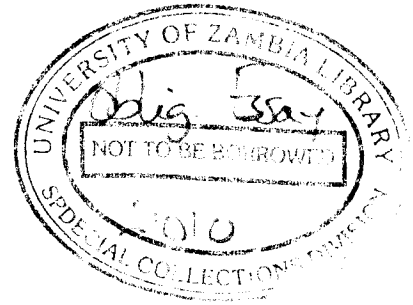


THE UNIVERSITY OF ZAMBIA.
SCHOOL OF LAW.

OBLIGATORY ESSAY (L 410.)



AN ASSESSMENT OF THE EFFECTIVENESS OF THE
LAW IN CURBING ROAD TRAFFIC ACCIDENTS.

BY

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Being a final year dissertation submitted to the University of Zambia, Law
Faculty in partial fulfilment to the conditions for the award of the Bachelor of
Law (LLB) Degree.

DECLARATION.

I, MUBITA AUSTERN, Computer no 94040354, do hereby declare that the contents of this Directed Research is based on my own research and represents my own work and that it has not been submitted for a degree at this University or another University. Further, any other persons work consulted have been duly acknowledged.

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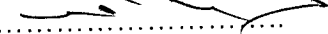
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ABSTRACT

Human life is lost in so many ways. One of these is through road traffic accidents. Road traffic accidents have become a menace to society. This was first realized in the colonial era and extended to present day Zambia. In order to prevent or mitigate the occurrence of traffic accidents, there is, in place, an Act of Parliament. This Act is known as the Roads and Road Traffic Act Cap 766 of 2002. This Act is in place to ensure that road users are aware of the dos and don'ts while using public roads. The Act has a number of provisions in relation to the conduct of road users. One such provision is in relation to over speeding and many more others.

It is also recognised that there are a number of causes of road traffic accidents which are clearly catered for in the Act. The Act, therefore become4s more important in safe guarding the lives of innocent Zambians, including children are the future leaders. As a re3sult of this, there is need to identify the measures put in place to mitigate the occurrence of traffic accidents. Some measures include snap checks by the police, setting up of speed traps along certain major roads and sensitizing drivers on the need to safe guard their lives and that of others. In line with the aforesaid, it is also desired to consider the socio-economic effects of traffic accidents. This is because when a person dies in un timely death; there is more grief on the part of the family.

The Act also provides for the need for all motor vehicles to be insured, It also provides penalties to offenders or those who contravene the law. The biggest question to be asked is that "Why are road traffic accidents on the increase despite the Roads and Road Traffic Act in place?" It is from the aforesaid that it became necessary to assess the effectiveness of the law in curbing road traffic accidents, hence the topic at hand in this paper

ACKNOWLEDGEMENTS.

My heart felt gratitude goes to Mrs. Mushota.L for her guidance during the research and making my work a success. I would like also to thank Inspector Handuwe of Lusaka Central Police and Mr. Siandenge, Officer in charge of Traffic Department at for Headquarter for providing the necessary information concerning road traffic accidents in Zambia. Finally, I would like to thank all the people who were willing to be interviewed and provide the necessary information.

DEDICATIONS.

To my late father (MHSRP), mother, my wife Mwaka and the rest of the family.
Your support morally and financially has seen me this far. May God bless you.

TABLE OF STATUTES.

Roads and Road Traffic Act cap 766 of 2002.

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Mwale vThe people (1968) ZR 76.

Regina v Chunga (1962) ALLR p249.

ABBREVIATIONS.

- RTC**..... Road Transport Commission.
RATSA..... Road Transport and Safety Agency.
HIV..... Human Acquired Virus.
AIDS..... Acquired Immune Deficiency Syndrome

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CHAPTER ONE

THE ENACTMENT OF THE OF ROADS AND ROAD TRAFFIC ACT AND ITS SALIENT PROVISIONS.

1.0 INTRODUCTION

Zambia is a third world country in Africa. In order for its economy to be viable, there is need for, inter alia, an effective transport sector to convey goods and labour from one point to another. Therefore in Zambia, we have both public service vehicles or passenger vehicles and private owned vehicles. Public service vehicles include mini-buses and taxis. These vehicles are used in daily life to move goods and people from one point to another. There are times when these vehicles may be involved in road traffic accidents. "An accident is an occurrence on which we have no control, but we can do something to control traffic accidents."¹ According to Collins, an accident is defined as an unexpected event in which people are injured or die.² Since we are talking about road traffic accidents, an operational definition will be an unexpected event involving vehicles on public roads in which people are injured or die.

Accidents have become a menace to society. Many lives are lost during an accident. In fact, road traffic accidents are ranked to be the third cause of death in Zambia after malaria and HIV/AIDS³. Available statistics show that a total of 21,692 road traffic accidents involving 25,000 motor vehicles were recorded in

¹ <http://www.times.co.zm/news/viewers.on> 10/10/09

² C.Collins, New School Dictionary, 2nd Edition, Haper Collins Publisher, Glasgow, (2002), P.6

³ [http:// www.times](http://www.times)

2003. From these road traffic accidents, 2,692 persons were seriously injured while 1,046 persons killed.⁴ In the year 2004 a total of 13,005 road traffic accidents involving 16,000 motor vehicles were recorded. From these road traffic accidents 1046 persons were slightly injured and 892 persons killed.⁵ Furthermore, on 15th May 2008,⁶ 27 people died in a road traffic accident. This was attributed to a tire bust. But it was brought to the attention of the public that the bus was overloaded, carrying 82 passengers instead of 62.⁷ To illustrate more on the seriousness of the matter, over the Christmas period from 22 to 26 December, the country recorded 31 deaths due to traffic accidents⁸. There are many more accidents happening on a large and small scale. This will be evident in Chapter Three showing the statistics of road traffic accidents. For the purpose of this paper, only accidents of the large magnitude or fatal accidents will be considered. These are accidents which normally lead to loss of life.

There are many problems or factors leading to the occurrence of road traffic accidents. The major ones are: over speeding, driving whilst drunk, carrying inflammable substances on buses, poor state of both roads and vehicles and inadequate or lack of road signs in certain areas to alert drivers of what they are expecting ahead of them. Because of the high prevalence of road traffic accidents, whenever a person boards a bus or any public vehicle, tends to wonder whether he/she will arrive alive. These road traffic accidents lead to

⁴ <http://www.factbook.net/regionalanalysis-Africa>. 10/10/09

⁵ Ibid

⁶ Times of Zambia, of 15th May, 2008.

⁷ Ibid

⁸ Ibid of 29th December,2009

deaths of human beings, old and the young. If the future leaders are also victims of the situation, then there must be greater concern on the subject in order to find solutions. Dr. Kaunda, former President at one time observed that “the death of children in road traffic accidents should serve as a wake up call for government to do something about the growing menace of passenger transport for public goods.⁹ It is from this view that the paper will try to assess the effectiveness of the law in curbing road traffic accidents. The law in question is the Roads and Road Traffic Act of 2002, Cap 766. Moono observes that, “accidents pictures convey the traumatic impact of dangerous driving and acts as an incentive for the regulatory authorities to make the roads safe for motorists and passengers.¹⁰

If the law is in place, then the biggest questions to be asked are; why is it that road traffic accidents are on the increase? Is there laxity on the implementation of traffic laws? These questions and many others will be answered later as the discussion progresses in the chapter five covering the weaknesses of the law in curbing road traffic accidents. This chapter will give an insight of where the problem lies.

PROBLEM STATEMENT.

Road traffic accidents are on the increase despite the roads and Road Traffic Act in place. Since traffic accidents happen nearly every day, and claiming lives in certain instances, it must be the concern of each and responsible driver on the

⁹ E. Djokotoe, “Carnage on Roads” Sunday Post, 25th July, 2005.

¹⁰ F. Moono, Public Transport: Do Passengers have a right, Obligatory Essay (2005) P.23

road to be conscious of other road users and observe traffic signs. Accidents are becoming a threat to human existence. This therefore, calls for an effective law enforcement system in place to try to minimise them. What seems to be the major causes of traffic accidents are over speeding, poor and inadequate road signs, poor state of roads , state of vehicles which are not road worthy and drunken driving. Such causes call for concerted efforts and measures in place to mitigate them.

OBJECTIVES.

The general objective is to assess the effectiveness of the roads and Road Traffic Act in curbing road traffic accidents.

The specific objectives are:

- _ To investigate the occurrence of road traffic accidents.
- _ To assess the effectiveness of the law in curbing road traffic accidents.
- _ To assess the socio economic impact of accidents.
- _ To investigate the major causes of road traffic accidents.
- _ To identify the weaknesses in the law if any.
- _ To identify the salient provisions of the Act on road safety.
- _ To suggest the way forward mitigate road traffic accidents.

METHODOLOGY

The methodology in data collection will as follows

- (i) Interview with the police, RATSA and the general public.
- (ii) Desk research.

(ii) Observation of certain road infrastructure.

(iv) Secondary data will be obtained from publications, books and news papers.

(v) Questionnaires.

RESEARCH QUESTIONS.

1. What are the major causes of road traffic accidents in Zambia?

2. Are there any measures put in place to minimise the above causes?

3. Is the law effective to curb road traffic accidents?

4. What do you think would be the best thing to do in order to make the law more effective?

5. What are some of the problems you face in implementing the law?

6. What procedures are followed when making claims from the insurance company when an insure vehicle is involved in an accident?

