I recommend that the Obligatory Essay prepared under my Supervision by

BORNFREE S. MIAZE

entitled

THE PRODUCTION, SALE AND CONSUMPTION OF ALCOHOLIC DRINKS IN ZAMBIA: A LEGAL ANALYSIS

be accepted for examination. I have checked it carefully and I am satisfied that it fulfills the requirements relating to format as laid down in the regulations governing Obligatory Essays.

25/09/91

DATE

SUPERVISOR
PRODUCTION, SALE AND CONSUMPTION
OF ALCOHOLIC DRINKS IN ZAMBIA:
A LEGAL ANALYSIS.

By

BORNFREE S. MIAZE

An Obligatory Essay submitted to the University of Zambia in partial fulfilment of the requirements for the degree of Bachelor of Laws.

The University of Zambia,
P.O. Box 32379,
LUSAKA.

SEPTEMBER, 1991

- i -
DEDICATION

To my late parents;
Mr. Julius Miaze Sikatana
and
Mrs Namuyoba Miaze
who should have lived to see
the completion of this project.
ACKNOWLEDGEMENTS.

In the process of undertaking this study, many people more than I can mention helped me both directly and indirectly.

However, I would like to record my special and deepest gratitude firstly, to my Supervisor, Mr. Claydon Hakasenke, Lecturer in the School of Law for being most supportive and willing to guide me in the research and writing of this essay. Without his comments and criticisms, which sometimes led us into arguments, this essay would have been a huddle.

Secondly, to Mr. J.S. Mudenda, Chairman of the Licensing Board for Lusaka Province, Mr. T. Sakala, Senior Liquor Licensing Officer in the Social Secretary's office (LUDC), Woman Chief-inspector Sakala, Officer-in-charge, Chilenje Police Station and Mr. J.L. Sichali, Bottling Manager, Zambia Breweries Limited, for the valuable information.

Thirdly, to my nephews, Messrs Charles and Andrew Mushoke, and my brother, Mr. Sililo Miaze without whose kindness, patience and assistance this project would not have been a reality.

The support and encouragement I got from my friends Kaona Malewa, Charles Mwendabai, Alex Chilufya, Jasper Hatwiinda and Adon Kalulumu can not go unrecorded.

Above all, it is my duty and pleasure to record the assistance I got from Mrs. Rhoda Chisanga who typed the manuscript.
# TABLE OF CONTENTS

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Title</td>
<td>i</td>
</tr>
<tr>
<td>Dedication</td>
<td>ii</td>
</tr>
<tr>
<td>Acknowledgements</td>
<td>iii</td>
</tr>
<tr>
<td>Table of contents</td>
<td>iv</td>
</tr>
<tr>
<td>Abstract</td>
<td>vi</td>
</tr>
<tr>
<td><strong>INTRODUCTION</strong></td>
<td></td>
</tr>
<tr>
<td>1.1 Problem Stated</td>
<td>1</td>
</tr>
<tr>
<td>1.2 Methodology</td>
<td>3</td>
</tr>
<tr>
<td>Footnotes</td>
<td>5</td>
</tr>
<tr>
<td><strong>CHAPTER ONE</strong></td>
<td></td>
</tr>
<tr>
<td>HISTORICAL BACKGROUND</td>
<td>6</td>
</tr>
<tr>
<td>2.1 General Overview</td>
<td>6</td>
</tr>
<tr>
<td>2.2 Reasons for Regulation</td>
<td>8</td>
</tr>
<tr>
<td>2.3 Alcohol and means of Control in Pre-colonial Societies</td>
<td>11</td>
</tr>
<tr>
<td>2.4 Colonial Liquor Policy</td>
<td>13</td>
</tr>
<tr>
<td>2.5 Origins of illegal drinking</td>
<td>17</td>
</tr>
<tr>
<td>Footnotes</td>
<td>21</td>
</tr>
<tr>
<td><strong>CHAPTER TWO</strong></td>
<td></td>
</tr>
<tr>
<td>LIQUOR LAWS OF ZAMBIAN</td>
<td>24</td>
</tr>
<tr>
<td>3.1 Introduction</td>
<td>24</td>
</tr>
<tr>
<td>3.2 Liquor Licensing Act</td>
<td>25</td>
</tr>
<tr>
<td>3.2.1 Types of Licences</td>
<td>26</td>
</tr>
<tr>
<td>3.2.2 Procedure for grant or renewal</td>
<td>28</td>
</tr>
</tbody>
</table>

- iv -
<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>3.3 The Traditional Beer Act</td>
<td>32</td>
</tr>
<tr>
<td>3.3.1 Permits to make traditional Beer</td>
<td>36</td>
</tr>
<tr>
<td>3.3.2 Permits to sell traditional Beer</td>
<td>37</td>
</tr>
<tr>
<td>3.4 The Customs and Excise Act</td>
<td>39</td>
</tr>
<tr>
<td>Footnotes</td>
<td>42</td>
</tr>
</tbody>
</table>

**CHAPTER THREE**

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>THE PROBLEM AND ITS EXTENT</td>
<td>45</td>
</tr>
<tr>
<td>4.1 Introduction</td>
<td>45</td>
</tr>
<tr>
<td>4.2 Breach of Conditions</td>
<td>46</td>
</tr>
<tr>
<td>4.3 Shebeens</td>
<td>50</td>
</tr>
<tr>
<td>4.4 Illicit brewing</td>
<td>52</td>
</tr>
<tr>
<td>4.5 Effect of Price Control and Monopoly to Produce Beer/Liquor</td>
<td>56</td>
</tr>
<tr>
<td>Footnotes</td>
<td>59</td>
</tr>
</tbody>
</table>

**CHAPTER FOUR**

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>IS THERE A WAY OUT?</td>
<td>61</td>
</tr>
<tr>
<td>5.1 Findings of the Study</td>
<td>61</td>
</tr>
<tr>
<td>5.2 Proposals for Reform</td>
<td>62</td>
</tr>
<tr>
<td>5.3 Conclusion</td>
<td>68</td>
</tr>
<tr>
<td>Footnotes</td>
<td>69</td>
</tr>
<tr>
<td>Bibliography</td>
<td>70</td>
</tr>
</tbody>
</table>
ABSTRACT.

The regulation of the trade in alcoholic beverages arose out of a practical necessity of the state to maintain peace and order and to protect the health and moral standards of the people. That there is a law to control the production, sale and consumption of alcoholic drinks in Zambia, and that this law is constantly being breached are facts which no one would venture to contradict. Although it is impossible to estimate the amount of alcoholic drinks brewed or distilled and sold or consumed outside the provisions of the law, press reports confirm that these activities have assumed alarming proportions.

It was against such background that we felt sufficiently persuaded to make an inquiry into the institution of alcohol. Desirous to ascertain the causes and effects of illicit brewing and other forms of illegal drinking, we have spent some time studying the whole subject, the object being that of providing possible solutions. We hope that the paper will stimulate interest in this neglected but important area of the law.
INTRODUCTION.

This essay is an inquiry into, and an attempt to provide solutions to the problems of illicit brewing, shebeen operations and other forms of drinking done outside the provisions of the law.

Various circumstances give rise to different human needs. In our society, the many people who drink alcohol are not wilful drinkers, but they do so owing to external or internal circumstances. While the rich man roles in wealth, with many pleasure resorts and activities which provide him with recreation even when he does not need it, the average or poor man is bathed in worries, sorrow, poverty and is the dread of monotonous existence. He also needs some form of recreation and if he can't find it, he goes to drink. When he drinks, he forgets all his problems, at least temporarily. However shortlived the pleasure may be, it is a legitimate excuse to drink. Moreover, latest scientific researches show that alcohol is not only a recreational drug for millions of people world-over, but also that its moderate consumption cuts the risk of a number of ailments such as nervous break down\(^1\), heart diseases\(^2\), etc.

1.1 THE PROBLEM STATED.

Notwithstanding its positive values, alcohol like any drug, is subject to abuse. If abused, alcohol progressively depresses the normal functioning of the human organism, begining with the highest centres of the brain to the brain-stem.\(^3\)
Even the initial feelings of stimulation and euphoria are due to depression of the controls normally maintained over thinking, emotions and behaviour. Thinking becomes loosened, judgement less reliable and behaviour less controlled.

At times, the substances and manner used to produce or sale alcoholic beverages may pose serious danger to the health of the consumers or to public order. Under these circumstances, it becomes an important task of government to ensure that those of its subjects who need to drink get the right types of alcoholic beverages and that the consumption of such beverages is done in accordance with the law so as to prevent idleness and disorderly living. Despite the existence of such a law in Zambia, a lot of liquor and other kinds of alcohol are produced, sold and consumed outside the provisions of the law, (illegal drinking).

In this paper, we investigate the causes of illegal drinking (i.e. shebeens, illicit brewing, etc and offer the possible solutions). However, lack of space has resulted into the exclusion of some relevant aspects of the subject, such the moral implications of drinking and drunkeness, the techniques of producing various alcoholic beverages and economic aspects of their production, distribution and consumption. Consequently, and as the title reads, we have limited ourselves to the legal aspects of the subject.
1.2 METHODOLOGY.

Research of this paper took the form of documentary analysis in which statutes and other forms of literature were examined. This has been supplemented by personal interviews with several people involved in, or conversant with the issues pertaining to the production, sale and consumption of alcohol.

Mention should be made here that obtaining information from some individuals and certain companies or government departments was at times highly difficult as some of these were ready to conceal their guilt or could be suspicious about the innocence of the whole project.

However, the paper is divided into four chapters. The first chapter gives a historical background to the whole subject. Firstly, a general overview on the nature and functions of alcohol is given and reasons for regulation are brought out. It is this chapter which shows that illegal drinking has its roots in the colonial days.

