving the quality of our roads i.e., mending potholes and regularly carrying out maintenance works on our roads which requires the government to increase funding for projects such as road sip. Further still, for others, the solution lies in enacting more stringent laws that prevents traffic accidents and severely punish those found to have broken these laws. It is indeed the writer's belief that all these solutions are workable, however, bearing in mind the difficulty of succeeding in appealing to the good sense of human beings by exhortation alone and also that Zambia is one of the poorest nations in the world and pumping in huge sums of money into road network improvement projects is not a priority what with the more pressing issues of Aids and poverty, the most effective solution given these circumstances is having laws that are effective enough to prevent traffic accidents and at the same time ensure compliance to these laws. It is for this reason that this paper focuses on the efficacy of the Zambian road traffic laws in preventing traffic accidents in Zambia. It is intended to demonstrate that the law can and should play a very significant role in preventing road traffic accidents in Zambia. It cannot be overemphasized

that the benefits of effective traffic laws, both direct and indirect are extremely critical to the development of a third world nation such as Zambia.

We now turn to evaluate the brief history of Zambian road traffic laws.

1.2 SYNOPSIS OF BACKGROUND OF ZAMBIAN TRAFFIC LAWS.

The law relating to roads, motor vehicles and traffic in Zambia is regulated by the Roads and Road Traffic Act Chapter 766 of the laws of Zambia. The Roads and Road Traffic Act (hereinafter referred to as the Act) traces its history back to the colonial days when this country was known as Northern Rhodesia. At the time, this statute was known as the Roads and Road Traffic Ordinance and was passed by the Legislative Council of Northern Rhodesia in 1958. This Ordinance was a product of the amalgamation of three ordinances namely the Roads and Vehicle Ordinance, the Motor Traffic Ordinance and the Width and Tyres Ordinance. The provisions of the ordinance were basically those that were contained in these three ordinances though the contributions of the width and tyres ordinance were negligible as it had virtually fallen into abandonment at the time the ordinance was passed. As stated by then economic secretary Mr. Leversedge in a speech made at the presentation of the bill on the Roads and Road Traffic Ordinance before the legislative council;

“Mr. Speaker, I have already mentioned that the bill before the house contains the provisions of the three ordinances, the Motor Traffic Ordinance Cap 172, the Width and Tyres Ordinance cap173 and the Roads and Vehicle Ordinance cap 174.

Despite their names, these ordinances are not exclusive. The provisions however mainly contributing to the ordinance are these of the Motor Traffic Ordinance and the Roads and Vehicle Ordinance. The Width and Tyres Ordinance is practically outdated today.”⁴

At the time the ordinance was being passed, it contained provisions among other things only relating to the control of motor traffic, the licensing of drivers and motor vehicles both public and private, compulsory third party insurance and for other miscellaneous provisions relating to roads and motor traffic. When the Roads and Road Traffic Act was enacted however, the scope of the ordinance was broadened to accommodate pertinent and pressing issues that were previously not contained in the prior statute. The most notable inclusions were the licensing of driving instructors and driving schools and more importantly, the alterations of the provisions creating offences in relation to the driving of motor vehicles on roads to bring the law into conformity with the then recent improvements to the law in this respect made in the United Kingdom.

In focusing specifically on the provisions enacted with the objective of preventing road accidents, it must be noted that the Motor Traffic Ordinance⁵ which was enacted by the legislative council in 1927 served as the oldest legislation making provision for the control of motor traffic on public high ways. This ordinance had provisions against negligent driving and drunkenness. The provisions made it an offence for a driver in charge of a motor vehicle to be under the influence of alcohol or drugs.⁶ The ordinance also provided penalties for offences against the ordinance which included a fine not exceeding 20 pounds in the case of a first offender or a sum not exceeding 50 pounds for a second or subsequent offence or imprisonment with or without hard labour for a term not exceeding three months or both such fine and imprisonment.⁷

Statistics of traffic accidents were however still on the increase despite these provisions of the Motor traffic Ordinance, thus in the wake of this increase, a prominent member of the legislative council tabled a motion before the house calling for more stringent measures to be introduced in the issue of road service licenses. It was felt that this would like in England work to reduce the number of road accidents occurring on public roads⁸. As a consequence, amendments were made to the ordinance to incorporate these recommendations. In the following

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year, other amendments to stiffen the penalties for reckless and drunken driving were incorporated into the ordinance. These imposed the offence of murder against a driver who run over a person or caused an accident in which death resulted whilst driving recklessly and manslaughter in the case of driving under the influence of alcohol or drugs.⁹

After independence, the Roads and Road Traffic Ordinance became the Roads and Road Traffic Act with all the provisions of the ordinance adopted by the new Act. The aims of the Act were to facilitate the proper management of roads and motor traffic, in line with the corresponding increase in the number of roads and motor vehicles as well as the ever-rising statistics of road traffic accidents as a consequence thereof.

1.3 CONCLUSION.

It has been seen from the preceding paragraphs that the problem of road accidents is critical, not only are lives lost but it also hampers development of our nation. We have also seen that this nation has had statutes pertaining to this scourge since 1927, however, the critical question that comes in considering the ever increasing statistics of road carnage is; have these laws been effective in reducing the levels of traffic accidents? Have they provided enough offences to capture the various causes of traffic accidents? Are the penalties or punishments in the statute

stringent enough to deter motor vehicle drivers from committing these offences? It is trite that the function of law is the purposive definition of personal relations within society; the allocation of authority and the determination of who may exercise physical coercion as a socially recognized privilege.¹⁰ It is also trite that having determined the personal relations and allocation of authority, the law ought to be dynamic and respond effectively to the challenges of the day, thus, the next chapter shall undertake a detailed evaluation of the various provisions of the Act as it stands today to see how effective they are in preventing road traffic accidents.