1.1 ENACTMENT OF THE OF THE ROAD TRAFFIC ACT

In the bid to coordinate human activities for smooth running of the country in general and societies in particular, there is need for authorities to put in place a piece of legislation. The idea started far back when Zambia was still a colony (Northern Rhodesia) under British Government. Earlier on all the regulations made by the colonial masters were aimed at safeguarding their interests in the territory. Zambia was a British colony under the name Northern Rhodesia. These regulations were in form of ordinances. These ordinances covered a number of sectors of the economy. In terms of road transport, there was, the Motor Traffic

Ordinance. This was aimed at regulating the motor traffic on public roads or highways. Later, 1958 the Motor Traffic Ordinance was replaced by the Roads and Road Traffic Ordinance passed by the Legislative council of Northern Rhodesia.¹¹ These ordinances point to the fact that, road traffic concerns are as early as the colonial period. This was to reduce road traffic accidents. In 1957, Mr. Botha, one of the members of the legislative council recommended that, due to increased road traffic accidents, more stringent measures should be introduced in the issue of road service licenses. There was a feeling that, this would work like it did in England to reduce the number of road traffic accidents occurring on public roads.¹²

When Zambia attained independence in 1964, it became a sovereign state. However, all the laws and regulations passed by the legislative council were inherited. This being the case, it means, in terms of road traffic, the Road and Roads Traffic Ordinance were also inherited. It was this same ordinance that was changed later on to the Roads and Road Traffic Act Cap 766 of the Laws of Zambia. Most of the provisions of the present Act are those contained in the Motor Traffic Ordinance and the Roads and Vehicle Ordinance with a few additions.¹³ The additions were meant to make the Act more adaptive to the current situation obtaining in Zambia. This is true especially that, the population

¹¹ Northern Rhodesia Legislative Council. (Hansard No. 95) Column 2178

¹² Northern Rhodesia Legislative Council Debates. (Hansard No. 91 of 1957) Column 75. per Mr. Botha

¹³ N. Mbita : Passenger Safety under the Road and Roads Traffic Act Cap 766; A Critical Analysis, Obligatory Essay, 1993) P.1

and number of vehicles on the Zambian roads have increased since independence.

The main aim of enacting the Act was to protect motorists and passengers as it was during the colonial period. The protection which is referred to here is the observations made by one of the members of the Legislative Council who suggested stringent measures where road service licenses are concerned. This is to regulate the use of road transport and making the roads safe for human beings. As already noted, road transport plays a major role in driving the economy of the country. This is because, it is through road transport that labour and other materials (goods) are conveyed from one point to another. Since people depend on road transport to move from one point to another, the need for safety on public roads must be maintained and made a priority in order to reduce road traffic accidents. Therefore, it was the seriousness of road traffic accidents and the need for safety measures that lead to the enactment of the Roads and Road Traffic Act of 2002. It is this act that will be the subject in this paper and it will assess how effective it is in curbing road traffic accidents.

1.2 SALIENT PROVISIONS OF THE ACT

The Act has a number of provisions covering many different parts of road safety. In this paper, only provisions related or meant to curb road traffic accident will be considered. The following are the provisions relating to road safety of vehicle on public roads and in turn protect human life.

- (i) If, in any public service vehicle, there are more passengers than the vehicle permitted to carry, the conductor of the vehicle, if any, or if no conductor is carried, the driver commits an offence and is liable upon conviction to a fine of two hundred penalty units in respect of every passenger carried in excess of the permitted number of passengers.¹⁴
- (ii) No person shall drive a vehicle on a public road at a speed in excess of the general speed limits indicated by the appropriate road traffic sign.¹⁵
- (iii) Any person who drives a motor vehicle upon any road recklessly or in a manner which is dangerous to the public having regard to the nature of the case, condition of the road... commits an offence...¹⁶
- (iv) Any person who is driving or attempting to drive a motor vehicle on a road and is under the influence of intoxicating liquor or narcotic drugs to such an extent as to be incapable of having proper control of such vehicle commits an offence and is liable upon conviction to a fine not exceeding twenty thousand penalty units or to imprisonment for a period not exceeding five years or to both.¹⁷

¹⁴Roads and Road Traffic Act Cap766 of 2002. Section 115

¹⁵Ibid, Section 148 (4)

¹⁶Ibid, Section 155 (1)

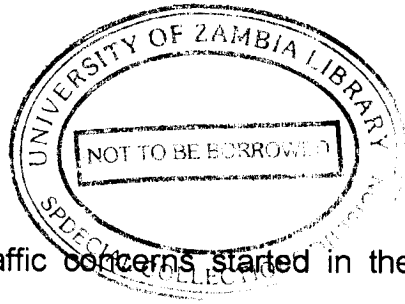
¹⁷Ibid, Section 157 (1)

- (v) Any driver of a public service vehicle or person in control of such a vehicle who carries petrol or any inflammable fuel in a public service vehicle commits an offence.¹⁸
- (vi) Section 170 (1), outlines that the drivers have an obligation to obey traffic road signs. This may include an obligation to observe all road signs and abide by them strictly. These signs include signs showing a curve, depression, corner, and speed limits. In general, all road signs, whether small or big must be given the due observance it requires. This is because signs act as a warning of what a driver is expected to find as he drives along the road.

The above cited provisions are good and sound to curb road traffic accidents. An analysis is made here of some of them. Section 115 prohibits overloading of passengers on buses or any public vehicle. It is aimed at maintaining the carrying capacity of the vehicle because the gross weight of the vehicle must correlate with the load carried. However, this seems to be overlooked by many drivers especially of mini buses. The reason has been the need to maximize profits. Section 157 prohibits a driver from taking alcohol or any narcotic substance that make him unable to control the vehicle. The other provision is the one against reckless driving. This may involve over speeding and not following road signs accordingly. These are many other provisions which have not been discussed, but outlined. This is not to say that they are less important than others. The

¹⁸Ibid, Section 196 (3)

bottom line is that all are aimed at making public roads safe for public service vehicles and passengers.



CONCLUSION

In this chapter, it has been clear that traffic concerns started in the colonial period. This was through the enactment of the Motor Traffic Ordinance and later on the Road and Roads Traffic Ordinance. It was from these two pieces of legislation with subsequent amendments that the Roads and Road Traffic Act Cap 766 was enacted in 2002. It has also been clear that, the enactment of the 2002 Act was to make the public roads safe for motorists and passengers using the public service vehicles. These concerns of the safety of road users are seen in the salient provisions of the Act. For example, among many such provisions, Section 196 (3) provides that, any driver of public service vehicle or person in control of such a vehicle who carries any inflammable fuel in a public service vehicle commits an offence. There are many more provisions as already seen or noticed in the main body of this chapter. There are also certain questions that will be answered in the next chapters. These are: why road traffic accidents are on the increase despite the Act in place? Is there any laxity on the implementation of the law? Or is there no road maintenance?

CHAPTER TWO

MAJOR CAUSES OF ROAD TRAFFIC ACCIDENTS AND MEASURES PUT IN PLACE TO MINIMIZE THEM.

2.0 INTRODUCTION

In the last chapter, it has been clear that road traffic accidents are number three causes of death among human beings. It is from this footing that, in this part of the paper, the writer will endeavour to examine the major causes of road traffic accidents in Zambia. Alongside with this, there will be an effort to try and consider the measures put in place by the law enforcers to minimize the occurrence of road traffic accidents. While considering the measures, there will also be an analysis of their effectiveness or weaknesses in minimizing road traffic accidents.

2.1 CAUSES OF ROAD TRAFFIC ACCIDENTS

There could be a number of causes of road traffic accidents. Most of the road traffic accidents in general are caused by drivers not observing the law through their acts or omissions. The bulk of the road traffic accidents are caused by negligence of drivers and errors of judgment when driving. Here, major ones will be considered. Under our discussion, the following causes will be considered: over speeding; alcohol intake while driving; carrying inflammable substances on buses; poor state of vehicles and road infrastructure; out of order or defective traffic lights; not observing traffic signs and answering cell phones while driving and finally, but not the least, overloading.

The first cause of road traffic accidents is over speeding. It is a matter of public opinion the fact that mini-bus drivers, especially those for smaller HIACE TOYOTA model buses are among the most notorious drivers on the roads. They are proven to commit nearly every traffic infringement that one can think of.¹⁹ Considering the fact that there is an increase in the number of vehicles on the roads, over speeding becomes dangerous. As earlier indicated, over speeding is common among mini-bus drivers who rush for passengers in order to maximize the amount of money for that particular day. Considering the sitting capacity of small buses, drivers believe that the more the trips, the more the money. This was confirmed in an interview with one of the drivers for flash buses, James²⁰ who stated that it is really the number of trips one makes that will determine whether he will raise more money or not. He further indicated that over speeding is common to those drivers who would not wait for the loading queues at the bus stations and is typical of drivers for small mini buses. This picture is also confirmed by the following statements; “according to the type of motor vehicles in accidents, it was discovered that Omni-buses tallied up to 1115.²¹ Out of this figure Lusaka and Copperbelt had the highest figures, 693 and 257 respectively”. The aforesaid figures are a clear indication that the more the vehicles in a city, the more the accidents. Besides drivers of mini-buses, even long route drivers also over speed in order to make two trips in a day. Just to illustrate the matter, on 21st June, 2008, there was an accident in Mazabuka in which one person died on the spot and a number of them sustained serious injuries.²² From the assessment of the Area Member of Parliament Mr. Gary Nkambo,

¹⁹ <http://www.times.co.zm>, 10/10/09

²⁰ Interview: with James. Flash A Bus Driver, on 6th October 2009. Lusaka

²¹ Police Force Headquarters Traffic Department Quarterly Report for 2008, 1st April to 30th June

²² Times of Zambia of 22nd June 2008 P.6

though not an expert, the accident was caused by over speeding. The driver failed to negotiate the corner as he approached Shoprite and hit into the fence. This corner is dangerous because it is a T-Junction and therefore, needs a lot of caution on the part of the driver to ensure that he is as slow as possible in order to avoid accidents at this spot. Again, on 11th August, three people died on the spot when the car they travelling overturned along the Kitwe-Ndola dual carriage way.²³ The Police spokesperson attributed to over speeding for the driver failed to control the car.

The second cause of traffic accidents is driving while drunk contrary to section 157 (1) of the act. As the advert goes on television by Road Transport and Safety Agency “don’t drink and drive, if you are drunk, don’t drive.” Alcohol works on the nerves of an individual and affects more people than any other drink. In an interview conducted with Dr. Mwanahamuntu at the Food and Drug Control Laboratory, he indicated that alcohol increases the risk by reducing co-ordination of movement, slowing reaction time, blurring vision, diminishing alertness, impairing ability to judge speed and distances and giving a false sense of confidence in performing skilled tasks²⁴. The abuse of alcohol by most drivers is done over the weekend. A survey conducted by Mulundika showed that 53% of the accidents occurred over the weekend, i.e. Friday, Saturday and Sunday.²⁵ This is because these are the days when most people are free from work and would want to socialize and relax.