In the second chapter, we examine the relevant statutes in this neglected area of the law. The salient features of the three principal statutes are examined.

The third chapter is built upon the second one. Here, we examine the problems arising from the application of the statutes.

The whole study is summed up by chapter four which is sub-entitled - "Is there a way out?" In this chapter, we put
forward a moderate programme for change which would bring the law to the expectations of those who feel the need to produce, sale and drink alcoholic beverages.

It must be mentioned here that there has never been a previous obligatory essay on this topic. The only closely related one was written by Mabutwe, C. entitled: *Drunkeness and legal Control*. However, Mabutwe's essay mainly dealt with the ways and means through which the law may be used to reduce drunkenness. Subsequently, most of the research was done from an initial stage, and it is hoped that the paper will stimulate interest for further research which will culminate into the enactment of an all embracing statute.

2. Dr. Eric Rimm and his colleagues at the Havard School Public Health, Boston, found that those who drank over 5 grams but less than 30 grams of pure alcohol had a 26 per cent reduction in the risk of heart disease over those who drank nothing or less than 5 grams. See "Moderate drinking friendly to the heart..." Zambia Daily Mail, Monday, 26th August, 1991.


4. 1974/75 Session.
CHAPTER ONE.

HISTORICAL BACKGROUND.

2.1 GENERAL OVERVIEW.

Man's use of alcohol is quite ancient. Almost every account of societal life from the earliest reports to the present day includes some mention of the occasion for, and prevalence of alcohol consumption. But what is alcohol and how did it come about in society? Alternatively, it maybe asked - why have men of different cultures used alcohol at different historical periods?

It is interesting to note that although several resear-ches have been carried out on the uses and functions of alcohol in society and its effects on the human organism, the discoverer of alcohol still remains unknown. Even the subs-tance from which the first alcohol originated is not histor-ically recorded.¹ Like fire however, alcohol was bound to exist. The mere storage of certain substances could, under certain conditions result into alcoholic beverages.

Scientifically, alcohol has been defined as "a chemical compound composed of varying parts of carbon, hydrogen and oxygen".² There are various kinds of alcohol, but the one that is used in alcoholic beverages is called ethyl alcohol.³ Ethyl alcohol is mostly used because it can be made easily by ferme-ntation, and maybe produced quite easily in a concentrated form through distillation.
The amounts of alcohol in various alcoholic beverages vary greatly. In alcoholic beverages produced by fermentation, the strength of alcohol is expressed in percentages. Most beers for instance lagers contain about 4 to 7 percentum alcohol, while wines have about 12 to 16 per centum. In distilled spirits such as wisky and brandy however, the strength is not expressed in percentages but in proof spirit. Most spirits will be of the strength of about 70 to 100 proof, which is about 50 percentum alcohol.5

Unlike other foodstuffs, alcohol does not have to be digested, but exerts action upon the human body in its original state. After it has been consumed and once in the stomach, alcohol is absorbed in the blood stream. It is then taken to various parts of the body where it exerts toxic effects. The organs affected include the brain and the nervous system. This explains why one feels drowsy after having taken a certain amount.6

People have used alcohol for various reasons and different cultures have different attitudes towards it - negative or positive. In cultures where the use of alcohol is positive, people have used it in a utilitarian sense to relieve emotional difficulties ranging from minor upsets and disappointments to deep grief. Others have used it to keep warm, to promote sleep, to relieve stomach disorders and other illnesses. Alcohol has also been seen as an "institution of hospitality and good relations".7 Sir James Chrinctone Browne must have coined it all when he said: "the majority of
people drink alcohol not because they are thirsty, nor because they like its taste, but because it makes them feel jolly.\textsuperscript{8}

It may be argued that in as far as it brings great benefit to mankind in the above senses, alcohol is neither harmful nor dangerous, and that people should be allowed, without restriction, to brew or distil and drink any alcoholic drink of their choice. The danger inherent in this claim will come clear as we consider some of the problems associated with alcohol.

2.2 \textbf{REASONS FOR REGULATION.}

While the beneficial roles played by alcohol in man's development are well documented and cannot be over-emphasized, we also know and it is universally agreed today that alcohol, especially if abused, is the cause of so much domestic misery, poverty and ruined health.

It has been estimated that about 70 percent of marriages in which both partners drink excessively end up in divorce or separation.\textsuperscript{9} Children of such marriages are affected by neglect, physical attack and persecution as a result of which they fail to attain basic education.

It has also been shown that a high percentage of offences like homicide, rape, assault and road traffic in Zambia and other countries are committed by people under the influence of alcohol.\textsuperscript{10}
Other evidence is there on record to show that people who drink heavily for a long period of time develop physical and mental problems such as peptic ulcers and madness.\textsuperscript{11} The type of drinking which causes such mental or physical problems to the drinkers, or seriously impairs them socially or economically has been said to be "problem drinking."\textsuperscript{12} More often than not, such drinkers become alcoholics. Medical authorities view alcoholism as a serious disease and in developed countries special personnel is trained and ways and means to help such patients are being sought.\textsuperscript{13} Acknowledging the seriousness of alcoholism in the international community, the World Health Committee of Experts on Alcoholics defined them as..."those excessive drinkers whose dependence upon alcohol has attained such a degree that it results in noticeable mental disturbances, or in an interference with their bodily health, interpersonal relations or their smooth social and economic functioning."\textsuperscript{14}

Moreover, it has been discovered by successive Governments that alcohol did not only cause incapacity, disease and crimes against life and property but also that its unregulated production, sale and consumption could lead to idleness, disorderly living, riot and rebellion.\textsuperscript{15}

It can be seen from the above that alcohol is a source of both 'good' and 'evil'. It is this dual nature that has compelled governments to find ways and means of maximising the
benefits and minimising the damage which may be caused by alcohol. Most governments have done this through licensing.

Licensing is a system where any person desiring to pursue a particular trade or occupation is required by law to obtain specific permission from a government authority. This device may be used to attain different ends. It may be an instrument for registering all those who are following a certain trade in order to ensure that for one reason, or the other, they are brought to public notice. Or it may be a way of limiting the number of those so engaged or selecting them according to certain qualifications. At times, the licence may be merely an occasion of extracting a fee or levying a tax, or it may just be a means of enforcing special rules upon an occupation. In the area of alcohol the system of licensing has been used by many governments at different times of their history to attain any or all the above ends. During the early years of British history for example, liquor licensing was used to ensure that the number of premises where liquor could be bought and sold were just enough to meet the legitimate wants of the inhabitants. It was also used to ensure that those engaged in the liquor trade followed certain rules like keeping their premises closed during hours of divine mass on Sundays. Later when it came to be discovered that liquor could provide a good source of revenue, the government used the system of liquor licensing to extract tax.
In general however, liquor licensing has been used to reduce the harm that could result from uncontrolled consumption of alcohol. But licensing is a feature of modern society. Traditional societies had their own ways and means of controlling the use of alcohol and these can be clearly seen under African societies before colonialism.

2.3 **ALCOHOL CONSUMPTION AND MEANS OF CONTROL IN PRE-COLONIAL SOCIETIES.**

Drinking is not a new habit introduced to Africans by Europeans. Long before Europeans came, Africans enjoyed alcoholic drinks produced by fermenting honey, wild fruits and other juices. When cereal grains and other crops like maize, millet, sorghum, potatoes, etc were introduced to Africa by the early portuguese explorers, the range of fermented alcoholic beverages increased.

Although fermentation is a process of considerable antiquity in Africa, evidence is there on record to show that distillation was introduced to the coast of Africa by the portuguese and could have been brought into the interiors by the Arab slave traders.

Among most of the many Zambian tribes, alcohol had various symbolic and functional values surrounding it. Apart from being regarded as food, alcohol played major roles in religious rituals where it was used as offerings to ancestral spirits. It played equally important roles during ceremonies such as births,
weddings and coming into womanhood of girls. Alcohol was also used as a means of payment for labour, for example, if one wanted assistance to build a new hut or plough a field, beer would be brewed and neighbours invited for a drink - an indirect request for assistance.

At times when elders were hearing a case or when there were high level discussions of important matters, beer could be provided, although no serious drinking took place until the business at hand had been settled soberly.

But as pointed out earlier on, the use of alcohol can not be without problems to the individual and to society at large. Similarly, a number of problems were associated with alcohol during the pre-colonial days. Sometimes, a drunken person could fall in a ditch and sustain a broken limb, or fall on fire and sustain serious burns. Occasionally, drunken husbands could beat up their wives while quarrels were not uncommon. In extreme cases, a drunken person could drown in a river and in other clans, people could concentrate on brewing and drinking beer at the expense of working in their fields or other projects.

To reduce these negative effects of alcohol, various norms and other forms of sanctions were used. Children for example, were not allowed to drink beer until they attained a certain age, probably after marriage. People who drunk in excess were shunned while those who quarreled during or after drinking were
punished. In other societies, beer could only be drunk in the afternoons or evenings as a form of relaxation after a hard day's work.

Generally however, the consumption of alcohol was an expected activity and where crops like maize, sorghum, etc were readily available, people drunk alcohol throughout the year. Brewing was a wifery role and a wife who could not brew good beer was considered a bad wife.  

2.4 THE COLONIAL LIQUOR POLICY.

Like in most colonies in Africa, the establishment of colonial rule in Northern Rhodesia was preceded by that of missionaries. Missionaries from various European countries started arriving in the territory in the early 1870s. By 1900, the London Mission Society, the Parish Mission Society, the White Fathers, the Seventh Day Adventist, etc were already established in various parts of the territory. These missionaries had a paternalistic approach towards Africans. Although some of them drank liquor, they felt it necessary to prohibit Africans especially those who were converted to Christianity because "Africans were not yet developed or wise enough to understand the canons of moderate drinking."  

