
A COMPARATIVE ANALYSIS OF TRAFFIC LAWS AND THE ROAD USERS IN NIGERIA AND UGANDA

**BY
BASHIR LEKE IJAIYA^{1*}**

INTRODUCTION

It is unequivocal to state that almost the entire Nigeria populace uses our roads. There are some who walk on the highways – the pedestrians, those who drive motor – vehicles – the motorists, those who ride motorcycles, bicycles and of course some animals such as donkey, camel and horses as predominantly practiced in the northern part of Nigeria. Each of these road users aforementioned qualified to use road subject of course to some traffic laws and regulations. It is important that, the laws and regulations in respect of road usage be known to all road users so as to allow for effective and efficient use of it. The inability, neglect and or refusal of the road users to comply with the laws and regulations of how to make use of our roads as well as lukewarm attitude and inefficiency on the part of the government and law enforcement agents to enforce the traffic laws have greatly caused a lot of havoc not only to human lives but also to some infrastructural facilities put in place by the government with about a million of Naira been lost year in year out by the government.

Therefore, it is desired of this paper to make reference to the Traffic Law of Kwara State, Nigeria, Cap 142, Laws of Kwara State of Nigeria, 1994, which is analogous to the laws of all other States of the Federation on the subject.

In the next section that follows, conceptual issues like motor vehicle, road users (drivers), road signs and symbols are discussed. Also discussed are what kind of motor-vehicle to be driven on the highway, the qualification of

^{1*} Holds LL.B, B.L, LL.M. Currently teaches Law in the Faculty of Law of the Islamic University in Uganda, Mbale, Uganda.

a person to driven such motor-vehicle, the road signs and symbols on the highway. Section three discusses the power and control of highways by the government of Nigeria. Section four discusses the court having jurisdiction and the problems associated with the enforcement of the law in Nigeria. Section five discusses the offences and penalties of traffic laws in Nigeria. Also section six will discuss the comparative analysis between this law under review and the Traffic and Road Safety Act of Uganda, Cap 361 Laws of Uganda 2000. The conclusion and recommendations are contained in the last section.

CONCEPTUAL ISSUES: MOTOR VEHICLE, ROAD USERS (DRIVERS), ROAD SIGNS AND SYMBOLS

a. Types and Kinds of Vehicle to be driven on the Highway

It is very pertinent to note that for all motor vehicle to qualify to be driven on the highway; such motor vehicle must be registered, licensed and marked in the manner prescribed by law. The position of the law is that, no person shall drive or, being the owner, shall permit any other person to drive a motor vehicle on a highway unless such vehicle and any trailer are registered and licensed under the law and affixed thereto an identification mark in the manner prescribed by regulations made under the law.¹ The Provision not only prevent an owner of a motor vehicle to use an unregistered, unlicensed and unmarked Vehicle but also prevent an owner of a motor vehicle to permit any other person to drive such a vehicle in the conditions aforementioned.

Not only that, the law also specifically provides that no motor vehicle or trailer shall be driven on a highway unless it is licensed under the applicable law.² Also, a motor – vehicle which produces smoke thereby polluting the highway infringes the regulation under the environmental regulations and thus no fit to ply our highways. However, it is disheartening to observe that these regulations are more in breach than their compliance in our society as most motor vehicles are driven on our highways without compliance with the aforementioned regulations.

1 Section 4 of the Road Traffic Law Cap 142, Laws of Kwara State of Nigeria 1994

2 Section 7 Ibid.

b. Qualifications of a Person to driven a Motor Vehicle

Be that as it may, the law has seriously frowned against non-compliance with the above regulations. It is the law that, no person shall qualify to drive a motor vehicle on a highway unless such person is licensed for the purpose under the law, and no person shall employ a person to drive a motor vehicle who is not so licensed.¹

However, the holder of a learner's permit issued under the regulations as contained under the Road Traffic Law may, when accompanied for the purpose of instruction by a licensed driver sitting beside him, drive for such period as may be prescribed and on such permit and the holder of such permit and such licensed driver shall be jointly and severally liable for any injury or damage caused by such driving or any offence under the law.²