There are also young people who usually drive illegally and under the influence of beer.

²³ Times of Zambia of 2009

²⁴ Interview: with Dr. Mwanahamuntu. Drug and Food Speciality, at UTH. on 16th February 2010

²⁵ Mulundika, J.I.M M.MED Survey (1999) UNZA, Lusaka P16.

The legal age at which a person can obtain a driver's license is sixteen as provided for under section 64 of the Act. However, some researchers have observed that the age at which people are driving nowadays is getting lower; much younger teens are now driving both legally and illegally.²⁶ These young ones think that driving while drinking is a way of winning girls or boys or showing off to friends. Over the weekend of Valentine's Day, in February 2010, the researcher was at Avondale Complex where he interviewed some teens. One of them by the name of Alex Jalabani, had this to say "we come here to relax with our girlfriends and play loud music from cars."²⁷ This boy was in a company of friends drinking. He was only 16 years old. This has contributed more to the number of road traffic accidents. More than half of the traffic accidents so common today are due to alcohol intake.²⁸ The question that remains unanswered is why is it that people are not being convicted for driving while drinking? Part of answer to this question is complications involved. In the case of Mwale V The People,²⁹ where the appellant was accused of driving while drunk was acquitted because there was no evidence to prove that the medical officer who carried out the examination was a medical practitioner as defined under Section 158 (7) of the Act. Section 157³⁰ provides that "... is under the influence of intoxicating liquor or drug to such an extent as to be incapable of having proper control of such vehicle..." During the research, there were no figures showing how many people were found drinking while driving. However, we have never heard of people taken to court to answer charges on drunken driving. Could the issues of being

²⁶ Zambia Carnage Statistics in the Country. 9th May 2008

²⁷ Interview: with Alex Jalabani, A teenager, at Avondale Complex, on 20th February 2010

²⁸ C. Malalami: War against road traffic accidents should be stepped up, available on <http://www.times.co.zm.on> 12/10/09

²⁹ (1998) ZR 76

³⁰ Roads Traffic Act.

examined by a qualified medical practitioner prompt some drivers to continue drinking while driving?

The third cause of road traffic accidents is the carrying of inflammable substances on buses. This was confirmed by the Kapiri Mposhi tragedy involving Jeefero Coach Service, in which half of the passengers (35) who died were burnt to ashes in August, 2001.³¹ This was when the bus carrying petrol inside overturned and caught fire. The other incident was the death of Mama Mokola, who died when the bus she was on caught fire. Such happenings prompted, the Late President Dr. Mwanawasa to direct law enforcers to ensure that no inflammable substances were carried in vehicles, especially public service vehicles. There was a further directive requiring petrol fuel attendants not to put fuel in buses while passengers are on board. However, the researcher observed buses refuelling with passengers on board. On 7th October, 2009, at Chelstone BP filling station, a mini-bus driver was refuelling while passengers were on board. When asked by the researcher as to why he was doing that, he blamed the passengers of refusing to come out.³² One of the passengers on board by the name of Mwaka Nyanga, complained that the whole exercise was cumbersome on their part. Passengers blamed the drivers and urged them to be refuelling well in advance.

The fourth cause of road traffic accidents is the poor state of the road infrastructure. Most of the roads have potholes and in some areas they are large. For example, the road between Mufulira and Sabina in the Copperbelt Province has a number of large potholes. The stretch between Turn Pack and Mazabuka town in Southern Province was almost

³¹ Times of Zambia of 2nd August 2009.

³² Interview: with H. Hanguta. Bus Driver, on 7th October, 2009. Lusaka

becoming a black spot, where a number of accidents were occurring. This stretch has since been repaired on. According to police report for the second quarter, 1st April to 30th June, 2008, 58 road traffic accidents were due to state of the roads. It has also been observed that the road infrastructure itself particularly in cities and towns is woefully inadequate for the increasing number of vehicles which has been facilitated by the changed market dynamics and liberalization. The liberalization of the economy has permitted a lot of Zambians to go to South Africa and buy Japanese used vehicles. This was not the situation during the socialist period when government was the major importer of vehicles. This has brought about overcrowding on the roads which has in turn affected the quality of driving.³³ Along side the poor state of roads, is the lack of or defective traffic lights. There are times when the road traffic lights are not working to regulate the flow of traffic. For example, on 2nd October, 2009, at around 07:00hrs, two vehicles rammed into each other at Alick Nkhata - Kamloops traffic lights. This was because of recklessness of one driver coupled with defective traffic lights. Besides the defective traffic lights, there are certain junctions which are a four way stopping and these pose a danger to motorists especially during pick hours. However, section 177³⁴ provides “.....yield the right of way to all vehicular traffic which arrived at the junction before such driver on a first come first go basis, unless the driver’s entry into such junction is controlled by instruction given or a direction conveyed by a road traffic inspector in uniform.....” However drivers do not observe this rule.

The fifth cause of road traffic accidents are the poor state of vehicles themselves. It has been observed that, even though the condition of vehicles has never been scientifically

³³ <http://www.allafrica.com/2008.on> 12/10/09

³⁴ Roads Traffic Act

assessed, the issue was recognized early as a priority traffic safety.³⁵ Section 122³⁶ provides that “No vehicle or trailer to which this part applies shall be used on any road unless there is in force in respect of such vehicle or trailer a valid certificate of fitness, issued by a vehicle examiner...” This is an indication that fitness of the car is a requirement of the law. The duration of this certificate of fitness is provided for in section 134(a). According to this section a certificate of fitness is valid for four months in the case of a public service vehicle, heavy vehicles or heavy trailers used for carrying of passengers, a contract car and a motor vehicle used for the teaching for gain of driving.³⁷ Though, there is a requirement that the vehicles must be in road worth conditions, this seems to be just on paper. This is because the road fitness certificate is issued once a year. After that, there is no any other inspection of vehicles at specified intervals. As a result of that, even bus owners and drivers themselves do not usually service their vehicles. Thus a number of vehicles which are not road worthy being used to carry people. On 3rd October 2009, a mini-bus caught fire due to an electrical fault at Lilayi rail crossing.³⁸ Fortunately no one was burnt to ashes, all passengers came out clean. However, the bus was burnt to ashes. The official report attributed the accident two necked wires causing a short circuit. Again, on 10th October 2009, 12 people died on the spot and 40 seriously injured when the scania bus overturned. The driver could not stop at the corner before Luangwa Bridge as the brakes failed to work. However, it was not confirmed whether the bus had no brake fluid. But, the availability of brake fluid in a vehicle is one of the aspects of the vehicle maintenance. According to the available

³⁵ E. Lagarde, Road Traffic Injuries is an escalating Burden in Africa and Deserves Proportionate Research efforts. <http://medicine.12/10/09>

³⁶ Supra note 33

³⁷ Ibid

³⁸ Muvi TV Main News 18:30hrs

statistics, 187 accidents in the Second quarter were due to mechanical failures.³⁹ Since there is normal tear and wear of vehicles, maintenance should be done on monthly basis. However, what happens in practice is that, buses would only go to a garage when it has developed a major fault.

The sixth cause of road traffic accidents is the behaviour of drivers not observing road signs. Many are times when mini buses and other vehicles fail to negotiate corners and round about. One may argue that these signs are not seen in certain circumstances due to a number of bill boards for adverts along the same roads. However, even where such signs are visible, still more drivers tend to give a blind eye to such signs. Twelve people including a baby died on the spot in a road traffic accident, when a Lusaka bound Rosa bus collided with a truck on the Great North road five kilometres after Mkushi Boma.⁴⁰ The accident was attributed to not observing traffic signs, for the markings on the road did not allow overtaking. However, the driver of the minibus tried to overtake three (3) vehicles and in the process collided with the truck. Again, on 17th June 2008, 8 people died on the spot and 18 were seriously injured when a canter truck, collided with an on coming Volvo truck along Mazabuka road. Mr Hamaamba, the District Administrator who went to the scene attributed the accident to the driver not observing traffic regulations ⁴¹ this was also confirmed by Police Spokesperson, Bonnie Kapeso. Besides the issue of not observing traffic signs, is the issue of using cell phones while driving. Even though regulations prohibit answering or making a call while driving, drivers of both private and public service vehicles are usually seen answering cell phones. One

³⁹ Police Quarterly Report of 2008.

⁴⁰ Times of Zambia of 24th December, 2009, p1

⁴¹ Ibid of 28th June 2009, p6

surprising thing is that, even passengers fail to exercise their rights and report such persons to police.

The last cause of traffic accidents is overloading. Section 202⁴² provides that “no person shall, while riding a two wheeled vehicle carry thereon such number of persons or load of goods or both as to deprive that person of full control of the vehicle or hinder the person in its control...” This section confirms that, when a vehicle is overloaded, it tends to have no balance. For example, on 15th May 2008⁴³, 27 people died in a road traffic accident, and the driver of the vehicle attributed the accident to a tyre burst. However, it was later brought to the attention of the public by the police spokesperson that the bus was overloaded, instead of carrying 62 passengers, it carried 82 passengers. This is a clear indication that the driver might have lost control of the vehicle due to the fact that the load was more than what the vehicle would carry.

There could be other causes of road traffic accidents which the author did not consider due to time limit.