However, the colonial administration did not show interest in the question of alcohol during the early years. By 1902, there was still no law governing the sale and consumption of
alcohol in the territory. Thus, European settlers enjoyed drinking liquors imported from Britain, France and other countries without restriction. Except at mission stations and among those converted to Christianity, the brewing and consumption of native beer was not illegal or discouraged.

But the very nature of alcohol and the consequences of its unregulated sale and consumption compelled the colonial administration to do something. It came to be discovered that its uncontrolled sale and consumption among the growing European community resulted into many social evils such as heavy drinking, prostitution and other illegal activities. It must be pointed out here that Britain experienced similar liquor problems in its history and that these had been put under reasonable control by a system of licensing. It is interesting to note how the colonial administration approached the liquor problems in the territory by an old and well known plan; that of licensing. This could be indicative of the fact that people do not suddenly abandon or escape the ideas and institutions of their past experience even if they moved to a new environment. Thus, the colonial administration reacted to the liquor problems by passing the Liquor Licensing Proclamation in 1908.

Apart from prohibiting illegal activities such as prostitution and gambling on licensed premises, and spelling out the penalties for selling liquor without licence, being drunk in public or allowing drunken persons on the premises and other
offences, the proclamation also gave discretionary powers to the Administrator (or his agent) to grant or renew licences. 31 Such licences could be granted subject to conditions which could be determined by the granting authority, for example the permitted hours of sale.

This piece of legislation, though directed towards Europeans, affected Africans in that it prohibited the supply of liquor (either by sale or gift) to any African or coloured. 32 However, native beer was not expressly recognised by the 1908 Proclamation and it may be argued that up to that time, the production, sale and consumption of native beer was not illegal.

It would be recalled that the rail line linking the Copperbelt to Southern Rhodesia and Katanga in the Congo was completed in 1909. This led to the growth of towns on the Copperbelt and along the line of rail itself. Through the imposition of a system of taxation which required payments to be made in cash, and the alienation of fertile lands, African migration followed naturally. 33 Subsequently, the number and size of African locations and townships grew.

Given the fact that alcohol is a necessity of life and the existence of a law which prohibited Africans from obtaining European liquors 34, Africans continued to brew and drink their local beer in the often crowded townships and locations.

Sooner or later, pressure was to be brought by the European community upon the colonial government to ban the sale and
consumption of native beer. It was argued by those who employed native labour (mining management and commercial farmers) that beer caused much absenteeism among the natives thereby lowering production. The missionaries, on the other hand, maintained their traditional argument that beer was responsible for the moral decay among Africans. The European community was advocating for a law that would completely prohibit the production and consumption of native beer.

The territory's High Commissioner was however, not prepared to accept total prohibition as a means of solving the problem. He argued that "...the effect of such prohibition might be to creat a crime which would be impossible to supress and that prohibition would encourage illicit trade not only in native beer but also in most deleterious liquors". He recommended that the type of law which would be enacted should allow the brewing of native beer in certain localities, but impose punishment on those responsible for excessive drinking, and allow for the regulation of the strength of the beer and the substances used in producing it.

The general concern among the European Community and the High Commission's recommendations resulted into the enactment of the Native Beer Ordinance, whose object was not only to reduce drunkeness among Africans, but also to allow for the regulation of the strength and substances used to produce native beer.
The Ordinance prohibited the making, sale, possession, introduction or consumption of native beer in the territory, but empowered the Administrator to authorise the making, sale and consumption of such beer in certain localities. It also empowered him to appoint a Board to control and supervise such activities in the authorised areas. This did not only enable government to regulate the alcoholic content and the substances used to produce native beer but also gave a monopoly to the local authorities on the production and sale of native beer. Only the municipalities and township councils were allowed to produce native beer which could be sold in beerhalls.

The liquor Licensing Ordinance, the Native Beer Ordinance and the Distillation of Spirits Ordinance (repealed and incorporated into the Customs and Exercise Ordinance in 1959) formed the Liquor Laws of Northern Rhodesia. The liquor policy which emerged out of the provisions of these ordinances, which policy was to prevail up to independence was the cause of many problems some of which the country still experiences today.

2.5 ORIGINS OF ILLEGAL DRINKING.

Of all the conditions imposed on the liquor trade by the colonial government, nothing was more important from a social viewpoint than the prohibition of the sale of liquor to Africans. These restrictions, inspired in part by the desire to promote efficiency of native labour and protect 'moral decay' among the Africans were undoubtedly advantageous to the masters, employers
and may be, to the missionaries but contributed to the origins of illegal drinking. Only Europeans were were allowed to hold liquor licences and these licenced dealers, jealous of a good business name and wishing to keep their licences at the renewal session, preferred not to extend their services to Africans against whom the law discriminated. But some Africans, especially those who had travelled to other parts of the world and had seen non Europeans drink European liquor without adverse effects started to question why they could not be allowed to drink European liquor in their own territory. Subsequently, some Africans got round the law and bought European liquors from store-boys and domestic servants who could easily steal such liquors from their masters. Middle-class Africans could be assisted by their European acquaintances to obtain European beer and spirits. It is from such dealings that we trace the origin of shebeens in Zambia.

On the other hand, the Native Beer Ordinance which established the conditions for brewing and drinking native beer was a very unwelcome law to the Africans. The only places where Africans could buy native beer were the municipality owned beer halls. But these beerhalls only remained open for very limited hours, in some cases for only one hour (i.e 16.00 hours to 17.00 hours). As a result, Africans were not happy with these beer halls because they were often crowded and closed before most of the patrons could quench their thirst. Another complaint levelled against the beer halls was that their beer was of poor quality and not strong.
In some cases the alcoholic content could be far below the legal maximum of 4 per cent.\textsuperscript{44}

Because of these and many other factors, the home brewing and consumption of native beer became even more popular, despite its illegality. In some places, apart from brewing beer from maize and millet, some people distilled spirits like \textit{kacasu} and \textit{imbote}.\textsuperscript{45}

Several attempts were made by the colonial government to bring these illegal activities to an end, and these included organised raids on the dens where such brews were made and sold. In 1933 for example, there were 21 such raids which resulted into 112 convictions just in Lusaka alone.\textsuperscript{46}

By the 1950s, the seething discontent over the beer-brewing and drinking regulations erupted into one of Lusaka's pre-independence demonstrations. The demonstration known as the '1954 BEER RIOTS' involved about 2000 women (most of whom had babies on their backs) who were tear-gassed and clubbed by the police for protesting against the Beer regulations.\textsuperscript{47} The women's grievances centred on the facts that since government could not allow them and their husbands to buy European liquors, then there was no need to forbid them from brewing and drinking their own local beer which they considered as food. Further that, they should be allowed to brew beer so as to supplement their husbands' low incomes and that if the government felt that by allowing them to brew, they would make business, then arrangements could be made to permit the women to sell their beer at beer gardens where
they could pay a certain sum of money.\textsuperscript{48}

The women's unhappiness and the general discontent on the discriminatory liquor policy was known by the colonial government which either said "we shall look into the matter" or "there is nothing wrong with the policy and we can't see any need to change it"\textsuperscript{49}

Such was the colonial liquor policy, a policy which was intended to enable the government to have control over the production, sale and consumption of liquor so as to reduce the problems of prostitution, gambling, drunkenness, and the prevention of moral decay among Africans. However, the policy gave rise to further problems of illicit brewing, shebeen operations and other forms of illegal drinking.
FOOTNOTES.

1. In their book Alcohol and Society (Oxford University Press, New York, 1962), Garfiz and Demon argue that alcohol could have originated as a result of increased agricultural production and that the first alcohol could have originated from grain or grape. However, this is defeated by the fact that the Bantu of Southern Africa enjoyed alcoholic beverages long before they acquired agricultural skills.


4. Zambia's common clear beer, Mosi lager contain 4 per centum alcohol.

5. J.B. Kendis, opt cit.

6. Interview with Doctor Mulasikwanda, UNZA Clinic Medical Officer, 23rd March, 1991.


9. Rabbit, E "What does it cost to be an alcoholic" in Pitman J. (ed) opt cit, pp. 45 - 54.

10. Okada, E, "Excessive drinking" (UNZA, unpublished)


12. Catanzario, R "Psychiatric Aspects of Alcohol" in Pitman (ed) opt cit. p. 31


16. The Webb, ibid, p. 18

17. Ibid, p. 10

18. Ibid, p. 18


23. Jenku, ibid


25. Jenku, opt. cit


27. Smith, v, opt. cit.


29. The first law - Liquor Licensing Regulations were passed at Fort Jameson, Chipata in 1903, However, these regulations were not comprehensive.

30. Proclamation no. 28 of 1908.

31. Sections 3 and 4, ibid

32. Section 12, ibid


34. i.e. 1908 Proclamation, opt. cit section 12

35. Pan, L, opt. cit, p. 56

36. Letter by High Commissioner to the Administrator of Northern Rhodesia, 5th January, 1912 (National Archives, BS 3.4)

37. Ibid.

38. Ordinance No. 12 of 1914.
39. Sections 3 and 4, ibid.

40. Section 6, ibid, put the maximum at 4%

41. Smith, v, opt. cit.

42. Ibid, p. 82, see also parliamentary debates, 1963

43. For example the Maramba Beer Canteen in Livingstone which opened its doors to customers at 16.30 and closed at 17.00 hours. See Smith, V. ibid p.

44. Chicken R.T. Report of the commission of inquiry into the prevalence and causes of illicit brewing along the line of Rail in Northern Rhodesia. (Government Printers, Lusaka, 1948).

45. Chicken, ibid,


47. Chansa, ibid, p. 83

CHAPTER TWO.

LIQUOR LAWS OF ZAMBIA.

3.1 Introduction.

To equate the beginning of illegal drinking in all its dimensions to high prices and shortages of licit liquors alone would seem too narrow a view which ignores historical factors.