It is also interesting to point out that having obtained a license qualifying a person to drive a motor vehicle on the highway; such license must correspond to the class or type of the vehicle driven. The law frowns against any person to drive a motor vehicle of any class or type other than that which he is licensed to drive or in respect of which he holds a learner's permit.³ Also, a person who uses a motor vehicle or trailer for a purpose other than for which it is licensed shall be guilty of an offense.⁴

Furthermore, the law has stated the kind and status of a person that actually qualifies to drive a motor vehicle or issue with a driving license. It is clear from the provision of the law that no license shall be granted to a person who is under eighteen years of age.⁵ The purport of this provision is to the effect that a person below the age of eighteen cannot be said to have attained the age of majority which of course makes him not to be criminally liable. It is in an attempt to avoid those who drive without license and / or drive dangerously resulting to causing injury to people to go unpunished that makes the law to set this age limit. It is believed that, a person of eighteen years or above the age must have grown up to be matured, responsible and reasonable in thinking to be cautious and careful while driving on the highway.

-
- 1 Section 10 Ibid
 - 2 Proviso to Section 10 Ibid
 - 3 Section 10 (2) Ibid.
 - 4 Section 36 ibid.
 - 5 Section 5 Ibid.

c. The Road Signs and Symbols on the Highway

It is very important for the motorists to know that, there are some signs and symbols as well as some designated places on the highways, which must be observed while driving motor vehicle. There is a parking place where vehicle or vehicles of any particular class or description may wait. There are also many traffic signs which include signals, warning signposts, direction posts, signs or other devices for the guidance or direction of persons using highways. This must be known to every motorist and all other road users so as to avoid incessant accidents on our highway. Regrettably, the high level of illiteracy in Nigeria has greatly contributed to the accident so recorded on the highways year in year out. Most of the motorists and other road users cannot properly read and understand the traffic signs and symbols accurately and understandably, thereby jeopardizing millions lives of the citizenry.

THE POWER AND CONTROL OF HIGHWAYS BY THE GOVERNMENT

In an effort and attempt to sanitize, manage and control the management of the highways, the law has vested power in the local government council under which watchful eyes are the highways to effectively and efficiently manage.

The local authority may by order which may be either general or in respect of specified occasions provide inter alia for: ¹

- the specification of the routes to be followed by vehicles, animals and pedestrians;
- the line to be kept by persons driving or in charge of or riding any vehicle or animal on any highway;
- the prohibition or restriction of the use of any specified class or description;
- the prohibition of the driving or propelling of vehicles on any specified highway
- otherwise than in a specified direction;
- the specification of parking places, and the days and hours during which

¹ Section 14 Ibid.

and the maximum period for which they may be used and fees, if any, to be imposed;

- waiting vehicles to use different sides of the highway on different days or at different hours;
- the prohibition of the sounding of horns or other similar appliances either in general or during specified hours or in respect of specified areas.
- The prohibition of the operation of stage carriages and hackney carriages within the township save under the conditions of a permit issued by the local government.

This is however subject to the provision of the Constitution on the fundamental right of movement which cannot be override by any law whatsoever.

It has been keenly observed that on the highways are usually some traffic signs like “no parking sign” which invariably are put without the permission of the local government council. The law frowns against the placing of such traffic sign on or near highway except and until the permission of the local government is sought and obtained.¹ The local government council is empowered by the law to by notice in writing require the owner or occupier of any land on which there is any traffic sign or any object which so closely resembles a traffic to be such that it might reasonably be taken to be such a sign to remove it, and if any person fails to comply with such notice, the council may effect the removal and may as well recover monetary damages incurred in so doing.²

It has also been noticed to be a common practice in our society that an individual or group of people in the guise of doing ceremony do block or close the highway. This is highly prohibited by law. The only authority that can religiously, legally and lawfully do that is the local government council when it appears to it to so do temporarily except that such road may be opened to any person who applied in case of emergency.³

1 Section 15 (3) Ibid.

2 Section 15 (4)

3 Section 16 (1) Ibid.

THE COURT HAVING JURISDICTION AND PROBLEMS OF ENFORCEMENT OF TRAFFIC LAW CASES IN NIGERIA.

