

**THE UNITED REPUBLIC OF TANZANIA  
THE LAW REFORM COMMISSION OF TANZANIA**

**COMMISSION S  
REPORT ON THE ROAD  
TRAFFIC LAW**

**TO BE PRESENTED TO THE MINISTER FOR JUSTICE  
AND CONSTITUTIONAL AFFAIRS, DAR ES SALAAM,  
TANZANIA.**

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An Act to Amend Certain Written Laws .

# PREAMBLE

*“Every person has the right to live  
and to protection of life by the society  
in accordance with law” .*

**Article 14 of the Constitution of United Republic of Tanzania  
of 1977.**

## **THE COMMISSION**

In undertaking the task the Commission was constituted by the following;

### **THE COMMISSIONERS:**

Hon. Mr. Justice Anthony Bahati .....	Chairman
Hon. Pius Msekwa (MP) Speaker of the National Assembly of Tanzania.....	Part Time Commissioner.
Mr. Mohamed Ismail Advocate of the High Court ..	Part Time Commissioner
Hon. Dr. Asha-Rose Migiro (MP) Minister for Community Development Gender & Children .....	Part Time Commissioner.
Mr. M.M. Matt-Chikawe .....	Ag. Secretary to the Commission.

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**REPORT ON ROAD SAFETY**

In 1993 the Law Reform Commission of Tanzania on its own motion commenced a research on the law governing Road Safety. Due to financial problems, it remained dormant until its resuscitation in 1999. The Commission aimed at examining the following issues centred on the Law governing Road Safety:-

- (i) The causes of ever-continuing cases of accidents on the road.
- (ii) Whether the existing law on road traffic provides sufficient management and deterrence.
- (iii) Whether the Road Traffic Act and allied legislation are in tune with the ever changing demands of road use.
- (iv) What interventions are needed to improve the current legal and regulatory framework for road traffic management.

The Commission has completed the assignment through extensive research and Public hearing countrywide. By virtue of S. 14(1) of the Law Reform Commission of Tanzania Act 1980, The Commission has the honour to submit the report on the subject under reference.



.....  
Hon. Mr. Pius Msekwa  
(MP),  
The Speaker of the National  
Assembly, Part Time  
Commissioner



.....  
Hon. Mr. Justice Anthony Bahati  
Chairman



.....  
Mr. Mohamed Ismail  
Advocate of the High Court  
Part Time Commissioner



.....  
Hon. Dr. Asha Rose Migiro (MP)  
Minister for Community  
Development  
Women & Children,  
Part Time Commissioner

## **ACKNOWLEDGEMENT:**

The Commission wishes to express its sincere appreciation to various people within and outside the Commission i.e. Researchers, Scholars, Academicians, Traffic Police Department and the Judiciary to mention but a few for their co-operation and time devoted in this endeavour.

The Commission is particularly indebted to the Danish Government for its financial support to the project. The Commission would like once again to put on record its appreciation to Leaders at all levels as well as members of the Public in all regions in Tanzania mainland for their valuable comments and views which have actually enriched the Report.

In the final analysis however, the Commission bears full collective responsibility for both the form and content of this Report.

## **EXECUTIVE SUMMARY**

### **THE ROAD SAFETY**

#### **THE STUDY:**

In 1993, The Law Reform Commission on its own motion decided to undertake this study. By virtue of s.9 of the Law Reform Commission of Tanzania Act No. 11 of 1980, the Commission may undertake an examination of any matter without waiting for a reference on it by the Attorney General. The section reads:

- (1) The commission may subject to informing the Attorney General in that behalf, undertake the examination of any matter without waiting for a reference on it by the Attorney General

This Report contains views and ideas of various stake holders gathered in workshops and seminars on this important topic of Road Safety.

#### **TERMS OF REFERENCE:**

They require the Commission to examine the subject and come up with legal, management and social reform recommendations as stated hereunder;

- (a) The consideration and examination of various causes of road accidents.
- (b) Examination of traffic cases and adequacy of sentences as provided for under the Law i.e. Road Traffic Act.
- (c) Consideration and examination of the law governing the system of compensation to victims of accidents.
- (d) Any other matter relevant to the project.

#### **PUBLIC HEARINGS:**

The Commission visited 10 regions of Tanzania mainland and conducted public hearings in almost every district on the subject. The respective views obtained there from have been made use of in this Report.

#### **CONSULTATIONS:**

The Commission, while carrying out research on the project, consulted the following among others; officials from the Ministry of Works, Traffic Police Department, Judiciary, BICO, TANROADs and the Faculty of Law, University of Dar es Salaam. Various research reports from these groups were also consulted.