1.4 END NOTES.

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2. Professor John Cohen, Cohen and Preston, "CAUSES AND PREVENTION OF ROAD ACCIDENTS." LONDON, Faber & Faber, 1968.
3. World Health Day 2004. htm document.
4. Northern Rhodesia Legislative Council Debates, Hansard No. 95 of 1958 column 2178.
5. Ordinance No.14 of 1927.
6. Section 14 of Ordinance No. 14 of 1927.
7. Section 21(3) of Ordinance No.14 of 1927.
8. Per Mr. Botha, Northern Rhodesia Legislative Council debates Hansard No. 91 of 1957 column 75.
9. Section 105 of Ordinance No. 14 of 1927.
10. L B Curzon. Dictionary of Law, (1997) Pitman Publishing p219.

CHAPTER TWO: EVALUATION OF THE EFFICACY OF THE ACT.

2.1 GENERAL INTRODUCTION.

In Zambia, the law relating to road traffic is regulated by the Roads and Road Traffic Act. It is however interesting to note that as at now, there are currently two statutes on the statute books regulating road traffic. Firstly on the one hand, there is the Roads and Road Traffic Act Chapter 464 of the laws of Zambia which is amongst other things “An Act to make provision ... for the control of motor traffic, for the licensing of drivers and motor vehicles... For the licensing and control of public service vehicles and public services and for other miscellaneous provisions relating to roads and motor traffic¹. On the other hand, there is also the Road Traffic Act No.11 of 2002 which is “An Act to establish the Road Transport and Safety Agency... to provide for the licensing of drivers and motor vehicles and trailers... to provide for the licensing and control of public service vehicles... to provide for the implementation of the SADC Protocol on Transport, Communications and Meteorology...”² In essence, these two Acts basically address the same matters particularly with regard to road safety.

The Road Traffic Act as seen above is a recent piece of legislation compared to the Roads and Road Traffic Act which has been in existence since independence.

It is however imperative to note that this recent Act despite dealing with issues addressed in the earlier Act does not expressly state that it repeals the older legislation. It is however trite law that where two statutes exist relating to the same issue, the latter should be taken to have impliedly repealed the former. This stance was taken in the *Zambian case of Sinkamba v Doyle*³ in which Baron JP had this to say; “I think the whole question of conflict between enactments was very succinctly put by Dr Lushington in *The India*⁴ ... “what words will establish a repeal by implication it is impossible to say from authority or decided cases... it is not necessary that any express reference be made to the statute which is to be repealed. The prior statute would, I conceive, be repealed by implication, if its provisions were wholly incompatible with a subsequent one ... or if the entire subject matter were taken away by the subsequent....” In the present case, some subject matter of the earlier Act have been taken away by the recent Act while other new provisions would be incompatible with the old ones, therefore, following the above authorities, the Road Traffic Act No 11 of 2002 has by implication repealed the earlier Act. We now proceed to study the specific provisions of the Road Traffic Act hereinafter referred to as the Act, with special regard to road safety, in particular the prevention of Traffic accidents.

2.2 LICENSING OF DRIVERS OF MOTOR VEHICLES AND DRIVING SCHOOLS.

It would only be prudent in examining the provisions of the Road Traffic Act to begin by first examining those provisions relating to those who are in charge of motor vehicles on the road; the drivers and of course those responsible for training the drivers as well as those that ensure that the drivers and their instructors are competent enough to undertake such activities. It is critical as well to examine what conditions are to be met by drivers and driving instructors in order for them to be deemed competent.

The licensing of drivers of motor vehicles and driving schools is provided for in part v of the Road Traffic Act in sections 56 to 74. Section 56 of the Act requires the driver of a motor vehicle to be licensed. It provides;

“no person shall drive a motor vehicle unless that person is the holder of a driving license authorizing such person to drive a vehicle of that class or description.”⁵

The Act also prohibits any person from permitting or employing another person to drive a motor vehicle on a road unless that person is the holder of a driving license issued under the Act.⁶ The section further provides that;

“Any person who acts in contravention of any provision of subsection (1) or (2) commits an offence and shall be liable, upon conviction, in the case of a first offence, to a fine not exceeding one thousand five hundred penalty units, and in the case of the second or subsequent offence, to a fine not exceeding one thousand penalty units.”⁷

Another important provision of this section is subsection (4) which provides that subject to the first two subsections, any motor vehicle which is driven on a road by any person who is not the holder of a valid driving license authorizing that person to drive a vehicle of that class or description, may be impounded by any road traffic inspector in uniform or by any police officer.⁸

The provisions of section 56 are by all means very important in that they measure up as a proper road safety requirement. However, the adequacy of the amount of the fine imposed as punishment is highly debatable. The act of allowing an unlicensed person to drive a motor vehicle is a clear-cut act of negligence on the part of the person authorizing such act as well as the person who actually drive without a license. Thus, it can be argued quite forcefully for instance that a second or subsequent offence especially should attract very stiff punishment as it exhibits that the offender has no regard for the safety of other road users. It is only when

the punishment an offence attracts is very stiff that one can refrain from committing the offence. The potential danger of the offence is so grave that the corresponding punishment should also be deterrent.

Section 57 of the Road Traffic Act deals with the tests of competence to drive, it provides as follows;

“57. (1) A license authorising the driving of motor vehicles of any class shall not be granted to any person unless the person satisfies the

Director-

- (a) that at some time during the period of two years ending with the date the application is made but not earlier than the appointed date the person has passed the test of competence to drive prescribed under subsection (2);
- (b) that at some time not earlier than the appointed date the applicant has held a full license authorising the driving of vehicles of that class;
- (c) that at some time during the period of two years ending with the date the application is made the person has passed the test of competence to drive vehicles of that or a corresponding class conducted under the law of another

SADC Member State or Country of the Commonwealth”⁹.