The previous chapter has been an attempt to place the problem into a historical context and has shown that illegal drinking is not a post-independence phenomenon, but has its genesis in the colonial days. The chapter concludes by noting that this has been due to the liquor policy adopted by the colonial government.

Given this history, the present chapter examines Zambia's liquor policy since independence. We intend to do this by considering the relevant statutes in this area of the law and it is hoped that by so doing, we will be able to establish (in the next chapters) whether illegal drinking has been put under control by the present government or not, and if not why it has persisted or even increased.

It is common knowledge that the territory which was known as Northern Rhodesia became independent as the Republic of Zambia under the Commonwealth on 24th October, 1964. The transition from colonial territory to republic did not alter the fundamentals of colonial liquor laws, indeed of most of the colonial legislation. The colonial liquor laws were adopted with the necessary
modifications to suit the changed socio-political environment. Since independence therefore, the liquor laws of Zambia have been based on the provisions and subsequent amendments of the Liquor Licensing Ordinance, Native Beer Ordinance and Customs and Excise Ordinance which were re-enacted into the Liquor Licensing Act, the Traditional Beer Act and the Customs and Excise Act respectively. At this point, we turn to examine the salient features of these statutes.

3.2 The Liquor Licensing Act, Cap 429.

In considering the Liquor Licensing Act (hereinafter referred to as the Act), it is important to understand the objects of or reasons for its enactment. It has been pointed out in chapter one that the consumption of alcohol, though necessary, can result into harm to some individuals and to society at large. It was with these factors in mind that the Colonial Legislative Assembly and the new Zambian parliament at independence found it necessary to enact or re-enact a law to regulate the sale and consumption of liquor. Apart from providing for the manner in which liquor maybe bought and sold so as to maintain order and control drunkenness, it was also hoped that such a law would provide a source of government revenue by demanding a certain fee from those who wish to deal in liquor.

The Act defines liquor as including "any spirits, wine, ale beer, perry or other portable liquors containing more than three percentum of proof spirits." However, this definition does not
include 'traditional beer' as defined by the Traditional Beer Act. Section 40 of the Act prohibits the sale of intoxicating liquors by anybody except licenced persons and under licenced premises. Any person who sells liquor without a licence or being a licensee, sells liquor at unlicenced premises is guilty of an offence and may upon conviction face the following penalties:

(a) First conviction – to a fine not exceeding K200 or imprisonment for not more than three months or both;

(b) Second conviction – fine not exceeding K400 or to imprisonment for not more than six months or both;

(c) Third conviction or more – fine not exceeding K400 or not more than 12 months imprisonment or both.

In conducting their business, licensees are expected to meet certain conditions which are dependent on the type of licence held, and this brings the necessity of examining the types of licences which may be granted under the Act.

3.2.1 Types of Licences.

The types of licences which may be granted are tabulated under section 4 of the Act. They include wholesale, retail, airport, hotel, restaurant, etc. The importance of categorising the licences as the Act does seems to lie in the fact that it is the type of licence held that will determine the manner and time during which a licensee may sale liquor.
A wholesale licence for example permits the sale of liquor for re-sale 'off' such premises and the liquor so sold must be in sealed vessels. A wholesale licenced premises may remain open from 07.00 to 18.00 hours. A retail licence also authorises the sale of liquor in sealed bottles or other sealed vessels between 07.00 to 18.00 hours. The difference between the two however is that a wholesale licence can only be held by Zambia Breweries Limited, Duncan Gilbey and Matheson (Zambia) Limited or their agents who sale to retailers.

An airport licence permits the sale of liquor at international airports to any one from 06.00 to 18.00 hours, and to bonafide passengers in transit through or departing from the Republic from 06.00 to 22.30 hours and like the wholesale or retail, the liquor should be in sealed bottles or other sealed vessels and consumed off such premises.

Unlike the wholesale, retail or airport liquor licences, which do not allow the consumption of liquor on the premises, a bar licence permits the sale and consumption of liquor 'on' such premises which may remain open between 10.00 hours and 22.00 hours.

A restaurant licence authorises the sale of liquor to anyone taking a meal in such premises at any hour of the day or night provided such liquor is consumed at such meal.

An hotel and private hotel licences are similar in that they all authorise the sale and consumption of liquor to any one lodging or taking a meal at such hotel, at any hour of the day or
night. This analysis of some of the licences which may be granted under the Act lead us to the conclusion that they can be grouped into two main categories. There are those which authorise the sale of liquor on condition that the liquor so bought will be consumed 'off' such premises, for example the retail licence. The other category is that which permits the sale of liquor and the consumption of such liquor 'on' such premises, for example the bar and hotel licences.

Whether this is what obtains in practice is a subject of discussion in the next chapter.

3.2.2 Procedure for granting or renewing licences.

The power to grant or renew liquor licences is vested in the Licensing Boards established by section 18 of the Act. These Boards, whose membership should not exceed five and whose chairman may be nominated by the minister or elected by the members from among themselves, are to be found in each of Zambia's nine provinces.

Anybody above the age of twenty-one who wishes to deal in liquor and has never forged a licence or been disqualified by the court from holding one may submit an application in the standard form to the Provincial Licensing Board in his respective province for grant or renewal of licence.

Every application for grant must be accompanied by written reports from three authorities, namely the District Engineer, the District Health Inspector and the Officer-in-charge of the Police
Station where the proposed premises are situated.  

The importance of the District Engineer's report is to ensure that the site to be used as an 'on-or off-sale' premises does not conflict with any proposed or approved town plan or zoning area. On the other hand, the Health Inspector's report is required to ensure that the premises contain the necessary facilities for such purposes, which include good ventilation and proper sanitation.

The officer-in-charge's report is necessary to ensure not only that the applicant is the fit and proper person to hold a licence, but also that the lives of the patrons and those who live in the neighbourhood of such premises are not in danger.

Upon receipt of the application and the three reports, the applicant will be invited to take an oath and to cause advertisements to be placed in the National newspapers or Government Gazette. The Oath is usually taken to ensure that the information provided by the applicant and that contained in the reports is genuine because "there have been cases in which the premises have not been in accordance with the information provided." This has necessitated the Board to visit the premises in cases where there is reasonable ground to suspect that the information is untrue. Where it has been established that the information was contrary to the actual premises, legal action has been brought against the defaulting applicants while recommendations have been given for action to be taken against the officers who prepared such reports.
Advertisements are placed in the national newspapers or Government Gazette to enable members of the public who may wish to object to the granting of a licence to do so. 26 Although a Licensing Board may refuse to grant a licence if it is established that such objection by a member of the public is justifiable, people rarely exercise this important right. This has been attributed to lack of awareness. 27 The other grounds on which a Board may refuse to grant a licence include those where it feels that there is no public need for the grant of another licence (i.e. taking into account, the number of existing licences in the area concerned) 28, or where any of the reports is in the negative. 29

But if all the requirements are met and the three reports are positive, the Secretary of the Board will send the reports and the application to the Minister 30 for approval. Once approved, the applicant will be advised to take the forms, advertisements from any of the daily newspapers or gazette as well as the approved application to the District Council for issue of the licence. 31

Upon satisfying themselves that the documents are in order, the Licensing officials at the District Council will ask the applicant to pay the appropriate fee 31a after which the licence will be issued. The licence will be copied to Zambia Breweries Limited, Anti-Corruption Commission, Revenue Department and the Liquor Licensing Department. 32

As for renewals, the Act puts it clearly that "the same conditions as those required in the original licence shall apply". 33 In other words, the applicant will be required to submit a written
application in the standard form, accompanied by fresh reports as well as new advertisements made. This is to ensure that the circumstances upon which the first reports were made and the conditions upon which the first licence was granted have not changed or breached by the licensee. Where the licensee has acted contrary to the provisions of the Act, for example by failing to observe the conditions pertaining to the permitted hours and manner of sale, the Board may refuse to renew.

The difference between an application for grant and one for renewal is that the latter does not need to go to the Minister for approval.\textsuperscript{34}

Under certain circumstances, the Act allows applications to be made for the transfer of licence from an old holder to a new applicant.\textsuperscript{35} This maybe done where the licensee has died and the applicant is his personal representative or new occupier of the premises. It may also be granted where the licensee is adjudged bankrupt, or where he has given up the premises or has wilfully neglected to apply for renewal.\textsuperscript{36} In all cases, the Licensing authority should, before granting the transfer, be satisfied that the transfer is to the fit and proper person.

It is important to note that the Act also makes provision for any applicant who feels aggrieved by the decision of the Board or any Licensing authority over his application to appeal to the Liquor Licensing Tribunal.\textsuperscript{37} This Appeal Tribunal which is appointed by the Minister consists of the chairman and two other members.
In determining an appeal before it, the Tribunal is empowered to take evidence on oath and may make such investigations as it may deem fit in assisting it come to a decision. It may make such orders in addition to or in substitution for the matters appealed against as it thinks fit, or it may refer the matter back to the Board or Licensing authority concerned.  

Any party to an appeal before the Tribunal may appear in person or by Counsel and if any party is dissatisfied with the Tribunal's decision, such party may appeal to the High Court on a point of law and not fact. The High Court may allow the appeal or it may dismiss it, or it may refer it back to the Tribunal or to the licensing authority concerned.

Although in existence, the Liquor Licensing Tribunal for Lusaka province has not been fully utilised, a state of affairs which entailseither that all is well and there are no aggrieved applicants or that aggrieved applicants are not aware of its existence or of their rights of appeal. If the reason is that the applicants are not aware of the existence of the tribunal or of their rights of appeal, then as suggested to the Board, there is need for wide publicity about the tribunal and its objectives.