2.2 **MEASURES PUT IN PLACE TO MINIMIZE ROAD TRAFFIC ACCIDENTS**

Having looked at the causes of traffic accidents, it is now imperative to consider the measures put in place to minimize these causes. According to an interview conducted by the researcher with Mr. Handuwe who is the Senior Traffic Investigations Officer in-charge of road traffic investigations at Lusaka Central Police, a number of measures were

⁴² Road Traffic Act

⁴³ Times of Zambia ,p 22

discussed. On the issue of over speeding, he indicated that, they have introduced speed traps in order to nab culprits. This device is more effective than human judgment, but the only problem is that, it can only capture vehicles on a distance of hundred metres.⁴⁴ What happens before and after the hundred meters is not the concern of the traffic officer. It entirely depends on the discretion of the driver of the vehicle. At the time of the research only two speed trap devices in Lusaka urban were functional out of four (4). There were two unfunctional for trapping across the road and two for camera. The other challenge is that of drivers alerting their friends when ever a speed trap is set up at a particular point. He, however, indicated that educational campaigns are running in different media in a bid to sensitize the driver on the dangers of over speeding. One such media is through television

On the issue of overloading, he indicated that, this is only true when it comes to big buses. There are weigh-bridges through which big buses and trucks pass in order to determine their weight so that the weight of the load does not exceed that of the vehicle. There is such a weigh bridge along Kafue road just after Kafue River. He also indicated that, for small buses and other vehicles, there are snap checks that are conducted.⁴⁵

On 07th October, 2009, the researcher took a snap check of what was happenings at the weigh-bridge along Kafue road. Unfortunately, the weigh bridge was non functional. However, a number of vehicles were found waiting to go through the police check point opposite the weight bridge. One driver for Mazhandu family buses when asked whether

⁴⁴ Interview: with Mr Handuwe. Traffic Inspector at Central police, on 2nd October 2009. Lusaka
⁴⁵Ibid

the weigh bridge was a good idea indicated that, it helped bus drivers not to overload the buses.⁴⁶ A police officer on site, Lillian Siamutwa, when asked about the compliance of drivers and the effectiveness of the system, said drivers do comply for fear of being charged and the weighing was greatly helping in maintaining the normal loads by the drivers.⁴⁷ The only problem is that, such bridges are not found on each and every road. There are also daily patrols conducted by officers using motor bikes. They patrol major roads and nab culprits of overloading, over speeding and contravening and many more vices.

On the issue of drunken driving, Mr. Handuwe indicated that, there are some machines known as alcohol test machines (breathalyzers) which are used to determine whether one is drunk or not.. If the reading goes beyond 0.35ml, it means that the driver is drunk.⁴⁸ The only problem is that, there is need for a qualified medical doctor to certify that the person is really drunk; otherwise, the person cannot be convicted. This was put clearly in the case of Mwale V The People,⁴⁹ already cited. The other problem is that the number of breathalyzers is not enough. While the procurement of 36 breathalyzers is a move in the right direction, the gadgets are not enough and we urge the Road Transport and Safety Agency to get more of these so that all the districts in the country are well equipped.⁵⁰ However, this observation was made in 2008. At the moment, only a few are there and they are no normally used. On the issue of road signs, Mr. Handuwe indicated that, it is upon the drivers to ensure that they obey the road signs where such are in place

⁴⁶ An interview: with Mazhandu driver on 7th October 2009 at 1200 hours, at Kafue weigh bridge

⁴⁷ An interview: with Lillian Siamutwa.Sergeant, 7th October 2009 at 1200 hours, at Kafue weigh bridge

⁴⁸ Interview: with Inspector Handuwe

⁴⁹ (1998) ZR 76

⁵⁰ <http://allafrica.com/stories/2008.> on 12/10/09

CONCLUSION

From the above discussion, it has been clear that the major causes of road traffic accidents are over speeding, drinking and driving, answering cell phones, not following road signs and overloading. It has also been very clear that, the police try their best, but the equipment is not enough in certain situations. For example, the entire city of Lusaka has only two speed traps. This becomes a hindrance on the part of the law enforcers. More has to be done to ensure effective enforcement of the law.

CHAPTER THREE

STATISTICS OF TRAFFIC ACCIDENTS, SOCIO-ECONOMIC EFFECTS OF ACCIDENTS AND PROCEDURES FOLLOWED WHEN EXECUTING TRAFFIC OFFENCES

3.0 INTRODUCTION

In this part of the paper, the researcher will endeavour to show the statistics of road traffic accidents in Zambia. After that, there will be the analysis of the socio-economic effect or impact of traffic accidents. Finally, there will be a consideration of the procedure involved in executing a road traffic accident offence up to the time of getting compensation from the insurance company. A conclusion will then be given.

3.1 STATISTICS OF ROAD TRAFFIC ACCIDENTS

As already noted in the preceding chapters, road traffic accidents are claiming a lot of lives and also causing permanent disabilities in some situations. According to the research conducted by Road Transport and Safety Agency, the road traffic accidents rank number three from malaria and AIDS/HIV in claiming human life.⁵¹ It is from this background that it becomes imperative to consider the statistics according to years and to provinces.

⁵¹ Central Statistics Annual Report, 2004

TABLE 1**ROAD TRAFFIC ACCIDENTS REPORTED PERSONS KILLED INJURED
DURING THE PERIOD 1964 – 2007**

YEAR	ACCIDENTS REPORTED	PERSONS KILLED	PERSONS SERIOUSLY INJURED	PERSONS SLIGHTLY INJURED
1964	3,680	330	1,220	1,268
1965	4,717	369	1,355	1,318
1966	5,466	360	1,559	1,454
1967	7,722	525	2,015	1,900
1968	7,960	617	2,729	2,317
1969	10,077	631	2,513	1,828
1970	10,160	723	2,537	1,760
1971	10,637	794	3,017	1,777
1972	10,318	832	3,704	1,764
1973	10,465	935	3,161	1,850
1974	10,829	890	3,020	1,801
1975	9,296	860	2,698	1,685
1976	9,188	828	2,737	1,782
1977	8,078	751	2,681	1,395
1978	7,621	812	2,639	1,656
1979	7,049	717	2,505	1,418
1980	7,608	673	2,604	1,577
1981	7,916	714	2,747	1,773
1982	7,410	750	2,526	1,408
1983	7,699	705	2,748	1,465
1984	7,042	667	1,679	1,823
1985	7,877	680	2,773	1,714
1986	7,947	691	2,595	1,403
1987	8,994	880	3,192	1,621
1988	10,161	878	3,602	2,398
1989	10,262	810	2,998	1,723
1990	10,289	953	3,424	1,785
1991	10,435	864	2,934	1,866
1992	12,085	899	3,511	2,096
1993	11,923	830	3,183	2,191
1994	11,964	912	3,634	2,440
1995	19,665	993	3,637	2,882
1996	14,343	364	1,296	1,088
1997	9,553	793	3,424	2,085
1998	9,521	799	3,304	2,531
1999	9,187	811	2,971	2,310
2000	13,125	847	3,180	3,407

2001	6,468	585	2,156	1,740
2002	8,855	1,000	2,054	2,286
2003	21,692	1,046	2,696	5,846
2004	13,005	892	2,508	2,660
2005	14,075	876	3,097	3,397
2006	19,095	1,170	3,963	4,578
2007	21,690	1,266	4,181	5,077
TOTALS	453,149	34,322	122,707	94,143

Source: Zambia Police, Traffic Department at Force Headquarters.

The first table⁵² shows the statistics of road transport accidents for the period 1964 up to 2007. The table is indicating columns for persons killed, persons seriously injured and those who were slightly injured. According to table one, from the period 1964 to 2007, a total of 453, 149 road traffic accidents were reported. Out of these accidents, a total of 34, 322 persons died, 122, 707, were seriously injured and 94, 143 persons slightly injured. For sake of research, the concern will very much be on those who died. Generally, there seems to be an increase from year to year. For example, in 2006, there were 1, 170 persons killed and in 2007, 1,266 persons killed in road traffic accidents. However, this does not suggest that there were no fluctuations in certain instances. The figures go up in one year and down in another year. However, as noted between the two years above, the figures generally were increasing. When it comes to the number of reported cases of road traffic accidents, there were also fluctuations in the numbers from year to year. However, the general trend indicates an increase from year to year especially after the year 1987. For example, in 2006, we had 19,095 reported road traffic accidents. In 2007, the figure increased to 21,690. The increase in the number of accidents after 1990s is due to the

⁵² Zambia Police: Traffic Department at Force Headquarters

increase in the number of vehicles on our roads. This was brought about by the liberation of the economy when individuals started buying vehicles from South Africa. This in turn increased the likely hood of an increase in traffic accidents. It is important to note that, there may be other accidents that may go unreported and also claimed some lives especially in rural areas. The figures in the table make one wonder why such a situation despite the Roads and Road Traffic Act in place with very good provisions aimed at reducing the occurrence of accidents.

In an interview conducted by the researcher with sergeant Musonda at Longacres police post, attributed such high figures in road traffic accidents to lack of behavioural change among drivers and some owners of motor vehicle⁵³. This was also acknowledged by the Officer in charge of traffic department at Force Headquarters. He indicated that, he would not give a specific reason for the variations in figures especially where there is a sudden increase and then a sudden drop because an accident is not planned for.⁵⁴ One of the victims of an accident, Mr Mwiya of Kabulonga Girls High School, also admitted that behavioural change is the only factor that would lessen road traffic accidents.⁵⁵

Having considered the general picture of road traffic accidents from 1964 to 2007, it would be necessary to consider the latest statistics for 2009 according to provinces.

⁵³ Interview: with Sergeant Musonda. Traffic Officer, on 10th November, 2009, Lusaka

⁵⁴ Interview: with Mr. Siandege. Officer in charge of Traffic Department, at Force Headquarters, on 23rd Novemer, 2009, Lusaka

⁵⁵ Interview: with Mr. Mwiya. Teacher at Kabulonga Girls, on 20th November, 2009, Lusaka

TABLE 2

FIRST QUARTER ROAD TRAFFIC ACCIDENTS
STATISTICS FROM 1ST JANUARY TO 31ST MARCH, 2009.