This provision is perfectly suitable for drivers who have been tested in Zambia but perhaps it would be better to subject those from other countries to driving tests so as to physically witness their competence on the Zambian roads. This would also act as a safe guard against licenses that may have been acquired corruptly or let alone forged.

As for the actual driving tests, they are to be conducted by a driving examiner, and the form of the test shall be in accordance with the general instructions laid down by the Director and every person taking a test shall comply with these provisions. A certificate stating that a person is competent to drive a particular class of vehicles can only be obtained after satisfying the examiner that one is competent to drive such class of motor vehicle.¹⁰

There is also a provision under the Act to the effect that any person wishing to learn how to drive should obtain a provisional driving license or any other license for that purpose. The individual wishing to learn how to drive is also required to pass a prescribed theory test conducted by a driving examiner for the purpose of

obtaining a provisional driving license.¹¹ A provision of great interest under this section reads;

“A person issued with a provisional driving license shall whilst driving a motor vehicle at all times be under the supervision of a person who shall sit beside that person or, if it is not possible, as near as is practicable, and who shall be in possession of a license to drive the vehicle and such plates as may be prescribed shall be displayed upon such vehicle”¹².

This provision no doubt does envisage the danger to other road users of having a person learn to drive under the supervision of an unqualified instructor, however, a matter of concern which is not addressed in these provisions of the Act is the experience of the instructor. As it is in the Act, even a person who just acquires his license is eligible to instruct a learner driver. This is surely a potential hazard to other road users if an instructor who is also new to the driving profession does not possess any skill to properly guide the other person. Failure to comply with the above provisions is of course an offence and any motor vehicle in respect of which an offence is committed under this section may be impounded by any road traffic inspector in uniform or by any police officer.¹³

A person applying for a provisional driving license is required to prove that his or her physique, vision, hearing, body and mental fitness are such as to warrant the issue to that person of a license. This is done by way of the applicant producing a satisfactory medical certificate in such form as may be prescribed, signed by a registered medical practitioner.¹⁴

A driving license and a provisional driving license, unless expressed to be valid for all classes of motor vehicle, shall be valid only for the class or classes of motor vehicle specified in the driving license.¹⁵ This provision is a good safe guard for the safety of other road users as it ensures that drivers of each particular class of vehicle are competent to drive it.

As regards the age of drivers, the Act has prescribed the minimum age of driving any motor vehicle including a construction vehicle and a heavy goods vehicle as eighteen years of age. To drive a public service vehicle carrying passengers for hire or reward, or for private or domestic purposes, the driver must have attained the age twenty five and acquired at least two years driving experience.¹⁶ The age restriction imposed on drivers is a reasonable one especially because at the age of eighteen, one having attained the age of majority is possessed of sufficient mental capability to exercise reasonable skill and care in order to ensure the safety of oneself and other road users. As for the minimum age of twenty five required for

drivers of public service vehicles plus at least two years experience, the restriction is absolutely vital because such a driver has the safety of the lives of many members of the public depending on him and as such, a higher standard of skill and care is expected to be exhibited by him. Thus, this age restriction is also very desirable.

There is also provision for the revocation of driving licenses under section 68 of the Act. The license of a driver of a public service vehicle may be revoked by the director if in his opinion, the conduct or character of the holder is such as to render the holder unfit to drive such vehicle from the point of view of the safety of the public.¹⁷ The license of any person who appears to be suffering from a disease or disability likely to cause the driving by the person of a motor vehicle to be a source of danger to the public can also be revoked.¹⁸ There is also provision to make an order for a fresh driving test by a driving examiner in the case of any holder of a driving license who appears to the Director to be so deficient in his or her driving ability as to be a source of danger to the public, and if the license holder fails to pass such test, the Director shall revoke that person's license.¹⁹

The Act provides for the control of driving schools and of the teaching for gain as follows;

“70. (1) No person shall teach for gain the driving of motor vehicles except under the authority of a license, hereinafter referred to as an instructor's

license, issued by the Director, and no person shall set up or maintain an establishment for teaching for gain the driving of motor vehicles save under the authority of a license, hereinafter referred to as a driving school License, issued by the Director.

(2) Any person who contravenes any of the provisions of this section commits an offence.”²⁰

The Act further provides that an instructor’s license and driving school license shall be personal to the person who is teaching the driving of motor vehicles or who is the proprietor of the driving school, as the case may be, and shall not be transferable.²¹ This is yet again a critical requirement in that it is supposed to ensure that the training of drivers is conducted by appropriately qualified instructors and institutions, however, as stated above there is no minimum experience provided for an instructor. The importance of experienced instructors cannot be over emphasized as it reinforces road safety because the type of driving learnt from an experienced driver is certainly bound to be better than that learnt from a non experienced person.

2.3 PUBLIC SERVICE VEHICLES.

Part viii of the Road Traffic Act deals with public service vehicles. The term public service vehicle is defined in the interpretation section of the Act²² as;

“a motor vehicle or trailer, other than a contract car hired for conveying passengers or goods or both or otherwise used for conveying passengers or goods or both for reward:

Provided that for the purpose of this definition-

(a) a hire-purchase agreement shall be deemed to be a hiring;
and

(b) goods shall be deemed to be carried for hire or reward if the person who has purchased or otherwise acquired such goods from some other person transports them to any other place, and resells or otherwise disposes of them to the person from whom that person purchased or otherwise acquired them”

It has been seen in the preceding paragraphs that the minimum age for a driver of a public service vehicle is twenty-five, this is provided for to enhance the safety of the many passengers that embark on these public forms of transportation. However, the number of passengers and weight of the vehicle are also important aspects of the safety of the passengers, to this effect, the Act provides that the gross weight of a public service vehicle, the weight of goods and the maximum number of passengers that may be carried on a public service vehicle shall be determined by a vehicle examiner in the prescribed manner, and, together with such other particulars as may be prescribed, shall be described on the certificate of

fitness for the vehicle issued under part ix and shall be legibly painted in a conspicuous position on the vehicle in such manner as may be prescribed.²³

Further, if in any public service vehicle, there are more passengers than the vehicle is permitted to carry, the conductor of the vehicle, if any, or, if no conductor is carried, the driver, commits an offence and is liable, upon conviction, to a fine of two hundred penalty units in respect of every passenger carried in excess of the permitted number of passengers. Yet again the adequacy of the penalty prescribed may be debated. Overloading a motor vehicle is not merely uncomfortable and inconveniencing to the passengers but is a potential hazard on the road as it affects some aspect of the motor vehicle such as balance which are crucial to its safe movement on the roads.