3.3 The Traditional Beer Act, Cap 423.

Before examining the salient features of the Traditional Beer Act (hereinafter referred to as the Act) it is important to understand its objectives.

The effects of traditional alcoholic drinks as compared to other
liquors has for long been a hotly debated subject on which there has been a great diversity of opinions. It was not by coincidence but out of experience and after scientific experiments that people came to conclude that home-brews are more dangerous because the substances and methods used in producing them are injurious to health. Moreover, such brews are dangerous because their alcoholic contents are usually higher than what might be termed as the normal percentage.

For these and other reasons, it was felt during the colonial days that the production and consumption of native beer be banned. However, even if a policy of total prohibition were adopted by the colonial government, it would have failed for various reasons. For one thing, it was wrong both in logic and in law to prohibit Africans from brewing and drinking their own beer while Europeans were allowed to import, produce and drink theirs. For the other, it was socially wrong to prohibit Africans from drinking European liquors. Even if they were allowed to, it would still have been economically difficult for Africans to afford to pay for European liquors whose prices were higher than their wages. Naturally therefore, Africans continued to brew and drink their beer.

In an attempt to strike a balance between the necessity of making beer available to Africans and the need to protect their health as well as reduce drunkenness, the colonial government enacted the Native Beer Ordinance.
At independence, it was argued that since the law which prohibited Africans from drinking European liquors was repealed, it became unnecessary to have an Act regulating the production and consumption of traditional beer; that all activities pertaining to traditional beer should have been banned as this would have been advantageous to individuals and to society at large. However, such argument is defeated by the fact that not all people who wish to use the 'wet goods' (i.e. alcohol) can afford to get liquor (as defined by cap 429) which is not only expensive but also scarce in some parts of the country.

In an effort to reach a compromise between these interlocking factors, the new parliament brought the Native Beer Ordinance into force as the Traditional Beer Act. The Act defines traditional beer as "the drink brewed from grain or other vegetable matter and is commonly known as local beer, Lusaka beer, bwalwa, Mowa, lwalwa, bucwala, buko or chibuku and includes honey beer or such intoxicating liquor as the minister may prescribe". The making, introduction, possession, sale or consumption of such beer in any district or any portion of Zambia declared by the minister is prohibited by the Act. The areas (district or declared portions) where traditional beer may not be made, possessed, sold or consumed are divided into Beer, Guard and Farm Guard Areas.
As defined by the Traditional Beer Regulations, Beer Areas are those areas declared to be districts. Thus, we have the Lusaka Beer Area, the Kabwe Beer Area, the Kafue Beer Area, the Lusaka Rural Beer Area, the Kasama Beer Area, etc. The Lusaka Beer Area for example, is that part of Lusaka declared as the Lusaka Urban District.

Guard Areas on the other hand, are those areas lying outside Beer Areas, excluding Farm Guard Areas. The Choma Guard Areas for example, is the part of Choma District, excluding Choma Beer and Choma Farm Guard Areas.

Farm Guard Areas are those areas lying outside declared Beer or Guard Areas. But not all portions of Zambia which are not under Beer Areas or Guard Areasfall under Farm Guard Areas. A Farm Guard Area will state the portions which fall under it, for example, the Petauke Farm Guard Area lies outside Petauke Beer and Guard Areas, but "only covers the portions of Petauke District which are shown on the general plans numbered D218, D79, D120 and are deposited with the surveyor-General". 46

It would seem from the above that traditional beer may be made, sold and consumed in any manner in those areas which fall outside Beer, Guard and Farm Guard Areas.

However, traditional beer, though prohibited may be made, sold, introduced or consumed in Beer, Guard and Farm Guard Areas with the authority of the Minister. By regulation, the minister may give the power to manufacture, sale or introduce beer in these
areas to the district councils or anybody acting under the authority of such district councils. In turn, the district councils or their authorised agents (e.g. District Secretary) may grant permission to anybody to make or sale traditional beer.

3.3.1 Permits to make Traditional Beer.

The sole manufacturer of Zambia's common local brew, better known as Chibuku is National Breweries Limited. Although National Breweries Limited has the monopoly of producing chibuku, and although chibuku is the only authorised traditional beer that may be produced in districts like Lusaka, it does not follow that local authorities in other parts of the country can not grant permits authorising any person to make traditional beer. In districts and portions of Zambia where chibuku is not produced or may not be introduced (e.g. Mpika, and most of the districts in Western Province) permits maybe issued by the Traditional Beer Boards or any person authorised by such Boards to any one enabling such person to make honey beer, Katata, Sipesu, or other local brews which fall within the definition of traditional beer as given by the Act.

Any person wishing to brew traditional beer may approach the Board (District Secretary and two other officials) in his district and inform them of his intention to brew such beer. After paying the appropriate fee, a permit may be issued by the revenue collectors. Such permit should specify the name of the
person authorised to produce beer and in issuing it, the Board may limit the quantity to be produced, or it may impose any other conditions as it thinks fit.\textsuperscript{52}

In making the traditional beer, the person so authorised should ensure that no deterous herb, drug or matter is added, and that the beer should contain not more than six percentum alcohol.\textsuperscript{53} While it may be easy to ensure the fulfilment of these conditions in the case of chibuku, it is not so easy with other brews because there is not enough personnel and apparatus to ensure that the people who may be permitted to make local brews do not add deleterous matter or that the beer so produced does not contain more than six percentum alcohol.

\subsection*{3.3.2 Permits to sell Traditional Beer.}

Although the Act does not make a distinction between a permit to produce and one to sell, it is important to treat the two as different cases. Permits granted to individuals to make traditional beer also authorise them to sell the produced beer to consumers and the permits expire immediately the beer is finished.\textsuperscript{54} But National Breweries Limited which produces chibuku, does not deal directly with consumers. To enable chibuku reach the consumers and to enable those who wish to sell chibuku do so, local authorities (i.e. district councils or their agents) are empowered to issue permits to any applicant so long he satisfies the conditions and follows the laid down procedure.
The procedure for applying for a permit to sell chibuku is different from the one followed when applying for a permit to make traditional beer, but similar to the one followed when one wishes to apply for a licence under the Liquor Licensing Act. The person seeking such permit should satisfy the officials with reports from the Police, Health Inspector and District Engineer. (No advertisements however are required). If the reports are in order, the applicant will be required to pay the appropriate fee and the permit will be issued.

It is important to note that the document issued under the Act is not a licence, but merely a permit. This means that a holder of a licence under the Liquor Licensing Act can not sell traditional beer unless he holds a permit under the Traditional Beer Act. Similarly, a person who holds a permit can not sell liquor unless he holds a licence under the Liquor Licensing Act.

Like a liquor licence, a permit to sale chibuku is issued for one year after which it must be renewed and under condition that the permitted premises will remain open from 10.00 hours to 22.00 hours. The Act imposes a penalty of K20.00 for anybody who makes or sales beer without a permit, and in addition, forfeiture of the apparatus or materials used for such activities. On second and subsequent convictions, the defaulting person shall be liable to a fine of K50.00 or to imprisonment for not more than six months or both.
Customs and Excise Act, Cap 662.

Our aim in this part is not to discuss the general objects and importance of the customs and Excise Act, but to consider only the relevant provisions pertaining to the production of alcoholic beverages.

This Act prohibits the manufacture of any portable liquids other than honey beer, containing more than three per centum of proof spirits. Anybody wishing to produce such liquids must obtain a licence from the controller of customs and Excise. In submitting an application for a licence, the applicant should furnish the controller with information about the type of liquid which he wishes to manufacture and the process he proposes to adopt. He should also state the premises at which, and the equipment with which the liquids are to be manufactured and any other information which the controller may require. He should also provide apparatus for measuring the true alcoholic content of the liquids and spirits to be produced.

Although a licence to manufacture any portable liquid only authorises the licensee to manufacture that type of liquid stated in such licence, a licence to distil spirits authorises the licensee to produce all types of spirits and wines. Every licence issued under the Act expires on 31st December of the year in which it was issued, but this is subject to renewal.
The purpose of requiring that all those who wish to manufacture portable liquids should first obtain licences is not only to ensure that the liquids so produced and the processes used to produce them are up to acceptable standards, but also to ensure that the rates of duty as provided for under chapter 23 of the Act are paid. The rates payable are calculated on the basis of whether the liquids produced are liquors, spiritous beverages, wines or other fermented beverages. 61

It is important to note that under the Act, a person may manufacture any fermented liquors (not opaque beer) for his personal or domestic use, but not for sale or dispossession for profit. 62

A person may also manufacture opaque beer without a licence, for his personal use or for dispossession for profit if such opaque beer is fermented in vessels of the capacity not exceeding 23 deka-litres. 63 (Opaque beer is defined as any alcoholic liquid derived by the fermentation of cereal grain or vegetable matter, or from the products of these, with or without the addition of sucrose and that such liquid should contain the mash or residue of the mash from which it is derived). 64

Although opaque beer produced for purposes and in the quantity provided for by the Act does not require any licence, it is important to note that such production should be in
acquaintance with the Traditional Beer Act.

This chapter has analysed the law relating to the production, sale and consumption of alcoholic drinks in Zambia. It has shown that there are three principal pieces of legislation, namely the Liquor Licensing Act, the Traditional Beer Act and the Customs and Excise Act. An examination of the salient provisions of these Acts has given us a clear picture of what the law says in matters pertaining to alcohol. Whether this law has been effective without any problems is the subject of discussion in the next chapter.
FOOTNOTES.

1. For example, the Liquor Licensing Ordinance was amended in 1963 to allow sale/supply of European liquors to non-Europeans.

2. The Distillation of spirits ordinance, of 1925 prohibited the manufacture, etc of spirits or any strong waters. This Ordinance was repealed in 1959 and some of its provisions incorporated into the Customs and Excise Ordinance.