## **THE CONTENT OF THE REPORT:**

This is the first enquiry in Tanzania, which has considered in such depth legal issues relating to Road Safety. The continuing rate of human carnage in road accidents which sparked Public outcry to the government-aided its department urged the Law Reform Commission to research for a solution to the catastrophe with a view to create road traffic safety.

The report is divided into seven chapters beginning with an introduction which looks at the historical background of the problem of Road accidents. This chapter also touches on the policy (National Transport Policy) in relation to the problem. The policy objectives are to strengthen regulations, enforcement and public awareness for land and water transport, instilling good driving habits for road transport, reviewing punitive measures and establishing appropriate institutional arrangement for efficient road network management.

Further the policy envisages enhancement of road traffic management and safety, improving urban accessibility and mobility through efficient land use planning.

In chapter two the statement of the problem examines in detail the magnitude of the problem nationally and globally. The chapter points out how many deaths occur in a year statistically (e.g. 1.7 million people) and how many are maimed (10 million people) in a year as a result of the problem. The chapter points to the negative effects of the problem socially and economically to the entire society.

Chapter three is about the state of the law as it obtains in Tanzania. Basically these are the Road Traffic Act 1973, Import Control Ordinance Cap 292, The Transport Licensing Act 1973, Motor Vehicle Driving School (Licensing) Act 1965, Motor Vehicle Insurance Ordinance (Cap. 169), Highway Ordinance and the Explosives Ordinance.

Chapter four points out the various factors for accidents as being; the human factor i.e. accident caused by negligence of drivers and other road users, Mechanical factor which encompasses the accidents resulting from defective vehicles, the environmental factor which is about the accidents resulting from bad roads and the last factor is the road traffic management structure that focuses on the accidents emanating from the absence of Road Traffic signs.

Chapter five of the report examines in detail systems of compensation to victims of accidents, and the shortcomings thereof that lead to some of the victims going uncompensated.

Chapter six contains a comparative analysis between the Road Transport Law in Tanzania and those in other countries particularly the SADC region. The chapter examines in detail the shortcomings in the law governing Road safety and the Road Traffic management system in Tanzania.

Chapter seven provides for conclusions and recommendations of what should be done to cure shortcomings and get rid of the said problem. The recommendations are such that the law governing road safety should be amended, the management system should be adjusted and the public should be made aware of road safety programme so as to curb the situation of insecurity.

## ABBREVIATIONS

AIDS	-	Acquired Immuno Deficiency Syndrome.
BAC	-	Blood Alcohol Concentration.
BICO	-	Bureau for Industrial Co-operation.
CBD	-	Central Business District.
EAC	-	East African Community.
GN	-	Government Notice.
GNP	-	Gross National Product.
HIV	-	Human Immuno-deficiency Virus.
IGP	-	Inspector General of Police.
MoCT	-	Ministry of Communications and Transport.
NGO	-	Non-Governmental Organisation.
NIT	-	National Institute of Transport
NORAD	-	Norwegian Development Agency.
SATCC	-	Southern Africa Transport and Communication Commission.
TPDF	-	Tanzania Peoples' Defence Forces.
TRA	-	Tanzania Revenue Authority.
UK	-	United Kingdom.
WHO	-	World Health Organisation.
CAP	-	Chapter.
LRC(T)	-	Law Reform Commission of Tanzania.
SADC	-	Southern Africa Development Co-ordination.
PSV	-	Public Service Vehicle.
TANROADS	-	Tanzania Roads Agency.
TAZARA	-	Tanzania Zambia Railway Authority.
MoW	-	Ministry of Works.
TBS	-	Tanzania Bureau of Standards.
MAAP-5	-	Microcomputer Accident Analysis Package Software.

## **LIST OF LEGISLATION**

1. Criminal Procedure Act, No. 9/85.
2. GN. NO. 179 of 1966.
3. Imports Control Ordinance, Cap. 292.
4. Law Reform Commission of Tanzania Act No. 11/1980.
5. Law Reform (Fatal Accidents and Miscellaneous Provisions Ordinance) (Amendments), Act 1968.
6. The Law Reform Miscellaneous Penalties (Amendments) Act, 1991.
7. Motor Vehicle Insurance Ordinance, 1946 Cap. 169.
8. Road Traffic Act No. 30/73 as amended. Notably Acts Nos. 41/74, 12/79, 15/80, 25/80, 12/81, 22/82, 1/83, 10/87, 13/89, 4/90, 3/93, 16/9 and 16/96.
9. The English Road Traffic Act, 1988.
10. The New Zealand (Accident Compensation) Act, 1972.
11. The Road Traffic Ordinance Cap 168 - rule 36(6)
12. The Transport and Licensing Act, No. 1/1973.
13. Workmen s Compensation Ordinance (Amendment) Act, No 17 of 1983.
14. Workmen s Compensation Ordinance (Amendment) Cap. 263.
15. The Penal Code, Cap. 16.
16. The Explosives Act, 1963
17. The Highways Ordinance. Cap 167

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2. Bums v. Bridder [1967] Q. B. 227.
3. Alamanozone Kakooza v. R [1958] E. A 444.