Another pertinent provision relating to the driving of public service vehicles is the prohibition of the supply and consumption of liquor, or narcotic drugs by drivers of public service vehicles. The Act provides;

“Any person who knowingly sells or supplies any intoxicating liquor or narcotic drugs to any driver of a public service vehicle, while such driver is on duty, and any such driver who buys or consumes intoxicating liquor while on duty commits an offence, and such person or driver shall upon conviction be liable, in the case of a first offence, to a fine not exceeding five thousand penalty units or to

imprisonment for a period not exceeding six months, and in the case of a second or subsequent offence, to a fine not exceeding seven thousand penalty units or to imprisonment for a period not exceeding twelve months or both.”²⁴

The Act also provides that any person licensed to drive a public service vehicle who at anytime within six hours before he is due to take charge of a public service vehicle in respect of any journey renders oneself incapable of taking proper control of a motor vehicle, by consumption of intoxicating liquor commits an offence for which he can face a six month jail sentence for a first offender and one year for a subsequent offence.²⁵ According to the same section, “the driver of a public service vehicle shall be deemed to be on duty during the time when that driver is in charge of, or responsible for, the driving of a public service vehicle in the course of any journey, including the period of any halt during such journey other than a halt overnight.”²⁶ It is of course a serious offence to drive under the influence of intoxicating liquor and there is a specific provision dedicated to this under section 157 to be examined later. However, it is noteworthy that under section 157 the driver may be imprisoned for up to five years. In this instance therefore, considering that more skill and care is required for the driving of public service vehicles, it would naturally follow that at least the same punishment should apply in this case, if not, it should be stiffer.

Another important provision is that with regard to public service vehicles or any others whose gross weight exceeds eighteen thousand kilograms, any person who drives or causes or permits any person employed by that person or subject to that person's orders to drive in excess of such hours as may be prescribed by the Minister, commits an offence.²⁷

We have hitherto examined the requirements pertaining to road safety in relation qualification for a driver's license, classes of vehicles, number of passengers and weight of vehicles. We now turn to examine the provisions that relate to the actual condition of the vehicles.

2.4 MOTOR VEHICLE FITNESS.

The physical condition of a motor vehicle is just as critical to road safety as having the license to drive a particular type of vehicle, for a vehicle in a poor physical condition poses a grave danger not only to the driver and his passengers but also to other motorists or road users. Part ix of the Road Traffic Act provides for the Examination for Certificate of Fitness For Certain Classes of Vehicles. The Act provides that no vehicle shall be used on any road unless there is in force in respect of such vehicle a valid certificate of fitness, issued by a vehicle examiner and that no licensing officer shall issue a motor vehicle license to any vehicle unless there is produced such evidence that either on the date that the license

²⁷

comes into effect there will be in force a valid certificate of fitness or the vehicle will be exempt from the need to hold such certificate.²⁸ The certificate of fitness is supposed to state that the vehicle in respect to which it is issued is in all respects fit for the purpose for which it is to be used and that it complies with any conditions as to fitness and construction as may from time to time be described.

According to the Act, the fitness certificate shall be valid for four months in the case of some vehicles and twelve in the case of others although the distinction is not clearly discernable. However, the period provided under the Act may be too long in respect of certain vehicles because there are vehicles which cover so much distance daily that the mileage they cover weekly is as much as that covered by an average vehicle yearly. The big luxury coaches are a good example, the nature of the business they are used in is such that one bus can travel between Lusaka and the copperbelt up to six times in a day, surely such vehicles need to undergo fitness examinations at shorter intervals than average vehicles.

As regards defects detected during the fitness examination, the Act provides that where an examiner finds defects, he shall give the owner chance to remedy the defects. It is only at the third re-examination that the examiner may prohibit the use of the vehicle. This is done by refusing to grant a certificate of fitness or confiscating it if at all one is in force.²⁹ Any person who contravenes these provisions commits an offence and is liable to being fined or convicted. The

problem with this system is that despite provisions for random checks at road blocks in-between the re- examinations and even after, the vehicle may be driven on the roads because there is no way of ensuring that it remains parked and it will then pose a serious threat on the road even if the defect is a mere broken head lamp. We now turn to look at the other general road safety provisions and offences.

2.5 GENERAL ROAD SAFETY PROVISIONS AND OFFENCES.

Part x of the Road Traffic Act broadly provides for road safety provisions and offences. With regard to speed limits, the Act provides that no person shall drive a vehicle on a public road at a speed in excess of the one set for that particular road^{.30}. The significance of this provision need not be explained as it is trite that the rationale for speed limits is to ensure that vehicles move at a speed that is conducive for the safety of all road users. Following from this provision, there is also a requirement that in certain instances, no one should operate a motor vehicle unless it is fitted with a recording device to record its speed and the driver shall use this device when driving the vehicle.^{.31} The Act also provides against road racing, stating that any person who promotes or takes part in any race or trail of speed between motor vehicles without the authority of the police inspector general commits an offence.^{.32}

A more frequent cause of road traffic accidents, which is careless driving, is provided for as an offence, the Act states;

“if any person drives a motor vehicle on a road without due care and attention or without reasonable consideration for other persons using the road, that person commits an offence and shall be liable upon conviction, in the case of a first offence, to a fine not exceeding seven hundred and fifty penalty units, and in the case of a second or subsequent offence, to a fine not exceeding one thousand five hundred penalty units.”³³

Driving without due care or attention or no consideration for other road users is of course a danger to road safety, however, considering the seriousness of the danger this poses, it is debatable whether the punishment is indeed commensurate to the offence.