DIVISIONS	ACCIDENTS REPORTED INVOLVING DEATHS/ INJURIES	PERSONS KILLED			PERSONS SERIOUSLY INJURED			PERSONS SLIGHTLY INJURED		
		URBAN	RURAL	TOTAL	URBAN	RURAL	TOTAL	URBAN	RURAL	TOTAL
LUSAKA	2,795	56	16	72	118	29	147	373	39	412
C/BELT	1,240	41	24	65	184	85	269	314	60	374
CENTRAL	318	9	27	36	45	51	96	32	11	43
SOUTHERN	300	15	8	23	29	29	58	41	20	61
EASTERN	189	1	15	16	16	30	46	24	32	56
NORTHERN	137	4	5	10	12	27	39	18	7	25
LUAPULA	54	3	9	12	12	16	28	2	3	5
N/WESTERN	249	3	10	13	17	17	34	54	15	69
WESTERN	128	1	4	5	8	16	24	32	11	43
TOTAL	5,410	133	118	252	441	300	741	890	198	1,088

Source: Zambia Police: Traffic Department At Force Headquarters

This table shows the number of accidents according to provinces and the numbers of persons who died in the first quarter of 2009. During this period, a total of 5,410 accidents were reported from all the nine provinces. Out of these accidents, 252 people died, 741 seriously injured and 1,088 slightly injured.⁵⁶ According to the table, Lusaka was leading with 2,795 accidents reported, and claiming a total of 72 lives. Copperbelt province followed with 1,240 accidents reported and claiming 65 lives. The high figures from the two provinces were attributed to the increase in traffic especially in urban areas. This could be supported by the figure of 56 deaths for Lusaka and 41 deaths, for Copperbelt province⁵⁷. On the other hand, Luapula province ranked the least with only 54 accidents reported and claiming only 12 lives. According to the figures in table 2, Luapula province was seconded by western province with 128 accidents reported. In terms of numbers of people dying per province western province was the least with only 5 people dying. The Service Traffic Officer⁵⁸ attributed this situation to less traffic in the two provinces compared the other provinces.

⁵⁶ Zambia police; traffic department at force headquarters.

⁵⁷ *ibid*

⁵⁸ Interview: with Mr. Siandenge

Table 3

**ROAD TRAFFIC ACCIDENT STATISTICS, FROM 1ST APRIL TO 30TH JUNE, 2009
ACCIDENTS INVOLVING DEATHS OR PERSONAL INJURIES**

DIVISIONS	ACCIDENTS REPORTED INVOLVING DEATHS INJURIES	PERSONS KILLED			PERSONS SERIOUSLY INJURED			PERSONS SLIGHTLY INJURED		
		URBAN	RURAL	TOTAL	URBAN	RURAL	TOTAL	URBAN	RURAL	TOTAL
LUSAKA	2,952	50	7	57	99	13	112	21	3	24
C/BELT	1,226	35	22	57	181	93	274	286	72	358
CENTRAL	353	7	31	38	33	39	72	43	16	59
SOUTHERN	244	7	12	19	36	28	64	30	12	42
EASTERN	203	2	14	16	20	25	45	30	37	67
NORTHERN	143	7	13	20	18	26	44	20	14	34
LUAPULA	65	5	15	20	16	14	30	9	6	15
N/WESTERN	226	4	12	16	15	22	37	40	10	50
WESTERN	100	3	3	6	8	17	25	18	5	23
TOTAL	5,512	120	124	244	426	277	703	493	175	668

Source: Zambia Police: Traffic Department At Force Headquarters

This table shows the statistics from April to June 2009. During this period, there were a total of 5,512 accidents reported. Out of these 244 persons died, 703 seriously injured and 668 slightly injured.⁵⁹ According to this table, Lusaka province was leading with 2,952 accidents reported and claiming 57 lives. Copperbelt followed with 1,226 accidents reported and claiming 57 lives. These two provinces were followed by Central, Southern and Eastern, each recording 353, 244 and 203 accidents respectively. Again, Luapula province recorded the lowest number of 65 accidents reported. Furthermore, Western province recorded the lowest number of deaths out of the 100 accidents reported. This situation gives a picture which is similar to the one in table 2. The reasons advanced for table 2 also apply here.

⁵⁹ Table 3, Zambia Police, Traffic Department

Table 4
ROAD TRAFFIC ACCIDENT STATISTICS, FROM 1ST APRIL TO 30TH JUNE, 2009
ACCIDENTS INVOLVING DEATHS OR PERSONAL INJURIES

DIVISIONS	ACCIDENTS REPORTED INVOLVING DEATHS INJURIES	PERSONS KILLED			PERSONS SERIOUSLY INJURED			PERSONS SLIGHTLY INJURED		
		URBAN	RURAL	TOTAL	URBAN	RURAL	TOTAL	URBAN	RURAL	TOTAL
LUSAKA	2,956	72	35	107	139	121	260	348	61	409
C/BELT	1,209	43	31	74	94	31	125	246	28	274
CENTRAL	353	15	41	56	32	73	105	35	23	58
SOUTHERN	282	12	19	31	32	20	52	27	19	46
EASTERN	197	4	15	19	14	40	54	24	44	68
NORTHERN	148	4	26	30	15	28	43	12	11	23
LUAPULA	58	3	9	12	12	17	29	3	7	10
N/WESTERN	287	4	12	16	30	37	67	40	30	70
WESTERN	117	2	9	11	15	17	32	20	6	26
TOTAL	5,607	159	197	356	383	384	767	755	229	984

Source: Zambia Police: Traffic Department At Force Headquarters

This table shows the road traffic accidents statistics from July to September, 2009. According to the available statistics, a total of 5,607 accidents were reported from all the nine provinces.⁶⁰ Out of these, 356 persons died, 767 seriously injured and 984 slight injured. Lusaka alone recorded 2,956 accidents resulting into 107 deaths. Copperbelt was second with 1,209 accidents which gave rise to 74 deaths. Central province was the third with 353 accidents reported and resulting into 56 deaths. This was followed by North Western and Southern province, each with 287 and 282 accidents respectively. Luapula had 58 accidents reported and Western had 117 accidents and recorded 11 deaths as the lowest figure.

From the three tables above, it was clear that the trend was the same, showing Lusaka and Copperbelt provinces as the leading ones. Luapula was always the lowest, followed by Western province. The reason is that of low traffic in these two provinces compared to others. It was also clear that, in certain instances, there were more deaths recorded in rural areas than urban areas. For example, during the third quarter, Central province had 41 deaths in rural and 15 deaths in urban areas.⁶¹ This was also true for Southern, Eastern and Northern provinces. When asked why such a situation, Mr Siandenge, who is the Service Traffic Officer at Force Headquarters attributed this to over speeding coupled with open distance. He indicated that, this would result into more deaths in a single incidence.⁶² It was also clear from the three tables that there was an increase in the total number of accidents reported from quarter to quarter. For example, in the first quarter, there were 5,410 accidents, in the second quarter, 5,512 accidents and in the third quarter, 5,607 accidents were reported. There would be a possibility of an increase even in the fourth quarter which was not yet ready at the time of the research. This would be true especially with the coming festive season when youths abuse alcohol and drugs.

⁶⁰ Table 4 Zambia Police, Traffic Department

⁶¹ Ibid.

⁶² Supra note 53, on 23/11/09

The escalating figures of road traffic accidents as seen in the tables above, must act as a wake up call for the law enforcers to step up the necessary measures to curb traffic accidents.

3.2 SOCIO – ECONOMIC EFFECTS OF THE ROAD TRAFFIC ACCIDENTS.

Whenever an accident happens, there are some losses that are encountered. If the accident is fatal and results into the loss of life, there are always social and economic effects. In terms of family relation, whenever a person dies, there is always loss of life. This means that family ties and relations are broken down. Sometimes, it is the dependable member of the family who passes on. This may change the life style of the family socially and economically.

Sometimes, in those families where the bread winner dies, children may end up in the Streets in order for them to find something to eat. This is because there is no one to fend for the family. Some of the street kids talked to in the streets of Lusaka said they were there because there was no one to buy food for them. However, the writer is not suggesting that all the street kids are there because of road traffic accidents.

In terms of economic impact, it is looked at from the financial point of view. It is true that, if a vehicle is involved in a road accident and not insured, the owner of the vehicle has to look for the money to repair the vehicle. This becomes an inconvenience on the part of the owner or the victims of the accident. At the police station the victim of the accident has to pay some amount of money for the vehicle to be removed from the police station. If he or she has no money, the vehicle will remain at the police station. After payments have been made for non – insured vehicle, the owner of the vehicle will have to meet the repairs of the vehicle. Each owner of the vehicle has to pay K 500,000 as a penalty fee for driving a motor vehicle which is not insured, in controversial of the law. The police officers encourage parties to settle the matter between

themselves. This means that there was an economic impact. Parties have to adjust certain things in order for the vehicles to be on the road again. It has been very clear from the above that road traffic accidents really milk out the owners of the vehicle. There are also times when the vehicle is damaged beyond repair. If this is the situation of the road accidents visa Vis the economic loss, it is necessary to educate motorists to insure their vehicles so that the insurance company can compensate the victim/owner.

In terms of the nation as a whole, there are times when the victims of accidents are those who are in employment and contribute to the economy through pay as you earn. This revenue is lost by the government when a person in employment dies. Furthermore, children under the age of 16 years are sometimes victims of road traffic accidents. The nation stands high chances of loosing future contributors to the nation economy. For example, according to Police sources, in 2008, 63 children died in traffic accidents in the second quarter only (1st April to 30th June 2008)⁶³. This figure is too high for just one quarter considering that, these children were not sick.