4. Ali Mpalilo Kailu v. R [1980] TLR 170.
5. Amin Marunda v. R [1960] E.A. 281.
6. BSM LID v. Simms [1971] All ER 317.
7. Catherine RaId v. R Crim App. No. 77/1992 [Unreported] High Court of Tanzania at Mbeya.
8. Castellain v. Prest [1883] 11 QBD 380.
9. Chisolm v. London passenger Transport Board [1939] 1. KB 426.
10. Dilks v. Bowman Shaw [1991] RTR 4.
11. DPP v. Nyenye [1984] TLR 37.
12. DPP v. William Karuhawe; Criminal Appeal No. 38 f 1986 High Court of Tanzania at Tabora [unreported].
13. Eli Nsambila v. R [1969] HCD n. 63.
14. Gray v. Black More [1934] 1. KB 95, [1933] All E. R 520.
15. Hardly v. Motor Insurance Bureau [1964] 2 All E. R. 746.
16. Hughes v. Hall [1960] 2 ALL ER 504.
17. Hamam v. Singh [1950] 24 KIR 101.
18. Kantiaal v. Eagle Star Insurance Co. Ltd [1971] E. A. 461.
19. Ibrahim Amin v. R [1982] TLR. 188.
20. James Mushi v. G. J. Beers [1961] EA 390.
21. Jeremiah s/o Mhindi v. R [1968] HCD no. 273.
22. Joachim Gregory v. R [1975] LRT n. 44.
23. Johnson v. Youden [1950] 1. KB 544.
24. Jubilee Insurance Co. Ltd v. John Semtango [1965] EA 233.
25. Kalisto Makumbuli v. R Criminal Appeal No. 106 of 1980 Court of Appeal of Tanzania [Unreported]
26. Levine v. Morris [1970] WLR 71.
27. Lewes and Wren v. State [1952] 251 S. W. 2d 490.
28. Masumbuko Athuman v. R [1991] TLR 19.
29. Mc Crone v. Riding [1938] 1 All ER 157.
30. Morris v. Ford Motor Co. Ltd [1973] 1. QB 792.
31. Nassoro Mbwana v. Lalji Mawji and Another Civil Case No. 18 of 1974, High Court of Tanzania at Dar es Salaam [Unreported].
32. Nathanael Kabelege v. R Criminal Appeal No. 69/79 in the High Court of Tanzania at Tanga [unreported].
33. Joshua Aslen v. A. G. Mwanza, Civil Case No. 108 of 1976
34. [Resident Magistrate Court].
35. N. J. M. Mendoza v. R [1967] HCD no. 206.
36. New Great Insurance Co. of India Ltd v. Cross and another [1966] E. A. 90.
37. NICHOLAS v. Penny [1950] 2 All ER. 89.
38. People v. Martin (1931) 300p.108.
39. Ramadhani Ali v. R [1958] E. A. 344.
40. Rev. Christopher Mtikila v. The Editor, Business Times and Augustino
41. Lyatonga Mrema, [1993] TLR 60.
42. R. v. Albers s/o Mwendenuke [1969] HCD NO. 48.
43. R. v. E. D. U. Sawel [1969] HCD no.229.
44. R. v. Goskey [1971] W. L. R. 343.

45. R. v. Graig, The Times, May 25, 1993.
46. R. v. John Gideon and Simon Jeremiah [1957] E. A. 664.
47. R. v. Lawrence [1981] RTR 217.
48. R. v. Millar & Another [1970] 2 QB 54.
47. R. v. Nkana Ndaro [1977] LRT No. 12.
49. Rubie v. Faulkner [1940] All ER 285.
50. R. v. Samwel Shepua [1984] TLR 148.
51. R. v. Sibbles [1959] Crim. L R. 660.
52. Simpson v. Peat [1952] 2 QB 24.
53. The government of U. S. A. v. Jennings [1983] AC.624.
54. Walker v. Tolhurst [1978] RTR 217.
55. Whittal v. Kirby [1946] All ER. 552.
56. Wyatt v. Guildhall Insurance Co. Ltd [1937] 4 All E.R. 149.
57. Zarina A Sharif v. Noshir Shetha [1963] EA 239.
58. Zurich General Accident v. Morrison [1942] 2 KB 53.
59. Akbar Virji v. Emu Mwakangata [1969] RCD n. 288
60. Du Cros v. Lambrone [1907] 1 KB 40.
61. Sadraddin KM. Parani v. R [1977] LRT n. 58.
62. Broad v. Walland [1942] 731 KB 263.