Another offence provided for by the Act is the more serious one of reckless or dangerous driving. It states that any person who drives a motor vehicle upon any road recklessly or at a speed or manner which is dangerous to the public, having regard to circumstances of the case, the condition and use of the road and to the amount of traffic at the actual time or which would be reasonably expected at the material time commits an offence and is liable upon conviction to a fine or imprisonment or both.

Driving under the influence of intoxicating liquor or narcotic drugs is an interesting offence. The Act provides as follows;

Any person who when driving or attempting to drive a motor vehicle on a road, is under the influence of intoxicating liquor or narcotic drugs to such an extent as to be incapable of having proper control of such vehicle, commits an offence and is liable, upon conviction, to a fine not exceeding twenty thousand penalty units or to imprisonment for a period not exceeding five years, or to both.”³⁴

This is the stiffest penalty of out all the provisions examined thus far. It is also interesting to note that the Act also provides an offence of being in charge of a motor vehicle when under the influence of intoxicating liquor or narcotic drugs. In this offence, the motor vehicle has to be on the road but not being driven and the person has to be under the influence of intoxicating liquor to such an extent as to be incapable of having proper control of such vehicle. The terms being in charge of a motor vehicle and control of a motor vehicle are not defined by the Act, however, it provides that the person shall not be deemed to be in charge of the vehicle if he can prove that at the material time the circumstances were such that there was no reasonable likelihood of the person driving the vehicle so long as the person remained unfit to drive and that between the time of that person becoming unfit to drive and the material time the person had not driven or attempted to drive the vehicle on the road.³⁵ It is indeed very hard to conceive of a situation where this is possible because the vehicle has to be on the road and the person in charge

has to be the one to put the car on the road or to remove it. This scenario appears to be only possible where one loses consciousness while driving thus making the offence driving under the influence of intoxicating liquor or narcotic drugs as provided in section 157 of the Act.

Causing death by dangerous driving is another very pertinent provision. The Act provides;

“Any person who causes the death of another person by the driving of a motor vehicle on the road recklessly, or at a speed, or manner which is dangerous to the public, having regard to all the circumstances of the case, including the nature, condition and use of the road, and the amount of traffic which is actually at the time, or which might reasonably be expected to be on the road, commits an offence and shall be liable, upon conviction, to a fine not exceeding thirty thousand penalty units or to imprisonment for a period not exceeding five years or both.”³⁶

This offence is no doubt much more serious than the mere reckless or dangerous driving as it results in the death of a human being. However, it is shocking to note that the fine imposed is just slightly more than that of dangerous or reckless driving while the jail sentence is exactly the same. This is most unreasonable considering that one offence results in the loss of life.

Other road safety provisions make it an offence to drive motor vehicles in dangerous conditions,³⁷ to carry loads that are liable to cause danger to other road users, the driver driving from a position in which he does not have full control of the vehicle, exceeding the seating capacity of the vehicle³⁸. Lastly it is also an offence to drive a vehicle while operating or using a cellular phone unless such phone is used in such a manner that the driver does not hold it in his hand³⁹.

2.6 CONCLUSION.

Having analysed the provisions of the Road Traffic Act, quite a lot can be debated about its efficacy in the prevention of road traffic accidents in Zambia. A number of concerns have been raised in various provisions of the Act such as that of the need to impose a minimum driving experience for those eligible to teach other people to drive. Other concerns mostly relate to the punishments that are imposed in a number of instances. These concerns are mainly that the punishments in most instances do not match the gravity of the offence. Although the fines expressed in terms of penalty units do not necessarily reflect an exact amount in kwacha terms the actual gist of the concerns is that in some instances a fine alone may not be appropriate regardless of how much it may be, there may be need for instance to either suspend one's driving license, impound the motor vehicle or even sentence the offender to community service.

It would be folly to form conclusive opinions as to how the provisions of the Act can be improved to enhance road safety for the Act cannot succeed in achieving road safety in isolation. It is trite that a statute cannot achieve its objectives as it stands alone. There are certain authorities that are granted the power or mandate to perform certain functions or to make delegated legislation or create rules in many instances, and these rules if made in accordance with the jurisdiction given to them are valid and are part and parcel of the Act. Under the Act there are about three institutions that play a vital role in the implementation and enforcement of the provisions of the Act and thus complete the circuit of road traffic regulations. These are the Road Transport and Safety Agency, the Zambia Police Service and the Courts. It is only after studying the operations of these institutions with regard to traffic laws that a proper and well-informed and well-reasoned evaluation of the efficacy of road traffic laws can be formed. The next chapter is dedicated to the study of the roles these institutions play in fulfilling the objectives of the Act and thus completing the whole circuit of road traffic laws.

2.7 END NOTES.

1. Chapter 464 of the Laws of Zambia
2. Act No. 11 of 2002
3. (1974) Z R 1 (CA)
4. (1864) 33 LJ Adm 193
5. Section 56 (1) of the Act
6. Section 56 (2)
7. Section 56 (3)
8. Section 56 (4)
9. Section 57 (1)
10. Section 60
11. Section 61 (1) & (2)
12. Section 61 (4)
13. Section 61 (9) & (10)
14. Section 62
15. Section 63 (1)
16. Section 64
17. Section 68 (1) (a)
18. Section 68 (1) (b)
19. Section 68 (c)
20. Section 70
21. Section 73

- 22. Section 2
- 23. Section 115 (1)
- 24. Section 118 (1)
- 25. Section 118 (2)
- 26. Section 118(3)
- 27. Section 119
- 28. Section 122
- 29. Section 125
- 30. Section 148
- 31. Section 150
- 32. Section 151
- 33. Section 154
- 34. Section 157
- 35. Section 156
- 36. Section 164
- 37. Section 163
- 38. Section 164 & 165
- 39. Section 169

CHAPTER THREE: IMPLEMENTING INSTITUTIONS

3.1 THE PRACTICAL IMPLEMENTATION OF THE PROVISIONS OF THE ACT.

The preceding chapter was dedicated to examining the various provisions under the Act that play a vital role in the prevention of road traffic accidents. This chapter is intended to focus on the practical aspects of the implementation of the provisions of the Act highlighted in the previous chapter.