Be it noted that, the Court that is vested with jurisdiction with regards to traffic offences in Nigeria is the Magistrate Court of each State of the Federation within which the offences are committed. Thus, where a traffic offence is committed in Lagos State, Nigeria, It is the Magistrate Court of the State that would assume jurisdiction and where it is committed in Calabar, Cross-River State, Nigeria, It is the Magistrate Court of the Cross-River State that assumes jurisdiction. The implication of this position is that each State of the Federation in Nigeria has it own Traffic Law and it is pertinent to note that, the provisions of the various Traffic Laws are analogous with differences only in the arrangement of Sections.

Given the above situation, all road traffic accident cases are heard and determined by the Magistrate Court as the Court of first instance with a right of appeal lying to the High Court of the State where the offence is committed. However, it is of very significant to point out here that most of the cases are heard and determined in the Magistrate Court without necessarily going to the appellate division of the High Court. Not only that most accused persons arraigned before the Magistrate Court for traffic offences do plead guilty to the Charge having been seized of the maximum sentence stipulated for the offence which is six months imprisonment or a fine of N2000 especially when it is an offence not involving life. It is for this reason that most of the traffic case laws in Nigeria are not reported in our law reports, hence recourse shall be made to some cases on the subject that have come before the Magistrate Court.

In the case of Commissioner of Police .V. Isaac Timothy¹ the Accused was arraigned on the First Information Report (FIR) at the Chief Magistrate Court Offa, Kwara State for dangerous driving and over speed contrary to Section 21 of the Road Traffic Law of Kwara State Cap 142, Laws of Kwara State of Nigeria 1994. The Accused pleaded not guilty to the Charge and was admitted to bail by the Chief Magistrate. On the day fixed for the hearing of the case, the Prosecutor (a Policeman) informed the Court of his readiness to proceed with his case and the counsel to the Accused also agreed to proceed.

1 2003 MCO//CR

The Prosecution called 4 witnesses including an Investigating Police Officer (IPO) who actually investigated the matter by visiting the scene of the offence with the Vehicle Investigating Officer (VIO). The Prosecutor succeeded in calling all his witnesses and all were cross-examined by the Counsel to the Accused person. The case could not advance than this stage because Counsel to the Accused person under cross examination demanded for the Exhibits (the sketch map showing the scene of the accident and the statement of the Accused person made at the police Station before the Accused was arraigned before the Magistrate) which ought to be tendered through the IPO and which the Prosecutor had neglected to tender as evidence in the case. At this juncture, Counsel to the Accused sought the leave of the Court to address the Court on the no case submission which was granted by the Court. Addressing the Court, Counsel to the Accused submitted that, this case been a criminal case required the Prosecution to prove the guilt of the Accused beyond reasonable doubt, this having not been successfully done by the Prosecution; the Court should discharge and acquit the Accused. He further submitted that failure by the Prosecution to tender the Exhibits is fatal to the Prosecution's case and also an infringement of Section 149 (d) of the Evidence Act Cap 112 Laws of the Federation of Nigeria which is the effect of withholding evidence. He finally submitted that since the Prosecution has failed to tender the Exhibits, the presumption to be drawn thereof is that doing so will not support his case. He therefore urge the Court to dismiss the Charge against the Accused and discharge and acquit the Accused. The Magistrate in his Ruling agreed with the Counsel to the Accused and held that the burden of proven the guilt of the Accused has not been fully proved as there remains doubt as to whether the accused actually committed the offence, the Prosecution having failed to tender the Exhibits which would have assisted the Court to come to a conclusion that, an offence was actually committed. The Accused was eventually discharge and acquitted by the Court.

In another case, Commissioner of Police. V. Adisa Sunmonu & Adedimeji Adebowale¹ the Accused Persons, a driver and the owner of the vehicle were jointly and severally arraigned on First Information Report (FIR) before the Chief Magistrate Court, Offa for the offence of damages to the installations on the highway contrary to Section 18 A of the Road Traffic

¹ 2005 MCO/CR.