3.3 THE PROCEDURES FOLLOWED IN EXECUTING ROAD TRAFFIC ACCIDENTS OFFENCE.

Every time there is a road traffic accident, certain procedures must be followed. Once there is a road accident, traffic officers go to the accident scene. They write a statement of what happened as given by the victims. After writing, the statement must be read to the victim who confirms the report of what or how the accident happened. If a report is confirmed, it is signed by the victim. After that, the victims have to submit the documents of their cars or vehicles to the police officer. These include the white book, insurance book and driver's licence. This can

⁶³ Police quarterly statistic for 2008.

be either at the accidents scene or at the police station. In an interview with Sergeant Musonda at Longacres police post, he said, if the vehicle is insured, there will be need to repost to the insurance company within 24 days⁶⁴. This period does not include the week ends. This period only applies to the insured vehicles. In another interview with the owner of the vehicle who was once a victim of road traffic, said when at the insurance company, you are give a claim form to complete⁶⁵. What he/she will get depends on the type of insurance subscribed to. For those with comprehensive insurance, the 10% contribution will come from the client. For the third party, the insurance company will compensate the injured and others, the owners of vehicles will know what to do themselves. The third party insurance was put to test in the case of Regina V Chunga⁶⁶, where the accused was convicted by the magistrate court for driving without a valid license. In this case, there was a requirement or clause in the insurance contract that the insurance company would not be responsible when the vehicle was driven by a person other than the one who, interlay held a driving licence. On appeal, it was held that a certificate of insurance is merely evidence that there is a policy in existence and its terms in no way affect the limitations imposes in the policy, which remains the only document creating any liability on the insurance, conviction upheld. From the above case, it is clear that, third party insurance is not that beneficial to the owner of the vehicle. When it is comprehensive insurance, the victim writes a report of the happening at the accident scene, gets quotations for repairs. This cost of repair will determine whether the vehicle can be repaired or to right it off⁶⁷. One gets three quotations together with the claim form. The victim is given an opportunity or written option on what he / she wants to do with the vehicle.

⁶⁴ An interview: with Sergeant Musonda, traffic officer, at Longacres, Police Post

⁶⁵ . Interview: Mr. Madyenkuku. Teacher at Munali Boys on 12th November, 2009, Lusaka

⁶⁶ (1962) ALR P 247

⁶⁷ Interview: with Mr. v. Jalabani. Claims Officer ,at Professional Insurance Head Office on 25/11/09 ,Lusaka

When it comes to the duration of getting the compensation, there are variations. According to Mr. Madyenkuku ⁶⁸ who was a victim of an accident, it took him four weeks to get the compensation. Since the insurance companies are many, there is a tendency for them to be efficient and lessen competition.

Each policy contract is for a specific vehicle. This means that, once the victim has been compensated, he/she has to enter into another contract⁶⁹. This becomes a new contract altogether. From what has been discussed above, it is clear that the procedure is involving. From the two types of insurance, it is also clear that comprehensive insurance is better than third party insurance.

CONCLUSION

From the above discussion, it has been clear that the statistics of road traffic accidents are on the increase. However, we can not ignore the fact that there are variations. But generally, the figures are on the increase. It has also been brought to right that the traffic accidents have either social and economic effects or impacts. Socially, in the sense that the family ties are broken or affected due to the death of beloved ones. They (accidents) also have economic effects. More money is required to run the funeral. If the one who has died is the bread winner, there tends to be financial instability which forces young ones find themselves in all sorts of vices. The young boys become street kids. This is true, especially in urban areas. It has also been clear that, there is a procedure that is followed in order to obtain compensation from the insurance company. The bottom line is that there is need for policy insurance and

⁶⁸ Interview: with Mr. Madyenkuku

⁶⁹ Ibid

the policy has to be a comprehensive one in order to cater for all aspects of the vehicle. The duration for which the victim can be compensated varies. However, since the number of insurance companies is on the increase, there is stiff competition. This competition is forcing the insurance companies to be more effective and efficient in their compensation. As seen above, it took only (4) four weeks for the victim to be compensated.

CHAPTER FOUR

MOTOR VEHICLE INSURANCE, SAFETY VEHICLE REQUIREMENTS, AND RIGHTS AND OBLIGATIONS OF PASSENGERS

4.0 INTRODUCTION.

In this part of the paper, the writer will endeavour to outline the requirements needed in the insurance of motor vehicles and the position of the law concerning motor vehicle insurance. There will also be a further consideration of the safety requirements for motor vehicles. Finally, there will be the consideration of the rights that passengers have who use public transport and then a conclusion will be given.

4.1 MOTOR VEHICLE INSURANCE

Insurance is a contract between the insurance company and the insured, where the company agrees to bear the risk of the insured by paying some money known as premiums. According to Mumba Malila, an Insurance contract may broadly be defined as an agreement in which a person called the insurer agrees for consideration called the premium to pay a sum or to provide services for the benefit of another person called the insured or the assured on the occurrence of a specified event whose happening is uncertain.⁷⁰

The insurer comes into the shoes of the insured and alleviates the suffering. For an insurance contract to come into force there is the need to pay a premium by the

⁷⁰ Commercial Law in Zambia: cases and materials, Lusaka, UNZA Press (2006) P449

insured and then a policy is issued. Premium is defined as consideration for the insurance policy to be issued. In the case of Lewis V Norwich Union Fire Insurance Company,⁷¹ a premium was defined as the consideration required of the assured in return for which the insurer undertakes his obligation under the contract of insurance. Without the payment of the premium, there will be no insurance contract. This is because it is the price for which the policy is bought. "Maybe, the question to be asked is, when is this premium paid"? Premium is paid at the conclusion of the contract of insurance. This is the time when the terms and conditions of the insurance contract are agreed upon between the insurer and the insured. Therefore, it has been observed that prepayment of the premium is not in law, a condition precedent to the making of a complete contract of Insurance.⁷² Premium must be paid at the time stipulated in the contract of insurance and if no time is stipulated then, premium must be paid within a reasonable time. The Zambian Insurance Act in section 76 (1)⁷³ provided that; "A contract of general insurance shall cease to operate if premium is not paid within sixty days after the due date of the premium, or within such period as the contract may stipulate." This period is known as the days of grace. Days of grace refer to an extra period of time to pay premium allowed to the insured by the contract.⁷⁴

After having looked at the general information on Insurance, let us now look at the motor vehicle insurance. There are two types of insurance that the owner of a motor

⁷¹ (1916) Act 519

⁷² Malila, Commercial Law p530

⁷³ Insurance Act of Zambia Cap 392 of the Laws of Zambia

⁷⁴ Malila at 531

vehicle can go for, namely third party and comprehensive Insurance covers or policies.

THIRD PARTY INSURANCE

Under the Zambian Law, Insurance is a mandatory requirement for all motor vehicles plying public roads in Zambia. The Roads and Road Traffic Act number 11 of 2002 makes compulsory third party insurance for motor vehicles plying public roads in Zambia.⁷⁵ Section 86(1)⁷⁶ provides that, “No person shall use or cause or permit any person to use a motor vehicle or trailer on a road unless there is in force in relation to the use of such vehicle or trailer by that person or that other person, as the case may be such a policy of insurance or such a security in respect of third party risks as complies with the requirements of this part. The Zambian government made third party insurance compulsory in recognition of the benefits and advantages it gives to both the policy holders and the third party claimants.⁷⁷For example, section 90 (1)⁷⁸ provides that “..... shall be entitled in that persons own name to recover directly from the insurer any amount not exceeding the amount covered by the policy, for which the person insured is liable to the person having the claim.” This is vital in the sense that any motor vehicles plying the public road are subject to cause death or injury to property in unpredictable road traffic accident. The law provides a penalty or a sentence to any person who does not comply with the provision of section 86(1). The Act provides a penalty, upon conviction, in the case of a first offence to a fine not

⁷⁵ <http://Pia.org.Zm/web>. on 26/11/09

⁷⁶ Road Traffic Act

⁷⁷ Pia. org.zm web

⁷⁸ Traffic Act of 2002

exceeding three thousand penalty units or to imprisonment for a period not succeeding twelve months.⁷⁹ However, the Act does not specify how much the compensation shall be in case of an accident. The Road Traffic Act merely sets out standards that the insurance company intending to issue motor third party liability policies must meet. This is an indication that the Act does not fix or put a limit on how much the compensation must be, apart from just giving a general guideline. The Roads and Road Traffic Act prescribes requirements in respect of policies of Insurance that every policy of the motor insurance must cover. Section 88 provides that;

(1) In order to comply with the requirements of this part, a policy of Insurance must be a policy which

(a) Is issued by an Insurance company registered by the Registrar for the purpose of this part.⁸⁰ This points to the fact that the Insurance company must be registered with the Registrar of Societies for it to be in this business. Therefore, any Insurance company not registered, will have its dealings declared null and void.

Under Section 88 (1) (b), there is the outline of what an Insurance company may pay in case of any death or bodily injury caused by the use of the motor vehicle or trailer on the road to an amount of at least -

(a) One hundred and sixty six thousand seven hundred fee units in respect of death or any one injured and⁸¹

(b) Three hundred and thirty three thousand three hundred and sixty fee units in respect of any one accident or series of accidents due to or arising out of the

⁷⁹ Ibid, Section 86 (2)

⁸⁰ Ibid

⁸¹ Ibid

occurrence of any event⁸². In order to understand the figures above and determine the adequacy or inadequacy of the provisions, it is important to know the current fee unit. The current fee unit is equivalent to K180, and the above statutory limits will therefore, translate as follows:

(a) the compulsory third party policy, the insurer must pay up to K30,006,000 in regard to death or injury of any person and

(b) In case of accumulation of liability, the insurer must pay up to K60, 003,000 for each event.⁸³ These provisions above, on one hand, show the benefits that must be enjoyed by the victim in case of any eventuality.

On the other hand, if the loss incurred by the third party exceeds the limit of the insurance cover the policy holder will be expected to pay the excess above what the insurer is liable for under the contract of insurance.⁸⁴ This becomes an extra burden on the Insured who is/ may not be in business like the Insurance Company.

COMPREHENSIVE INSURANCE

The other type of motor vehicle insurance is Comprehensive Insurance. Under this type of Insurance, the insurer will bear all the loss/risks incurred by the Insured. The Insured does not pay anything towards the loss, apart from the premiums that are paid. Since the contract covers all the losses, the premiums are high. If one wishes to insure one's car for most eventualities, one takes comprehensive motor insurance. This helps in the event of damaging a vehicle belonging to another party, or to property, or injury to a person. Above all, with comprehensive insurance, damage to

⁸² Ibid

⁸³ <http://Pia.org.zm/web>. on 26/11/09

⁸⁴ Ibid

one's own vehicle is covered, even if the incident is associated with one's fault.⁸⁵ In short, the burden is transferred to the insurance company.