It is imperative to undertake this exercise because the law on the statute books goes hand in hand with the implementation of that law, for it would be absurd to have laws in place if they cannot be implemented. Under the Road Traffic Act number 11 of 2002, there are three major institutions that play a crucial role in the implementation of the Act. The first institution is the Zambia Police Service, secondly, there is the Road Transport and Safety Agency and lastly there is the judiciary. It is thus critical to examine the attitude of these institutions towards the traffic laws so as to gauge whether this law is being properly implemented.

Before undertaking a detailed evaluation of these institutions, it is important to note what their roles under the Act are. When we refer to the police service, we are specifically concerned with the traffic division of the Zambia Police Service. This

division is faced with the mammoth task of ensuring that motorists abide by the traffic regulations provided under the Act.

The Road Transport and Safety Agency on the other hand is mandated by the Act amongst other things to implement policy on road transport, traffic management and road safety, to issue licenses, to conduct studies on accidents arising out of the use of motor vehicles, to recommend to the Government new safety measures and propose legislative changes.

The courts are empowered under the Act to suspend driving licenses as well as convict individuals who contravene the Act. They shall however not be discussed in detail due to the fact that they do not handle cases of road traffic violations until they are brought by prosecutors in the police service, which is very rare due to circumstance to be discussed under the traffic police's role in implementation of the law.

3.2 THE TRAFFIC DIVISION OF THE ZAMBIA POLICE SERVICE.

This division of the police service as stated earlier has the responsibility of ensuring that motorists obey the traffic laws and also that offenders of this law are brought to book. What remains unclear is whether this division is in actual fact performs its function in the best possible way it could.

From an assessment of what is obtaining on the ground presently. It is self-evident that there are serious shortcomings in the manner in which this division is performing its functions. From the things that are seen on the Zambian roads today, one would seriously wonder if at all there is any body responsible for implementing the law, let alone if there is any law at all. If one was to carry out random checks or patrols on the road, they would witness hundreds if not thousands of vehicles that have fallen into such a state of disrepair that if the law had to be implemented instantly, nearly all of them would be impounded because they pose a very serious threat to the general public.

A lot of questions would be asked about why the situation has escalated to such alarming levels but unfortunately there aren't enough answers to adequately explain why the situation is as it is today.

To begin with, one would believe that it is imperative that a person who is tasked with implementing the law would thoroughly understand the source and scope of his powers. It is however saddening to note that a good number of police officers in the traffic division of the Zambia police service do not even know of the existence of the Road Traffic Act number 11 of 2002 about three years after its enactment. Various officers in the department in interviews and questionnaires expressed ignorance over the existence of this Act believing that the Roads and

Road Traffic Act Cap 464 was the only law regulating road traffic in Zambia. Despite the Assistant Traffic Controller of the department insisting that the officers are given specialist training in dealing with road traffic offences, one would be inclined to question the effectiveness of this training because the officers responsible are implementing laws they cannot even point to. For instance, one officer who was not aware of the new Act stated that he had on several occasions charged people using cell phones while driving which is an offence under the new Act but he did not know where to find the law he was implementing. There is thus a serious lacuna in the training of these officers and it is submitted that the training of these officers by the police service be reformulated in order to ensure that the officers fully understand the law they are implementing which will in turn greatly improve their manner of implementing the law. It is only then that the general public will have confidence in the traffic police and the police themselves will be able to play a significant role in preventing traffic accidents.

The research conducted at the traffic division of the central police of the police service revealed that the major reason the traffic police fail to discharge their duties effectively was due to the lack of adequate resources. The officers stated that they lacked transport facilities to ferry officers to various locations where they could be able to impound vehicles that are in an unroadworthy condition. Similarly, they are not able to conduct road traffic patrols. The officers also complained that they did not even have funding to service the few vehicles and

speed trap machines they have, consequently, once these break down, the officers are incapacitated. It is however submitted that despite there being some merit in the reasons cited by the police officers, there is still a lot the police can do in implementing the provisions of the Act. For instance, the officers interviewed said that public transport vehicles were the major culprits when it comes to defects in the vehicles, thus it surely does not require an abundance of resources to carry out random raids on a public bus stop for example and round up all those buses which are not in roadworthy condition. It is submitted that a failure by the police to conduct such operations is a sign of lack of seriousness on their part. No matter how constrained they are financially, they can still do much more with the little resources they have.

It is also shocking to note that some police officers cite corruption as one of the reasons for the failure by the police to effectively discharge their duties. One of the traffic officers from a police post along the Great East road in Lusaka averred that “it is extremely difficult to charge someone on the road when they offer you money which you rarely come by because the salaries in the police service are so low.” This is indeed a very lame excuse for the police officers to make, as Mr. Mutila the Director- Legal of the Zambia police service rightly asserted in a television discussion on the 2nd of October 2005 on ZNBC television, the traffic police should strive to protect and save the lives of the Zambian citizens in spite of their poor salaries and instead address these problems to the relevant authorities

instead of giving in to corruption which in turn leaves the general public exposed to the danger which remains unabated.