Law Cap 142, Laws of the Kwara State of Nigeria, 1994, which extends liability to the owner of the vehicle used in committing the offence. The first Accused upon the reading and explanation of the Charge to him and the second Accused Persons separately pleaded guilty to the commission of the offence while the second Accused pleaded not guilty on the ground that he was not the person who driven the vehicle thereby resulting to the damage of the electrical installations on the highway. Immediately after the plea of the Accused has been taken, the Prosecutor applied to the Court for the first Accused to be tried summarily which the Court obliged. He was sentenced to three months imprisonment with an option of fine of One Thousand Naira. The Court thereafter adjourned the matter to allow the Prosecutor to open his case the next adjournment date. This was done after the second Accused has been admitted to bail. The Court also ordered that the vehicle in question be brought to the Court premises pending the final determination of the case. Interestingly, on the next day fixed for the hearing of the case the second Accused person opted to change his plea from non-guilty to guilty and on the application of the prosecution for the judgment to be entered against the Accused, the magistrate wasted no time in convicting and sentencing the accused to three months imprisonment without option of fine. In his *ratio decidendi*, the Magistrate stated that, he has decided not to give an option of fine so as to serve as deterrent to other vehicle owners that they owe members of the public duty to always caution their drivers to be careful while driving on the highway. Dissatisfied with the judgment of the Magistrate, the accused appealed to the appellate division of the High Court challenging the sentence imposed on him. The High Court upon careful perusal of the grounds of Appeal filed by the Accused reversed the decision of the Magistrate and imposes a sentence of fine of Three Thousand Naira. The High Court came to the conclusion that an Accused person should not sentimentally punished especially when he decides to change his plea as it is his constitutional right and that what the Accused has even done by changing his plea amounts to saving the precious time of the Court.

Against the backdrop of the above, it is pertinent to note that there are many impediments to the enforcement of the traffic Law in Nigeria. Some of these impediments could be traced to the attitudinal character of the both the law enforcement agents and the road users. The reason advanced earlier with

regards to illiteracy is so because in spite of the fact that government has put in place where an intending driver could learn how to drive, however, it is a notorious fact that many motorists in Nigeria do obtain driving license without necessarily undergoing the training at the driving school. This explains why most of the drivers in Nigeria today especially the illiterates who could not read or write and who ordinarily must have learnt all the nitty-gritty of the driving had they attended the driving school have contributed enormously to the traffic accident on the Nigeria highway.

Another factor that has been the bane of the traffic law in Nigeria is the corruption. There are agencies and authorities charged with responsibility of ensuring that road signs and symbols on the highway are complied with. There is Federal Road Safety Commission (FRSC), perhaps, because the Officers are overworked, but more likely because of ineptitude or corruption had rendered them ineffective with regards to ensuring the compliance with the rules and regulations on the highway. The issue of corruption is noticeable among the transporters who have formed themselves in to an association. Acting in connivance with the top ranking officers of the Commission had made silly of the law because of the deliberate ignoring to undergo the condition precedent before a license is issued to any prospective intending driver. Whenever a list is submitted to the license issuing authority by the leaders of the transport union, whether or not the applicants have passed the driving test, license will just be issued without subjecting the applicants to scrutiny.

Also, traffic offence in Nigeria is regarded as a grievous offence especially when life is involved and the police upon taken over the prosecution of the matter will need to send the case file to the Director of Public Prosecution (DPP) for Legal Advise. This Advise takes longer time before it is returned to the police and considering the provision of the Constitution with regards to the right to fair hearing to an Accused person within a reasonable time¹, some Magistrates are compelled to invoke the provision of the aforementioned Constitutional provision and discharge the Accused person pending the time the Prosecution will be ready to prosecute his case. Sometimes, the case never comes up again and an Accused Person is left to go unpunished because of the undoing of the authority vested with the responsibility to

¹ Section 36 (1) & (4) of the 1999 Constitution of the Federal Republic of Nigeria.

prosecute Accused Person especially in an offence involving life. Indeed there is the case of Commissioner of Police .V. Mashood Bamidele¹ a traffic offence involving the death of a person which case file has been sent to the Director of Public Prosecution (DPP) since year 2001 and which is still been expected up to this period. It is very certain that, at the end of the day the Accused will be set free because the case as taken more than reasonable time required by the Constitution.

Very akin to the above is the inexperienced of some of the Prosecutors who handle some of these road traffic offences. Some of the Accused Persons who ordinarily should not have gone unpunished are allowed to regain their freedom because of the inexperienced of the Prosecutor. A case that readily comes to mind is the case of Commissioner of Police .V. Isaac Timothy (supra) where the Accused was set free simply because of the inexperienced of the Prosecutor who had failed to tender the Exhibits which would have assisted the Court to nail the Accused. Most of the Prosecutors who handled criminal cases in Nigeria do not have the elementary knowledge of law that will assist them to prosecute criminal cases effectively.