5. Chapter 662 of the Laws of Zambia —


7. Section 2 of Cap 429.

8. Ibid. See also section 2 of Cap 423.


10. Section 5, ibid.

11. Section 6, ibid.


14. Section 7, ibid

15. Section 8, ibid

16. Sections 9 and 10, ibid.

17. In all there are 11 types of licences which may be granted. See section 4(1) (a)-(k)

18. Section 18(2) ibid

19. Section 19(1) (a)-(e), ibid
20. Personal interview with Mr. Joe S. Mudenda, Chairman of the Provincial Licensing Board of Lusaka Province who at the time of writing was also Permanent Secretary for Lusaka Province, Ministry of Decentralisation, 15th April, 1991.

21. Section 22(2) (b), Cap 429.


25. All efforts to secure the number of cases where action has been brought against a defaulting applicant or officer failed as both the Anti-Corruption Commission and the Provincial Licensing Board for Lusaka insisted that they could not release such information.

26. Section 21, Cap 429.

27. Mr. J.S. Mudenda, opt cit.

28. Section (22) (2) (e) (III), Cap 429

29. Mr. J.S. Mudenda, opt cit.

30. i.e. Minister of Decentralisation.

31. Section 22 of Cap 429 gives the power to issue licences to the local authority in any area.

31. (a) At the time of writing, the appropriate fee was at K1700.00

32. Interview with Mr. Thomas Sakala, Senior Liquor Licensing Officer, Social Secretary's Office, Lusaka Urban District Council, 17th April, 1991. See also section 32 of cap 429 which require that the local authorities should keep registers of all licences issued.

33. Section 25(1), ibid.

34. Mr. J.S. Mudenda, opt, cit.

35. Section 28, Cap 429.

36. See section 29(3) (a)-(g), Ibid.
37. Section 37, ibid.
38. Section 38 (6) (a)-(c) ibid.
39. Section 39(1)
40. Mr. J.S. Mudenda, opt. cit.
41. Suggestion made by the writer to the Chairman for Provincial Licensing Board for Lusaka, because all efforts to meet the Chairman of the special Tribunal failed.
42. Liquor Licensing (Amendment) Ordinance, 1963.
43. See Parliamentary Debates (July – August, 1964) on the Debate of the Native Beer (Amendment) Bill particularly Mr. M. Mumbuna's contribution (Member of Parliament for Mazabuka) pages 87-88.
44. Section 2 of cap 423
45. See Traditional Beer Regulations, particularly First, Second, Third and Fourth Schedules.
46. See Third Schedule, ibid.
47. Section 4, Cap 423
49. Mr. Thomas Sakala, opt cit.
50. With the exception of Sesheke, Chibuku can not be introduced in any district in the Western Province. However, Liquor as defined by cap 429 may be sold by licensed persons at licenced premises. (Mr. J.S. Mudenda, opt. cit.)
51. These Boards are established by Regulation 11 of the Traditional Beer Regulations.
52. See Regulation 12(2) ibid.
53. Section 6, Cap 423
54. Interview with Mr. L. Mulonda, Traditional Beer Licensing Officer, LUDC, 26th July, 1991.
55. Mr. Mudenda, opt. cit.
56. Section 13, Cap 423.
56. (a) At the time of writing, the appropriate fee for a permit to sell chibuku was at K1000.00.

57. Section 93 of cap 662

58. Section 94 of cap 662 as read with Regulation 63 of the Customs and Excise Regulations.

59. Regulation 64, ibid.

60. Section 93 (3), cap 662

61. Chapter 23 of the Regulations, Ibid.

62. Section 96, cap 662.

63. Ibid

64. Section 2, ibid.
CHAPTER THREE.

THE PROBLEM AND ITS EXTENT.

4.1 Introduction.

The preceding chapter has been an examination of the relevant statutes in this area of the law. The problems arising from the application of these statutes, particularly that of illegal drinking and its extent, especially in Lusaka is the topic for discussion in this chapter.

Elsewhere in this study, illegal drinking has been defined as the production, sale and consumption of alcohol done outside the provisions of the statutes discussed in chapter two, or any other law. Looking at the problem as a whole, and under the above working definition, three main areas present themselves for consideration;

(a) licensed premises such as bars and retail (bottle stores) whose owners breach the conditions upon which their licences are granted;

(b) people who deal in liquor without licences, or with licences but sell their liquor at unlicenced premises (better known as shebeens);

(c) those who brew or distil beer and spirits without licences or permits to do so, (popularly known as illicit brewing)

It is under these heads that we intend to deal with the problem in this chapter. The prevalence of the problem under the above heads is a fact which need no footnote because any
body who has any knowledge of, or anxiety on the subject of alcohol must have encountered them or even heard about them from government officials or private citizens who have expressed concern over their prevalence through the national newspapers, radio, and other forms of disseminating information. Our aim in this chapter therefore is not to prove the existence of these operations, but to show their extent and try to investigate some of the reasons why they have been carried on.

4.2 Breach of Conditions.

Had the policy of total prohibition tried in other parts of the world proved a success, perhaps it could have been the law in Zambia today that the production, sale and consumption of alcoholic liquors is completely illegal. However, several countries in which this policy has been tried concluded that the evils attendant to total prohibition would be far greater than those attendant upon a system of regulated production, sale and consumption of alcoholic liquors. This is the policy behind the Liquor Licensing Act, for it does not aim at completely denying members of the public the right to partake of intoxicating liquors, but it merely imposes restrictions and control measures so as to ensure that the harm which may result from uncontrolled sale and consumption are reduced. These control measures include the requirements that licenced premises can only operate as 'on' or 'off' sale and that business can only be conducted during the permitted hours of sale.
A bar licence for example, is granted on condition that liquor shall be bought and consumed 'on' such premises from 10.00 hours to 22.00 hours. While there are no problems in the manner of drinking (i.e. 'on' the premises), there have been bar licence holders who have breached the restrictions of the permitted hours of sale either by opening their premises earlier than 10.00 hours or closing later than 22.00 hours. A number of bars remain open up to early morning hours over week - or month-ends because during such periods the premises are usually packed with patrons. In an effort to dispose of their stocks thereby making good business, bar owners will, as long as there are patrons, leave their premises open even after 22.00 hours. Despite the fact that the Liquor Licensing Act authorises the extension of the permitted hours of sale, bar owners do not utilise this opportunity probably because of the requirement that such extension can only be granted under Special Circumstances, and upon payment of the appropriate fee.

Retail (Bottle store) licences on the other hand, are granted on condition that they operate as 'off' sale premises from 07.00 hours to 18.00 hours. This is to say the liquor bought from such premises should not be consumed there-on, but off the premises. In practice however, bottlestores operate as on sale premises in that patrons can be found at most of these premises drinking their beer across the counter, or while standing outside or leaning against the walls.
In accordance with the Liquor Licensing Act, licensees who permit patrons to drink 'on' 'off' sale licenced premises or those who fail to observe the restrictions pertaining to the permitted hours of sale breach the very conditions upon which their licences were granted and as such, should not be allowed to renew them. However, it has been argued that the Licensing Board cannot turn down an application for renewal on the ground that the applicant has committed such breach unless the Police report confirms that. On the other hand, it has been argued that the police can only report that an applicant has breached the conditions upon which his first licence was granted after one has been successfully convicted by a court of law. It is interesting to note that both the police and the licensing authorities are aware of the illegality and increase in these operations, but that they both give divergent arguments to defend their positions. Perhaps the question to be answered within these divergent views is: Who is supposed to commence legal actions against such defaulters - is it the private citizens or the law enforcement agents, in this case the Police who are fully aware of the illegality of such operations?

It is submitted that the onus is on the Police. Even if they could not round-up these defaulters, they could still state in their reports that an applicant has breached the conditions of his original licence, thereby enabling the Board to refuse to renew such licence, because the Act does not state
anywhere that the police will only report negatively after some one has been convicted of such breach.

It has been argued that it is not wrong to allow people to drink 'on' an 'off' - sale licenced premises as long as they enjoy it and do so in an orderly manner. However, such an argument is defeated by the fact that most bottlestores are constructed as off-sale premises with little or no room for comfortable sitting and virtually with no or poor sanitary facilities as a result of which patrons end up drinking their beer while standing or leaning against the wall and use these walls to relieve themselves. The inconvenience is not only caused to patrons, but also to the residents who live in the neighbourhood of such premises in that in certain cases where a bottlestore premises also has a grocery licence, it becomes a bother to the residents who do not drink but use such premises for their groceries. Moreover, the noise from the music which is normally played, and that from the excited patrons provide a big nuisance to the residents.

Despite all these problems, bottle store owners turn their premises into on sale (contrary to the law) allegedly because of the difficulties involved in securing premises of the standard of an on sale. It is also argued that bottlestores provide an essential service to the public because one who is in a hurry can easily stop at one such premises and 'cool his throat' by having 'two quick ones'. As for the problems
involved in securing premises of the standard of an on sale premises such as a bar, it is submitted that the owners of such bottlestores can apply for planning permission so as to expand their existing buildings and provide enough room and sanitary facilities so that they may in turn apply for a bar licence.

4.3 Shebeens.

The essential element of a shebeen is that the 'Shebeen-King or Queen' makes liquor (usually mosi lager and more recently, imported South African canned beer) available to a small group of patrons in a more intimate setting of a private domicile. Shebeens are illegal not only on the ground that they sell liquor for profit without licences to do so, but their operation also violate a more general rule in Property Law that private dwellings can not be used for commercial purposes. Inspite of their illegality, shebeens are common and well patronized in Lusaka. It is interesting to note that even during periods when there are no critical shortages like at the time of writing, shebeens are still popular.