It is plainly clear from the preceding discussion that the traffic division of the police service has not and is not doing enough in properly implementing the traffic laws. It is submitted that as highlighted above, there is still a lot they can do even with the problems that they face.

3.3 THE ROAD TRANSPORT AND SAFETY AGENCY.

The Road Transport and Safety Agency is a body corporate with perpetual succession established under section three of the Road Traffic Act number 11 of 2002. The core functions of the Agency are laid down in section four of the Act and they include inter alia; the implementation of policies on road transport, traffic management and road safety, to register motor vehicles under the Act, to issue licenses and permits under the Act, conducting studies on accidents arising out of the use of vehicles on roads, in the light of those studies recommend to the Government new road safety measures and proposals for road safety policy, taking into account technological development, legal requirements and social and economic factors, review and publish reports on the effectiveness of road safety operations conducted by the police officers and road traffic inspectors. The other functions involve the reviewing and publishing of standards of road fitness that

vehicles shall comply with in order to be fit to be driven on the roads, affiliate to and liaise with road safety organizations in other countries on road safety education, information and materials and finally to undertake periodic reviews of existing road traffic and road safety legislation with a view to advising the Government with regard to all necessary amendments.

As a starting point, from the research that was conducted at the Road Transport and Safety Agency, it is clear that some of the members of staff are not aware of the legislation currently governing road traffic in Zambia, a good number of them still think that it is governed by the old Roads and Road Traffic Act Cap 464. This is indeed a very regrettable situation because the Agency is supposed to play a pivotal role in the realization of the objectives of the Road Traffic Act but shockingly enough, the officers of the agency are even unaware of the existence of the piece of legislation which created the Agency itself. The Agency should thus get its act together and clean up its own house if it is to discharge its functions under the Act effectively. The Agency should first ensure that its officers understand the origin, foundation and objectives of the Agency, this is extremely critical because only then would the officers of the Agency understand and appreciate the importance or gravity of the task laid upon the Agency.

As regards the Agency's view on the effectiveness of the legislation relating to road traffic, most of the officers of the Agency were of the view the Act was

generally alright as it covered about every offence adequately, however, they did unanimously state that the amounts of monies paid in the instances where fines were the penalties were too minimal and this does not operate effectively in restraining members of the public from driving defective vehicles. For example, they stated that the K54 000 fine for driving a defective vehicle was too little as most motorists were very capable of paying the fine there and then and were more inclined to take the risk of being caught at roadblocks than repairing the defect on the car. The officers thus suggested that the fines should be stiffened so as to encourage motorists to repair defects on their vehicles as they arise instead of taking chances on the road.

As for the Agency's discharge of its functions under the Act, the research revealed that the Agency was crippled in the carrying out of its functions due to the lack of funds. Therefore, the Agency is unable to perform its most critical functions such as carrying out studies on the causes of traffic accidents, effectiveness of traffic legislation and advising the Government on the measures to be taken against these problems. This point was reiterated by the Director of the Agency who said that the Agency was unable to work up to its expected standards. Instead, in most instances it had to prioritize on its functions in order to be able to work within its limited resources.

The Director of the Agency cited the other limiting factor in the Agency's quest to effectively tackle the problems of road safety as the inefficiency on the part of the traffic department of the police service. The Director stated that the traffic police was supposed to be a very important partner in the Agency's work but had failed to rise to this challenge due their own problems, which mainly are financial, but to some extent also organizational. Thus, even the few successful efforts that are made by the Agency are mostly rendered useless because the police traffic department often fail to implement these measures put in place by the Agency.

The research also revealed that in spite of the various challenges the Agency faces in executing its functions, it did however manage to perform what is arguably its most critical function; that of proposing measures that the Government could take to improve the situation currently at hand. The problem however was that the Government hardly gave ear to the proposals or recommendations of the Agency. For instance, the Director cited two critical proposals that were made to the Government involving measures that could be taken to strengthen the police traffic division and secondly the introduction of a fast-track court system.

With regard to measures to be taken to strengthen the police traffic department, it was learnt that the Director had visited neighboring Zimbabwe on a research tour of how Zimbabwe copes with the problem of road traffic accidents. The Director noted that Zimbabwe had well over forty vehicles and twenty-five motorbikes

permanently stationed on the roads leading to and from its borders just to man any possible road traffic violations. The most important point noted however was how they managed to purchase, operate and service these police vehicles. Zimbabwe has worked out a system whereby the traffic police division retains thirty per centum of the monies raised from fines in road traffic offences. Thus, the traffic police have some degree of independence and are able to effectively discharge their function because they have available resources. In the light of this, the Agency proposed to the Government that traffic division of the Zambia Police Service be given some degree of independence and that they be empowered by retaining about twenty per centum of the money they raised from fines in traffic offences. In this way, they would be able to purchase traffic patrol vehicles, speed trap machines and other relevant materials. They would also be able to service these machines from this money and this would obviously improve the quality of their work in ensuring road safety.

As for the fast track court system, the Director noted of the Zimbabwean system that those motorists who committed serious offences on the road were sent to court within twenty four hours or as soon as they committed the offence and this made it possible for the matters to be disposed of quickly. The Agency also proposed the introduction of such a system to the Government. The Government has however not shown even the slightest commitment to making any of these proposals a

reality. This creates the unfortunate perception in the eyes of the public that the Agency is not doing anything to promote road safety.

3.4 CONCLUSION

It would suffice to conclude by saying that the implementation of the various provisions of the Road Traffic Act by the traffic police and the Road Transport and Safety Agency is met with a plethora of difficulties. As such, these institutions fail to perform to the expected standards as provided in the Act.

The next chapter shall be dedicated to addressing the way forward in the light of what has been discussed in the preceding chapters. It will suggest recommendations and proposals for rectifying the defects of the traffic laws in Zambia.