The attitude of the family of the victim of the traffic offences is another bane to the efficient enforcement of the Traffic Law in Nigeria. Most victims' family does result to fate and never assist the police in the preparation of their case. Imagine where a member of the family is a star witness and the family has decided not to prosecute the case, ultimately, the police will be handicapped to diligently prosecute the Accused. In fact this particular attitude is very common in Nigeria and this has to do with the influence of religion on the populace.

There is also the attitude of some victims whose vehicles are just damage as result of dangerous and reckless driving of another driver. Imagine where a victim is wronged by another motorist and in an attempt by the police to investigate the matter and the victim opting for amicable settlement. That is, most victims will take the accident in good faith as an act of God. This attitude in many occasions has seriously halted the duty of the police to enforce the provisions of the Traffic Law. Where a policeman decides to proceed with the investigation of the matter and the principal witness who is also the

1 2001 MCO/ CR

victim has already opted for settlement, the police will be incapacitated to proceed with the case thereby resulting to the non- enforcement of the law.

It is not strange to see most motorists in Nigeria, apart from driving on the highway without a valid driving license or with no one at all, to also indulge in taking local liquor on the pretence that it cures back ache resulting from sitting on a long journey. It is regrettable that in spite of the efforts of the government to arrest the situation, the connivance of the leaders of the transport union with the law enforcement has not helped matters. Culprits, if arrested are not arraigned in Court but have their matters settled at the police station of course not without some gratification.

However, it needs to be borne in kind that not all cases Traffic law are subject to be taken to Court. There are many traffic offences which when committed are to be decided administratively such as failure to fasten belt while driving. A culprit upon been found guilty of this offence by the Federal Road Safety Commission (FRSC) shall be requested to be pay a token sum of about Two Thousand Naira into the account of the Commission. This is effected by seizure of the original driving license of the person concerned if he is on the long journey with the hope that he is given back the driving license upon showing evidence of payment into the account of the Commission, and/or an impoundment of the vehicle and taken to the Commission's custody until he pays the penalty imposed. This has been seen to be in tandem with the provision of Section 165 of the Uganda Law with stipulates punishment of some offences without prosecution.

OFFENCES AND PENALTIES RELATING TO TRAFFIC LAWS

All said and done, it is settled law that any law, which fails to provide for sanctions against non-compliance by the defaulters, may only end up being a toothless law that cannot bite. Therefore, in order to make the traffic law efficient and effective, the law has provided for sanctions and liabilities against non-compliance for various offences likely to be committed on the highways.

The law has made it clear that some vehicles because of their status as to weight may not necessarily be permitted to drive on some routes especially on the bridge.¹ Where however, a vehicle contravenes this provision of the law, the law has provided for liabilities. Where any bridge is damaged by reason of any vehicle passing over it in contravention of the above provision or by reason of any vehicle when passing over the bridge coming into contact with any portion thereof other than the surface of the roadway, the owner of the vehicle and the person driving or propelling the same shall be jointly and severally liable to the government or the local government authority, as the case may be, for any damage done thereto.²

In addition, the liability of the owner and the driver also extends to the damages on highway. The law is to the effect that when any electrical installation shrub or structure provided on or near highway by the government or a local government is damaged by reason of any vehicle being driven or propelled coming into contact with any part of the installation, shrub or structure, the owner of the vehicle and the person driving or propelling the vehicle shall be jointly and severally liable to the government or the local government as the case may be, for such damage.³ The local government with the assistance of a police officer may seize or cause to be seized the vehicle involved in the part of the installation, shrub or structure, the owner of the vehicle and the person driving or propelling the vehicle shall be jointly and severally liable to the government or the local government as the case may be, for such damage.⁴ The local government with the with the assistance of a police officer may seize or cause to be seized the vehicle involved in the damage and remove it to any premises under the control of the police, government or local government.⁵ The vehicle seized and detained remained so unless and until the amount of the cost of making good the damaged is fully paid.⁶

It is also an offence for any person who defaces any public structure by spoiling or damaging the surface or appearance by writing, making marks or