Those who don't patronize these places imagine them as dens of inequities and perpetual orgies. Although some members of the general public and a few government officials have criti-
cised shebeens and have pointed out their worst aspects, shebeen patrons have never failed to give arguments in their support. Although views in support of shebeens are many, they mainly centre on the following points:
(a) That shebeens are open at longer and more varied hours than most of the licenced premises;

(b) That they provide an atmosphere which is less rowdy and more conducive to private discussion than bars and bottlestores. The atmosphere obtaining at a shebeen has been likened to that in a hotel, but that it was cheaper at a shebeen than in a hotel;

(c) That shebeen patrons are assured of beer even under critical shortages and established ones are even entitled to credit facilities. ¹²

These points seem to explain why people (especially of the middle class) patronize shebeens. They do not however, explain why people operate shebeens.

Shebeens operators come from various walks of life - ranging from the unemployed ¹³ to high class employees, ¹⁴ and petty to seasoned businessmen.

Some of these defaulters are licenced liquor dealers who prefer to sale their liquor at their private dwellings. Others are those who have licences but do not have licenced premises as a result of which they sale liquor at their private homes. The People v. Mike Chisasapa ¹⁵ is the case in point. In that case, the learned magistrate Mukubesa established that the accused, a resident of Kabwata had a valid licence, but that the premises indicated on the licence were non-existent. Thirty-three full and ten empty crates were seized from the two bath-
rooms and having found him selling liquor at an unlicensed premises contrary to section 40(1) of cap 429, the accused was fined K200.00.

The other category of defaulters is that of people who obtain supplies with the assistance of those who have licences or who are able to obtain supplies because of their stations in life. 16

It may be interesting to note that inspite of their illegality, shebeens are not rigidly opposed to by some government officials and the police as long as they do not provide apparent disruption of peace and order. 17 It is hoped that with the plans by Zambia Breweries Limited to introduce the so called dumpies (dispossables) and its general efforts to flood the market, shebeens will die a natural death. 18

4.4 Illicit Brewing.

It has been noted elsewhere in the paper that long before colonialism, Zambians had their own ways of producing alcoholic beverages and that they had their own ways and means of controlling deviate drunken behaviour. Generally however, the brewing and consumption of alcohol was licit. Brewing only came to be illicit or certain forms of drinking illegal as a result of the enactment by the colonial government, and re-enactment by the post-independence government of a law to regulate the production, sale and consumption of traditional beer. It means therefore that the production or sale of traditional beer done outside
the provisions of the Traditional Beer Act or any other law is illicit or 'illegal'.

The illicit brews which were common during the colonial days were imbote and skokian. After sometime, these brews were overtaken by a more stronger distillate which is known among other names as kacasu, lutuku, kacipembe, 'kill me quick' or 'big bomb'. Kacasu is produced through various methods but the final distillate is similar to refined spirits like gin, rum, etc and contain about 70 to 100 per centum alcohol or purity.

Today, kacasu can be obtained fairly easily in any of the densely populated compounds in Lusaka like Kalingalinga, Mtendere, Lilanda, etc. More recently, another type of illicit brew has come on the market. This drink which is proving popular in places where kacasu is brewed is produced from tea leaves, sugar, yeast and other fruit juices. It is simply called 'wine' or punch and has been distinguished from other legally manufactured wines because of its high potency.

It has been argued that people have turned to the production of illicit brews in order to earn a living because in the majority of cases, such illegal activities are the only sources of income for the brewers, while in others, the brewers do so to supplement their husbands' meagre incomes. On the other hand, the high prices of other types of liquors and spirits like mosi, gin etc, and the poor quality of chibuku, coupled
with the strength and affordable prices of illicit brews have been cited as factors which have and will ensure/d a ready market for them.\textsuperscript{23}

For whatever reasons people produce and drink them, the fact which no one can venture to contradict is that these brews are not only very strong, but also that the substances and methods used to produce them are normally far below what may be termed as the acceptable standard. They are therefore dangerous and detrimental to the health of the consumers. It is for these reasons that the Traditional Beer Act provides that any person wishing to produce traditional beer should first obtain a permit from the local authority in his area. This is to ensure that the alcoholic content and the whole process of producing these brews are within the provisions of the law.

It has been argued that a permit to brew local wine (i.e. punch) or to distil kacasu can not be granted under the Traditional Beer Act because these drinks are not traditional beer but wine and spirit respectively.\textsuperscript{24} If this point is accepted, it may be argued further that their production can not be illicit because they do not contravene the provisions of the Traditional Beer Act. We submit however, that the production of wine and kacasu may not be contrary to the Traditional Beer Act but that their production without licences is contrary to the Customs and Excise Act. This Act prohibits
the manufacture of any spirit or strong waters of any descrip-
tion without licence from the controller.
Under the Act, no licence is required to produce fermented
liquor which is not opaque beer so long such liquor is produced
for domestic use and not for sale. Local wine being a fer-
mented liquor which is not opaque beer may be produced without a
licence. The only breach of the law which the wine brewers
commit therefore, is to dispose of it for profit.

The Act also authorises the production of opaque beer for
domestic use or for profit without a licence so long the fer-
mentation of such beer is done, in vessels of the capacity not
exceeding twenty-three deka-litres. It may be argued that the
production of kacasu for whatever purposes without licence can
not therefore be illegal. However, it is submitted that this
could have been so if kacasu was an opaque beer. Opaque beer
is defined by the Act as the drink produced from cereal grain
or any vegetable matter or the products of these and should
contain the residue of the mash of the products from which it
is derived. Because kacasu does not contain any residue of
the mash of the products from which it is derived, it is
therefore not opaque beer and its production for whatever pur-
pose requires a licence under the Customs and Excise Act.
4.5 **Effect of Price Control and the Monopoly to Produce Liquor/Beer.**

The general objectives of Zambia's Pricing Policy and the failures and achievements of the Prices and Incomes Commission have been analysed and brought out by several Scholars, notably Mr. Claydon Hakasenke, Ms. M. Manda and Mr. M. Kondolo. Our aim here is not to go into a detailed discussion of the significance or otherwise of price control, rather it is to establish whether or not Zambia's price control has had any bearing on the whole problem of illegal drinking.

It has been said that the objective of Zambia's pricing policy has been to protect the poor man from being exploited by the rich; to narrow the gap between the rich and the poor. By virtue of the Control of Goods Act and the Prices and Incomes Commission as well as the Control of Goods (Prices Control) Regulation a number of commodities has had their prices controlled. These included liquor, beer, clothing, foodstuffs, etc. The objective of controlling the prices of liquor and beer was not only to protect the poor consumers but also to ensure that these do not turn to drinking more deleterious liquors like kacasu. The prices of liquor and beer could be fixed by the Minister or the Prices and Incomes Commission. Even now that prices on all commodities have been decontrolled, the prices of liquor and beer are still fixed
by the sole producers - Zambia Breweries Limited and National Breweries Limited in conjunction with, or with the approval of the Prices and Incomes Commission and the Liquor Traders Association.

It has been concluded,\(^{31}\) and we concur that the pricing policy adopted by Zambia fostered the development of illegal trading and shortages in the controlled goods in general and liquors like mosi lager in particular. In a situation where Zambia Breweries has the monopoly to produce mosi, shortages were until recently not uncommon and this led the businessmen to channel mosi to unlicenced premises where it was sold at inflated prices thereby enabling them (shebeeners) to make quick and high returns.

Thus the pricing policy and the monopoly placed in Zambia Breweries Limited to produce mosi contributed to the prevalence of shebeens in Zambia. National Breweries Limited's monopoly in the production of traditional beer has also contributed to the increase in illicit brewing in that due to lack of competition, the company has, despite complaints from the public, failed to improve the quality of its product. Consequently, people have turned to drinking kacasu and 'punch'.

This chapter has analysed the problem of illegal drinking as it presents itself in contemporary Zambia. It has shown that the problem presents itself in various forms such as illicit brewing, shebeens, etc and that these are due to various
factors ranging from the biting economy to the reluctance of the law enforcement agents to bring the defaulters to book and the country's pricing policy. Under all these circumstances, the question for the lawyer is: What should the law do? Or more simply, Is there a way out? The next chapter attempts to answer this question.
FOOTNOTES.

1. America and Britain tried the Prohibitionist Policy at different times, but in all cases, it failed woefully. See Vernox H., The Alcohol Problem (Trindal and Cox, London, 1928)

See also Brecher E., E et al Licit and illicit Drugs (Little Brown & Co. Toronto, 1972)

2. General trend as shown by the author's survey of bars (not night spots) in town and other compounds.

3. Section 27, Cap 429

4. Almost all bottlostores in Kabwata, Libala, Chilenje, Chelston, etc permit patrons to 'drink on'.

5. Mr. Joe Mudenda, Chairman, Provincial Licensing Board for Lusaka, on interview, 15th April, 1991


7. A review of the case record at the clerk of courts (Superordinate courts) showed that from 1980 to July 1991 for example, no licensee has been charged of allowing people to drink on an off sale premises.

8. Mr. J.S. Mudenda, opt cit.


10. Mr. M. Manyoni, a Kaunda Square resident, on interview, 13th July, 1991.

11. In Northmead, we visited Mzumara's, Mary's, Colonel's and in Rhodes Park, we visited Sophia and Mfumu's shebeens. Two more were visited in Kabwata and Chilenje. At all shebeens, the trend was almost the same - good number of patrons with the price of mosi ranging between K45 and K60.00 when the retail price was K35.00.

12. Interviews conducted with shebeen patrons at Mary's and Colonel's shebeens, Northmead, ibid.

13. The People v Mumba, case no Sp2/100/90, unreported (The accused was unemployed).

14. The People v Saul Banda, Case no 2p/170/91, the accused was a government employee.


17. Woman Chief-inspector Sakala, opt cit.

18. Mr. J. Sichali, opt. cit.


20. Dr. Chola, the then Medical Superintendent, Wusakile Hospital in an interview with Franklin Tembo, Sunday Times of Zambia, February 24th, 1991.