This was also confirmed by Insurance companies which were interviewed. Three Insurance companies namely, Professional Insurance limited, Magnet Insurance Brokers limited and Diamond General Insurance limited, all indicated that comprehensive insurance is more beneficial of the two, because it has wider scope of coverage. Both the owner and/or the third parties are covered. The only similarities between third party and comprehensive insurances are the requirements or documents produced by the insured. The person insuring must be the rightful owner of the vehicle, must produce the white book and when the policy is sealed, and pay premiums. When it comes to premiums, as noticed above, comprehensive Insurance will attract high premiums since it has wider coverage. Though there are more benefits associated with comprehensive motor vehicle insurance, most of the motorists do not afford this type of Insurance. A survey was conducted in Lusaka among motor vehicle owners. Out of 20 people interviewed, only 5 had comprehensive insurance, and 8 had third party insurance and the other seven (7) had neither of the two. What is more interesting is that, for the motor vehicle owner to obtain road tax and fitness license, there is need for insurance. The biggest question is how motor vehicle owners get it? Among the seven (7), one was very frank and indicated that they use other means such as paying money to the person issuing such documents.

⁸⁵ <http://www.hintsandthings.co.uk/garage.on> 27/11/09

Splendor J's

Professional Services **Risk and Insurance Managers**

Plot 4471 Finsbury Street. P.O. Box 128 Lusaka Phone +260 211 678667

CERTIFICATE OF MOTOR INSURANCE

ROADS AND ROAD TRAFFIC ACT OF THE REPUBLIC OF ZAMBIA

Policy number :
Name of Policy Holder :
Postal Address :
Effective Date of Insurance :
Expiry Date of Insurance :
Type of Cover : **FULL THIRD PARTY**

THE VEHICLE

Vehicle Make : Model :
Registration Mark : Value (ZMK) :
Date of Manufacture : CC/Tonnage :
Engine Number : Chassis NO. :
Color of Vehicle :

We hereby certify that the policy to which this document relates is issued in accordance with the provisions of Part IX of the Roads and Road Traffic Act of the Republic of Zambia.

Special Endorsement(s):

1. **Driver's Clause** : As per Policy
2. **Third Party Liability** : Bodily Injury /Per person **ZMK45,000,000.00**
Bodily Injury/Per Event **ZMK 50,000,000.00**
Property Damage Aggregate **ZMK 25,000,000.00**
3. **Claims Third Party Recovery:** In the event of a collision, when the driver of the Third Party is at fault. – Refer to policy
4. **Co-operation Clause** Vehicle is found at fault the insured will take all reasonable Steps to bind the Third Party Vehicle's Driver, Owner and its Insurance Company to meet the cost of repairs and other Claims before repairs to the Insured's vehicle are authorized.
5. **Excess Clause** : As per attached endorsement

Date _____

Signed _____

At /Office: _____ For the Company

Note: - This Insurance ceases on the sale or change of ownership of the stated vehicle.

COVER RESTRICTED TO ZAMBIA

Plendor J's

Professional Services *Risk and Insurance Managers*

Plot 4471 Finsbury Street. P.O. Box 128 Lusaka Phone +260 211 678667

CERTIFICATE OF MOTOR INSURANCE

ROADS AND ROAD TRAFFIC ACT OF THE REPUBLIC OF ZAMBIA

Policy number :
 Name of Policy Holder :
 Postal Address :
 Effective Date of Insurance :
 Expiry Date of Insurance :
 Type of Cover : **COMPREHENSIVE**
 Sum Insured : **ZMK**

THE VEHICLE

Vehicle Make : Model :
 Registration Mark : Value (ZMK) :
 Date of Manufacture : CC/Tonnage :
 Engine Number : Chassis NO. :
 Color of Vehicle :

We hereby certify that the policy to which this document relates is issued in accordance with the provisions of Part IX of the Roads and Road Traffic Act of the Republic of Zambia.

Special Endorsement(s):

1. **Driver's Clause** : As per Policy
2. **Excess Clause** : As per attached endorsement
3. **Third Party Liability** : Bodily Injury /Per person **ZMK45,000,000.00**
 Bodily Injury/Per Event **ZMK 50,000,000.00**
 Property Damage Aggregate **ZMK 25,000,000.00**
4. **Claims Third Party Recovery:** In the event of a collision, when the driver of the Third Party is at fault. – Refer to policy
5. **Co-operation Clause** Vehicle is found at fault the insured will take all reasonable Steps to bind the Third Party Vehicle's Driver, Owner and its Insurance Company to meet the cost of repairs and other Claims before repairs to the Insured's vehicle are authorized.

 Signed _____

 /Office: _____ For the Company

Note: - This Insurance ceases on the sale or change of ownership of the stated vehicle.

COVER RESTRICTED TO ZAMBIA

CERTIFICATE OF MOTOR INSURANCE

Having looked at the types of insurance covers, here is a display of the documents used. Both forms show the details needed such as, names of owners, particulars of vehicles etc. There is also a provision showing the basis of the insurance cover from part IX of the Roads and Road traffic Act. This provides for the examination for certificate of fitness for certain classes of vehicles. This is to ensure that the value claimed is in line with the worthiness of the vehicle.

4.2 SAFETY REQUIREMENTS OF VEHICLES

The vehicles that ply the public roads must always be in a road worth condition. Section 122⁸⁶ provides that "No vehicle or trailer to which this part applies shall be used on any road unless there is in force in respect of such vehicle or trailer a valid certificate of fitness, issued by a vehicle examiner." This is in the bid to minimize traffic accidents due to none fitness or mechanical failure of vehicles. According to police reports second quarter, 187 road traffic accidents were caused by the mechanical failure of vehicles.⁸⁷ This is an indication that such vehicles were not in road worth condition. Under the late President Dr Mwanawasa`s regime, the Ministry of Transport in 2004, launched the road safety plan whose implementation will address the high rate of accidents in Zambia.⁸⁸ This will have the effect of saving lives and reduce the loss to the country and grief to the families.

The certificates of fitness are issued at RTC and cover a period of one year. The vehicle must be taken for physical inspection before the certificates is issued. But what

⁸⁶ Road Traffic Act

⁸⁷ 1st April to 30th June, 2009.

⁸⁸ <http://www.statehouse.gov.zm/index.on> 27/11/09

obtains on the ground is something else. An observation made at RTC is that people just present the documents of the vehicle and the certificate is issued. The only restriction is the issue of the insurance for the motor vehicle. After the issuance of certificates, law enforcers are not concerned with what happens to the condition of the vehicle. However, Mr. Handuwe, the Senior Traffic Investigations Officer at Lusaka Central Police Station, indicated that the police do snap checks and inspect vehicles.⁸⁹ Since these snap checks are not conducted on daily basis, are not more effective than the physical inspections conducted by the qualified examiners.

The other safety requirement for the vehicle is that, it must have very good and strong tyres. This requirement is necessary to try and avoid tyre bursts which in turn may lead to a road traffic accident. There is also the need for the vehicle to have all the necessary gadgets such as indicators, lights and the seat belts. As the saying goes "safety is not a game of chance." For example, a person in a seat belt is safer than one without, because, in case of an accident, it may prevent him or her from jumping through the wind screen or hitting on the steering. Furthermore, indicators are very vital for they assist to show the other road users that the vehicle in front of him is about to make a turn or breakdown. This helps the other road users coming behind to slow down and avoid hitting into the other vehicle. In line with indicators, there is need for excellent braking system. Brakes also work as a warning to the vehicle coming behind to slow down. If the vehicle has not brakes, it becomes difficult to control it in case of any emergency stopping

⁸⁹ Interview: with Mr. Handuwe. on 2nd October, 2009

4.3 RIGHTS AND OBLIGATIONS OF PASSENGERS USING PUBLIC TRANSPORT

Passengers on public transport have quite a number of rights and obligations. It is important to mention from the onset that there will be a consideration of both legal and equitable rights as recognized by certain organizations or bodies such as the Road transport and Safety Agency, which passengers enjoy while in transit. Some of them are discussed below.

One of them is the right to have a clean environment while on that particular bus. The bus must be clean inside before loading passengers. In the year 2006, there was an introduction of dust bins on buses in order to enhance hygiene standards on these vehicles. What was expected is that passengers would not be throwing dirty or residue of food anywhere, but instead, dispose off such in dust bins. The main aim was to ensure a clean environment on buses and on roads. However, according to a snap check which was done by the researcher found that some buses no longer have such bins. The main problem was attributed to the lack of enforcement by the police. This was confirmed by some conductors talked to at Millennium bus station.

Another right is in line with paying the correct the correct fare for the journey. This may be considered as an obligation. However, if considering long route buses, it can also be argued that, this is a right. According to section 120⁹⁰, "Any person authorized to receive fares from passengers in public service vehicle other than a hire car or taxi cab shall forthwith issue to each passenger or intending passengers who have paid

⁹⁰ Supra note 14

their fare a ticket showing the amount of such fare and other particulars as may be prescribed.” Section 120(4) provides that, “if any person who has a duty to repay a passenger fare under subsection (3) fails so to repay the fare that person commits an offence and a court may, on conviction, order that person to repay the fare, in addition to any other fine to which that person maybe liable and the amount of the fare shall be recovered as a fine, and imprisonment may be imposed in default of payment.” In an event that the vehicle does not start off within reasonable time, as provided under subsection (2), the passenger can recover the whole fare on demand. Since this is provided for by the law and that the passenger has the right to demand for a refund, it can be deemed to be right.