CHAPTER FOUR:

SUMMARY, CONCLUSION AND RECOMMENDATIONS

4.1 SUMMARY.

This paper has examined the problem of road traffic accidents in Zambia and the efficiency of the law relating to motor traffic in curbing this problem

Chapter one was introductory and it focused mainly on the gravity of the problem of road traffic accidents even to the extent of their effect on the economy.

Chapter two evaluated the efficacy of road traffic laws in Zambia. It examined the Road Traffic Act number 11 of 2002 and how effective its provisions relating to road safety are.

Chapter three was focused on the two most important institutions that are charged with the task of implementing the law as provided in the Road Traffic Act. These were the traffic department of the Zambia Police Service and the Road Transport and Safety Agency. The courts were left out because most traffic violators do not get to be prosecuted due to internal constraints in the police service.

4.2 CONCLUSION.

Despite the introduction of the recent Act of 2002 and the setting up of the Road Transport and Safety Agency, the prevalence of high numbers of road traffic accidents on a yearly basis has persisted. Research was conducted to analyze why the situation has gone on unabated and despite the changes in the legislative structure and varying conclusions have been reached with regard to the efficiency of the statute it self, the role of the Road Traffic Police and that of the Road Transport and Safety Agency.

4.3 EFFICACY OF THE ROAD TRAFFIC ACT.

The Road Traffic Act as has been seen in the second chapter broadly covers most of the critical factors in relation to road safety and the prevention of road traffic accidents in particular. What is odd however is the fact that it does not seem to be doing enough in changing the prevailing situation. Having examined all the provisions of the Act relating to road safety, it has been concluded that there are a few shortcomings of the Act.

One of the shortcomings of the Act is that it does not provide a minimum experience for people that instruct learner drivers. The problem that results from

this state of affairs is that the quality of drivers being trained may be poor in some instances because these people may have been trained by drivers who are not so experienced themselves.

Another concern raised in the second chapter was that drivers from SADC countries are given licenses to drive motor vehicles without being tested as long as they prove that they had passed a driving test in the two years preceding the application for a license. This is a source of concern in that these documents to be produced could easily have been forged and then we would have unqualified drivers on our roads which indeed a danger to road safety.

The other and perhaps the most serious shortcoming of the Road Traffic Act is the issue of the fines payable for various offences under the Act. The fines payable as seen in the last two chapters have been a serious source of concern to the writer, the traffic police and the Road Transport and Safety Agency. These fines are usually so low that people are not deterred from violating road traffic laws as they can easily pay the fine if they are caught violating the law.

4.4 EFFECIENCY OF IMPLIMENTING INSTITUTIONS.

The other concerns relate to the institutions tasked with the job of effecting the provisions of the law. The preceding chapter revealed that these institutions are

quite handicapped and as such are unable to effectively discharge their functions. In the first place, the traffic police and the Road Transport and Safety Agency both have a problem with the adequate training of their members of staff. Their officers are mostly unaware of the existence of the Road Traffic Act and therefore they cannot properly discharge their functions if they do not even know the laws they are implementing and where their powers or authority are derived from. Another problem facing these two institutions is that of funding. The institutions are very poorly funded, as such they cannot effectively plan and coordinate their work.

In conclusion, it would suffice to say that the Road Traffic Act itself is a good piece of legislation as it captures most of the causes of traffic accidents and covers these under the various offences. It is relatively modern and conforms to the various challenges of the modern age generally. The problem however, lies in the implementation of this law. The institutions which have the responsibility of implementation have not been effective enough and this is why the statistics of traffic accidents continue to escalate annually. Had these institutions been effective, they would have remedied even the major drawback of the Act which is the quantum of the fines. Implementation of the law is as much important as the law itself. They go hand in hand. Therefore because the implementation of the road traffic law has been poor, it is concluded that the framework of the road traffic regulations in Zambia is defective. We now proceed to suggest possible remedies to this framework.

4.5 RECOMMENDATIONS.

Despite the shortcomings of the law pointed out earlier, there is still indeed some room for improvement of the efficacy of the law relating to road traffic in Zambia.

The beginning point of this improvement relates to the issue of fines. The fines payable for offences under the Road Traffic Act ought to be stiffened so as to inculcate a sense of responsibility in all motor vehicle users that will ensure that they do not gamble with road safety by committing traffic offences and keep their vehicles in a state of disrepair. It is only by having very stiff fines that motorists will realize the seriousness of the need to observe road safety measures and will be deterred from taking chances on the road.

Secondly, there is need to properly train or educate the officers in the implementing institutions on the existence and provisions of the law regulating road traffic. It was seen previously that a good number of officers in these institutions do not even know of the Road Traffic Act. Training these officers in this respect is certainly a step in the right direction.

Thirdly and most importantly, is the issue of funding. Having learnt previously that the implementing institutions are impeded in effectively doing their work due

to lack of adequate finances, it is only proper that a recommendation be made for increased funding to these institutions from the government. It is also imperative that the two institutions should have some degree of financial independence so that they are able to plan or schedule their work more effectively. For instance, since both the traffic police and the Agency receive money through fines for traffic offences and licensing of drivers and motor vehicles respectively, they could be financially empowered by being allowed to retain a certain percentage of the money they collect from these activities. As such they would be financially independent from the government and this would definitely go a very long way in improving the quality of their work.

Following from the issue of funding, it would also be of great help if a fast track court system were set up for the prosecution and trial of traffic offenders. As it is right now, the police fail to prosecute offenders because they lack finances and the court cases take too long, the effect is therefore that would be offenders even know that they will not be prosecuted for traffic offences and it creates a sense of irresponsibility in them. A fast-track court system would definitely deter motorists from taking chances with road safety.

To a lesser extent, even peripheral issues such as having proper road markings and well-maintained roads can help reduce the statistics of road traffic accidents.

It is the writer's humble submission that if most or all of these recommendations were seriously taken into consideration, the quandary of high levels of traffic accidents would be a thing of the past.

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