21. Dr. Chola, ibid.


24. Mr. Thomas Sakala Senior Licensing Officer, Lusaka Urban District Council.

25. Section 96, Cap 662.


28. 1984/85 session.

29. See Hakasenke, opt cit.

30. Cap 690

31. Hakasenke, opt cit, p. 45
CHAPTER FOUR.

IS THERE A WAY OUT?

5.1 Findings of The Study.

This paper has shown that alcohol is as old as the human society, and that during the older days, norms and other forms of sanctions were used to control deviate drunken behaviour. The paper argues that colonialism fostered drunkeness and other evils associated with alcohol by forcing people to migrate from their natural rural settings into a strange urban environment, thereby weakening traditional sanctions on the drinking conduct of the people.

The study notes further that the policy to regulate the production, sale and consumption of alcoholic drinks introduced by the colonial government and adopted by the post-independence government had and still has the object of making liquor available to members of the public, while at the same time trying to reduce the harm which would result from such activities.

While admitting that the regulation of such activities is necessary in a society like ours, the paper argues that the liquor policy which the country is following, coupled with the price control policy and the monopoly to produce liquor are the direct causes and perpetrators of most of the liquor problems the country is now facing.
Illegal drinking is not a myth in Zambia today. The issue of illicit brewing for example, is the concern of all progressive Zambians. The question of shebeens and other forms of illegal drinking should not be underrated. Although the operation of a shebeen or drinking from an off-sale premises might not present apparent danger to the individuals or the entire social order, their long term effects should be appreciated. There is a law which prohibit people from brewing traditional beer without a licence or selling liquor without a licence and at unlicenced premises, unfortunately, as the study has shown, this law is constantly being breached with very few convicted and punished accordingly. And because constant breach of a law only brings such law into contempt, we feel there are good reasons for changing the liquor laws of Zambia, so as to bring them in conformity with reality and practice.

5.2 Proposals for Reform.

For centuries, it has been the procedure of governments to amend and unmodel laws whenever a new course becomes unavoidable. This fact of law, and indeed of society makes us feel that amendments to our liquor laws are unavoidable. The circumstances under which the Liquor Licensing Act or the Traditional Beer Act were enacted have drastically changed. We feel that these Acts should be thoroughly examined and certain of their provisions defeated. We therefore propose the following:
Firstly, that in order to reduce illicit brewing, it is advisable to redefine traditional beer. The definition as given by the present Traditional Beer Act is so wide and includes alcoholic liquors like kacasu, and the Act does not put it clear whether such drinks may be produced under permits from the local authorities or not. Authorities are however unanimous in agreeing that no permit may be granted to any one to brew or distil kacasu. In order to put it clear as to what liquor may be produced or sold under permits from which authority, it is suggested that a distinction be made between 'local beer' and 'traditional beer'.

'Local beer' should be defined as opaque beer to mean "any alcoholic drink which is derived from cereal grain or any vegetable matter or the products of these and such drink should contain residue of the mash of the product from which it is derived."

'Traditional beer' should on the other hand, be defined as "any alcoholic drink produced from any substance in any manner."

To discourage people from drinking traditional beer which in our definition includes kacasu, wine, etc, Companies other than National Breweries Limited, and individuals should be allowed to produce local beer as defined. It will be seen that under this situation, local beer will not only include chibuku but other alcoholic drinks which contain mash such as kataka, sipesu, etc. It has been said, and we concur,
that alcoholic drinks which contain residue of the mash from which they are derived are less dangerous because the mash itself constitute food and are less dangerous. There should be no restriction on the production of such drinks.

The other drinks which contain no residue (e.g. kacasu) and have been defined as traditional beer are more dangerous because they usually contain more than 70 per centum alcohol. Due to this high alcoholic content and the fact that the people who drink them are of the low income who take them on empty stomachs, without diluting them, we suggest that the production of such drinks be restricted. We realise however, that a policy that will aim at completely prohibiting the production of these drinks will not succeed, but will only force people to invent some ways of producing other drinks which would prove even more dangerous. To avoid this, people should be allowed to produce kacasu or wine but only under special permits from the local authorities. To ensure that the substances used to produce such drinks and that their alcoholic content are up to acceptable standards, the local authorities should not only encourage people to obtain permits by charging a minimal fee, but they (local authorities) should also use the opportunity to educate such producers of the best ways of producing the said drinks.
In an effort to ensure that all those wishing to produce these brews obtain permits, the penalty imposed on those found brewing without permits should be increased from the present K20.00 to at least K500.00 for first offenders and 12 months imprisonment for the second and subsequent convictions.

Above all, the policy should be accompanied by an absolutely peaceful but educative picketting organised by the local authorities and volunteer groups. The object here being to establish intimate personal contact with the brewers as well as those addicted to such brews, so as to help them give up. This could be done by finding substitute recreational facilities for the addicts as well as assisting the brewers to find more decent ways of earning a living. The funding of such projects could come from donations by individuals, non-governmental organisations and the international donor community. These measures, coupled with the availability of local beer of various types will definitely bring the production of kacasu and other deleterous liquor to an end.

Secondly, on the issue of shebeens and other forms of illegal drinking, we suggest that the production of beer (mosi) and spirits should not only be left to Zambia Breweries Limited and its sister company (Duncan Gilbey and Matheson Limited) but that it should be left to all companies
willing to engage on such type of business. This will ensure that there will be no shortages and because the market will always be flooded, the prices of the commodities will be determined by the rule of demand and supply. Subsequently, the shebeen will have no room.

We also suggest that the provisions pertaining to restrictions on the hours of sale be amended. Our original impression about this was that if we restrict the hours of sale, we can reduce drunkenness and eradicate other evils associated with alcohol. But this research has conducted us to a different conclusion. There are, we now think, reasonable grounds for believing that if we strictly restrict the permitted hours of sale, we encourage drunkenness and other liquor problems in that people will not only drink against the clock but will, after the legal joints are closed, search for shebeens and kacasu dens. For these reasons, we feel that the hours of sale for bars and places where local beer may be sold be left to the discretion of the businessmen. We believe that if some one wishes to have a drink and the proprietor is willing to serve them, then there should be no restriction in them obtaining a refreshment. However, the permitted hours of sale for 'off' sale premises may remain the same (i.e. from 07.00 hours to 18.00 hours).
By advocating that bars and taverns be allowed to remain open as long as the proprietors can serve the patrons, we are not suggesting that ours should be "a country of boozers," but we are only confirming the fact that we cannot make Zambia a sober nation. Our efforts here should be seen as a desire to strike a balance between the legitimate interests; to choose correctly between an interlocking complex needs where each can only be fully satisfied at the expense of one or more of the others. If this is accepted, people who know their ways around the cities and other towns in the country will be able to obtain a drink at any time in the 24 hours of the day without breaching any law, and the shebeen will be a thing of the past.

Finally, we suggest that only big shops and supermarkets be allowed to hold retail or off-sale licences. This suggestion is being made because these days, it is difficult to distinguish between a bonafide grocery and bottleshop. Those who hold grocery and bottleshop licences should be given an option to choose between the two. If a businessman opts to operate a grocery, then he should, after disposing of his stock forfeit his liquor licences and him who opts to trade in liquor should be encouraged to expand his building so that he can qualify to hold a bar licence. At the end of the day, retail licences will be held only by big shops and supermarkets and drinking from an off-sale premises will also be a thing of the past.
5.3 **Conclusion.**

The starting point of this study was a general overview on the nature, functions and effect of alcohol. We have established that although alcohol is by nature harmful, and that some cultures have a negative attitude towards its use, most societies consider it as a necessity for life.

Given the fact that men will always drink alcohol whether we like it or not, it becomes necessary for the government to have a clear and definite policy on this complex subject. Throughout the paper, we have maintained that a policy of total prohibition can not work and that what we need in Zambia is a more liberal policy. Such liberal policy can only succeed if it is accompanied by a mass education campaign directed at all those who drink, informing them of the beneficial use of alcohol and the dangers of its abuse. All companies wishing to produce liquor for example, could be required by law to include warnings on the labels of their products while others could be asked to sponsor talks, posters, songs etc.

The issue of illegal drinking is a challenge for the future and it is hoped that the government which comes into office in this multi-party era will approach the whole issue in a liberal manner as proposed in this paper.
FOOTNOTES.

1. See Chicken, R. The Prevalence of illicit brewing along the line of Rail in Northern Rhodesia, Government Printers, Lusaka, 1948.

2. It was learnt that "during the curfew imposed after the abortive coup' de tat in 1990, people were forced to drink so much during the limited hours that many who were arrested could not remember as to where they were picked, or how they came to find themselves at a police station". On interview with woman Chief-inspector Sakala, Officer-in-charge, Chilenje Police Station, 26th July, 1991.

BIBLIOGRAPHY.

BOOKS.


12. Walcott, F.H., AFRICAN BEER GARDENS OF BULAWAYO (Rutgers Centre for Alcohol studies, New Brunswick, 1948).

OFFICIAL PUBLICATIONS AND UNPUBLISHED PAPERS.


5. Okada, E., "Excessive Drinking; selected court cases from central province." UNZA.


NEWSPAPERS, MAGAZINES.

1. SUNDAY TIMES OF ZAMBIA

2. TIMES OF ZAMBIA.

3. TIMES REVIEW, April, 1974.

4. ZAMBIA DAILY MAIL.

LEGISLATION.

1. Traditional Beer Act, Chapter 423 of the Laws of Zambia.

2. Liquor Licensing Act, Chapter 429 of the Laws of Zambia.


CASES.

1. The People v. Band Sp2/100 (1990) Unreported


4. The People v. Mabwe Sp2 100 (1990) Unreported