Passengers also enjoy the right not to be overloaded while on a journey on any public vehicle. Section 166 (1)⁹¹ provides that, “No person shall use or cause or permit to be used on a road any motor vehicle in which the number of occupants, including the driver, exceeds the seating capacity of such motor vehicle as determined in such manner and by such method as may be prescribed.” This means that the carrying capacity of the vehicle must not be exceeded. For example, the small buses are designed to carry only 16 passengers. If the number exceeds 16, the passengers have the right and power to report such a driver to the police, who thereafter take the necessary course of action. This is in line with section 166(3)⁹² which provides that “any person who contravenes the provisions of subsection (1) commits an offence.” However, the nature of the offence is not mentioned. The general observation that

⁹¹ Ibid

⁹² Ibid

was made is that nearly all the small buses have a welded chair on the middle joining the chairs on the other side of the passage. This chair is an addition, but still more, it does not give the conductor and the driver the right to overload in order to maximize on money.

The last right that must be enjoyed by the passengers is the right to be driven at normal speed which is prescribed by law. If the speed limit is 60 km/h, the driver has to adhere to that limit. If he exceeds the speed limit and drives in a manner that becomes dangerous to their safety contrary to section 155 of the act, they can write down the details of that bus and report that driver to the police.

Passengers also have obligations. The first obligation is that, passengers have to pay the correct fare for the journey. The passenger is entitled to pay what has been agreed upon by the Commuters Association. For example, from Town to Munali is K3300. This is what the passenger must pay. The conductor should not come up with his own fares. However, there are times when the passengers can negotiate with the conductor to pay what is lower than the prescribed fare.

The passenger must also be treated with respect. There are some conductors who are rude and disrespectful when talking to the passengers. This obligation is reciprocal, for conductors also deserve the same kind of respect. Passengers also have the obligation to be dropped at the designated places. For example, if one has paid to be

dropped at Chelstone Police Station, this person cannot be dropped at any other station.

CONCLUSION

From what has been discussed above, it has been clear that motor vehicle insurance is a requirement by the law. All vehicles plying public roads must be insured. This insurance can either be third party or comprehensive, depending on the ability of the insurance to pay premiums.

It has been clear that the safety requirements are necessary in order for the vehicle to be in road worthy condition. This in turn will make the vehicle safe to travel in and reduce road traffic accident occurrences.

Finally, it has been observed that passengers possess certain rights as they travel from one point to another using these public vehicles. They have the right not to be overloaded, not to pay more than the fare designated by law and the right to travel on a very clean bus.

CHAPTER FIVE.

WEAKNESSES OF THE LAW AND RECOMMENDATIONS.

5.0 INTRODUCTION

In this last chapter of my research paper, there will be an effort to examine some of the weaknesses of the Act in curbing traffic accidents. A general conclusion will be given as a way of wrapping up. After doing so, there will be some recommendations proposed which will help in mitigating the occurrence of traffic accidents.

WEAKNESSES OF THE ACT

The Road and Roads Traffic Act, though well prepared, has some weaknesses. One of the weaknesses is that, it is not clear in certain areas to as what is really meant to be said. There are times when the Act leaves things hanging without giving a clear cut situation, for example, the regulation for driving under the influence of alcohol or narcotic drug. Section 157, provides in part that "... is under the influence of intoxicating liquor or drug to such an extent as to be incapable of having proper control of such vehicle."⁹³ This provision is not clear. It is difficult to tell exactly what the Act is trying to stop. A clear understanding of this section provides that the driver of the vehicle is not prohibited from taking alcohol provided he/she is able to control the vehicle. People can not be stopped from drinking especially when they have nothing to do and are relaxing. However, in order to prevent people from drinking while driving, the law must simplify what is involved in convicting wrong doers. The requirement of

⁹³Supra note 14

the law for a medical practitioner examining the culprit provides a complication especially that breathers can indicate what level is considered for someone to be drunk as noted earlier in Mwale v the people. The plaintiff was acquitted because the person who examined him was not a medical practitioner according to the requirements of section 157 of the Act. There are also certain sections of the Act which do not mention the offence that one commits. For example, there is no mention of the offence a person commits in contrary to section 166(2) of the Act. So it becomes difficult for one to know what he is being charged of. This also becomes a weakness on the part of the Act.

The other weakness is in line with implementation of the Act. Law enforcers have contributed to the weakness of the Act, in that they may accept bribes in certain instances. Corruption may be the order of the day for some police officers. Some factors attributed to the weakness of the Act, including poor operator management, weak legislative driving course, increase in vehicular traffic and corruption among law enforcement agencies⁹⁴. Weak operator management involves owners of buses not putting in place strict measures that would their drivers comply with the provisions of the Act. On the other hand weak legislative driving course involves, having no structures in place to ensure that all driving schools are offering standard driving courses. In such instances, even if the Act has very good provisions, there effectiveness on curbing road traffic accidents won't be felt. Besides this there is also the issue of penalty slapped on offenders. In most cases, it is only the admission of guilty charges that was paid. For example, in the second quarter of 2008, admission of

⁹⁴Article by Kelvin kachingwe: <http://www.timees.co.zm>. on 12th February,2010

guilty charges amounted to K2, 379,169,500. There was no mention of any persons convicted and sent to prison. Offenders manage to pay the charge fees because they are not too high. So there is need to revise these and subject offenders to a fine

5.2 CONCLUSION

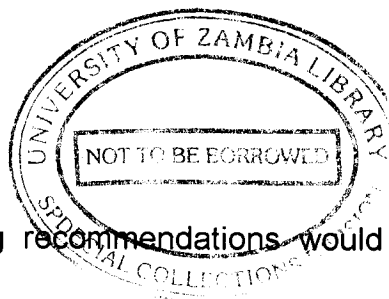
From the research, it has been clear that road traffic accidents are claiming more lives and that by the year 2020, road traffic accidents will rank number three from malaria and HIV/AIDS in claiming human life⁹⁵. It has also been clear that, there are a number of causes of road traffic accidents. These include over speeding, alcohol intake, mechanical defects of the motor vehicles, poor infrastructure and road signs and the negligence of drivers. Among these, over speeding has been outstanding and claiming about 4,543 people in the second quarter of the year 2008. Looking at the need to save lives there was a realisation to put in place some regulatory mechanisms by enacting the Motor vehicle Ordinance. This was aimed at preventing the vice of road traffic accident as observed by Botha, one of the members of the Legislative Council by then as noted from chapter one of this document. During the Colonial period, these regulations were successful because the number of vehicles on public roads was smaller compared to what is there today. The Motor Vehicle Ordinance was amended and became to be known as the Roads and Road Traffic Act Cap 766. Only a few amendments and revisions were done to motor vehicle ordinance. The Roads and Road Traffic Act has very attractive provisions which are aimed at regulating the use of public roads and minimise road traffic accidents. Having such good provisions only is not the answer to reduce traffic accidents. There is need for enforcement of the law.

⁹⁵ E. Djokotoe, Zambia: Road Carnage Statistics, 9th May, 2008

This was identified as one of the weaknesses where the implementation of the Act is concerned. With this in mind, it is hoped that the recommendations given below would help in reducing the road traffic accidents and save innocent lives which includes both the old and young who are the future leaders. It is hoped that the law enforcers will double their efforts in ensuring that the law is observed by the drivers using the public roads in our country.

5.3 RECOMMENDATIONS

In order to curb road traffic accidents, the following recommendations would be necessary:



- (i) The first recommendation is in line with road infrastructure. It is a well known fact that roads in Zambia are not adequate and more especially in urban areas. So there is need for the construction of ring roads to decongest the existing roads. There is also need for routine maintenance of the roads. This routine maintenance will help keep our roads in good condition.
- (ii) There is also need for routine inspections of PSV vehicles. This will help motorists to ensure that their vehicles are, always in road worth condition. Since there is tear and wear of vehicles everyday, these routine inspections would be necessary. At present, road fitness licences are only issued once a year and there is need to straighten the inspectorate and conduct regular inspections to ensure that the vehicles are always in road worthy conditions

- (iii) All drivers who are guilty of contravening the traffic regulations must start paying a fine on top of admission of guilty, which is higher than the latter. A fine is an amount of money paid as punishment, while admission of guilty is that amount of money paid in relation to the offence, as a way of agreeing having committed it⁹⁶. The available data only indicates the admission of guilty fees. This figure alone does not suggest as to what happens after paying admission of guilty. There is also need to revise the charges so that people will have sense of responsibility in fear of paying huge sums and imprisonment.
- (iv) There is also need to sensitise drivers of PSV vehicles through workshops. At these workshops, drivers must be taught the road safety measures for both drivers and passengers. The workshops must target drivers who carry passengers. Drivers must be taught the need to observe all traffic regulations while on the road in order to avoid unnecessary accidents caused merely out of drivers' negligence.
- (v) Since there is mushrooming number of driving schools some of which may not be registered, there is need to regulate these driving schools in order to ensure that they apply the necessary syllabus for PSV qualifications. However, during research it was very difficult to know the exact number of unregistered driving schools since they are found every where in compounds. Driving schools which do not strictly apply the syllabus must have their practice licenses revoked

⁹⁶ Supra note 1

- (vi) As already noted in the previous chapters, most of the road traffic accidents are caused by over speeding, there is need to implement the issue of speed limiters on all public service vehicles. This issue was suggested by the Road Transport and Safety Agency in the year 2007; however there has been no implementation of the same. Lack of implementation has been attributed to lack of funds to acquire the devices. Acquiring such devices would mean transferring the burden to operators and may bring resentment.⁹⁷ These speed limiters would have reduced over speeding and there by minimise road traffic accidents considerably, since the driver would not exceed the speed limit.
- (vii) The last but not the least recommendation is the need to revise the age at which a person can obtain a drivers' license. Driver's licences must only be given to people who are mature and understand the need for road safety for both themselves and the passengers they carry. This is a very crucial area that needs more efforts and seriousness. Earlier on, it was identified that the average age at which people are driving nowadays is getting lower and therefore I propose that the age at which a person can obtain a drivers licence should be increased from the statutory age of sixteen to nineteen. Unfortunately, at the time of the research, the information which was available at Police Force Headquarter did not indicate the number of accidents caused by teenagers. The design of the format is to show the total number of accidents according to Provinces per quarter.

⁹⁷ Supra note 53, on 24/03/10

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