1 Section 17 (1) of the Traffic Law Op Cit

2 Section 18 (1) Ibid

3 Section 18 A Ibid

4 Section 18 A Ibid

5 Section 18 A (2) Ibid

6 Section 18 A (7) Ibid

pasting materials which include placards and land bills on such a structure. The defaulter predominantly among whom are the pedestrians who walk on the highway found guilty of this offence shall be liable on conviction to imprisonment for a term which may extend to one month or to a fine of one hundred naira or to both such term of imprisonment and fine.¹ These offences, it is humbly submitted is usually common among the pedestrians who deface the highway thereby deforming the beauty of our highways. Pedestrians by this provision owe a duty of care not to deface our highways otherwise they may be sanctioned. Regrettably, this attitude has become so rampant that even the government is doing little or nothing to curb this act of defacing the highway.

It is to be further noted that failure, refusal and / or neglect to observe traffic directions is also an offence. When a motor vehicle driver neglects or refuses to stop the vehicle or to make it proceed or to keep to a particular line of traffic when directed so to do by the police officer in the execution of his duty; or fails to conform to the indication given by the road-sign, such a person shall be guilty of an offence.²

Furthermore, a driver who drives on a highway owes all other road users duty of care and attention. The penalty imposed by the law is conviction to imprisonment for six months or to fine of two hundred naira or to both such imprisonment and fine.³

Also punishable by the law is driving at a speed or in a manner which is dangerous. Any person who drives a motor vehicle on a highway at a speed or in a manner which is dangerous having regard to all the circumstances of the case shall be liable on conviction to imprisonment for two years or to a fine of four hundred naira or to both such imprisonment and fine.⁴

A driver who while driving on a highway causes death as a result of his dangerous driving shall also be liable under the law. A person who causes death of another person by the driving of a motor vehicle on a highway at a speed or in a manner which is dangerous having regard to all the

1 Section 18 B Ibid

2 Section 20 (a) & (b) Ibid

3 Section 21 Ibid

4 Section 22 Ibid

circumstances of the case shall be guilty of an offence and liable on conviction to imprisonment for eight years or to a fine of one thousand naira or to both such imprisonment and fine.¹ Not only that, the family of the Victim – the survivors can bring a civil action under the Fatal Motor Accident Act to claim monetary compensation for the loss of their own.² This required strictest proof of the position of the victim in the family, his financial status and what financial assistance and other roles the deceased played in the family during his life time.

In order to curb the incessant motor accident on our highway, the law does not also spare persons driving motor vehicle when under the influence of drink or a drug. To this end, any person who when driving or attempting to drive, or when in charge of, a motor vehicle on a highway is under the influence of drink or a drug to such an extent as to be incapable of having proper control of such vehicle, shall be liable on conviction to a fine of four hundred naira or to imprisonment for two years or to both such fine and imprisonment.³ A convict under this provision may also be disqualified for a period of twelve months from the date of the conviction of holding or obtaining a license.⁴

It is pertinent to note that of recent, the Federal Road Safety Commission acting on behalf of the Federal Government makes it mandatory and compulsory for all categories of motorist to tighten – up car belt wherever they are driving be it within the town/city or while on a journey. The penalty for failure to comply with this direction has been pegged to a fine of about one thousand five hundred naira. The purport of this directive it is submitted, is to minimize the rate of death been occasioned by the drivers in case of accident. Interestingly, the directive has been and is being overwhelmingly complied with and it is hoped that Government would ensure that other Traffic laws are also obeyed and complied with.

To bring the culprit and defaulters before the law, the law has vested a police officer with power to arrest without a warrant any person who commits an

1 Section 23 Ibid

2 Section 12, Fatal Accident Act, Laws of the Federation of Nigeria, 1990.

3 Section 24 (1) Ibid

4 Section 24(2) Ibid

offence under the above aforementioned offences.¹ It is also to be pointed here that, any person who forges or fraudulently defaces, alters, mutilates or adds anything to the license or identification mark; or exhibits or uses any license which has been forged, defaced, altered, mutilated, or added to as aforesaid; or leads or allows to be used by any other person any license or identification mark; or uses on one vehicle a license or identification mark pertaining to another vehicle; or uses a driving license belonging to another person or exhibits or uses any license upon which figures or particulars have become illegible or exhibits or uses any colorable limitation of shall be guilty of an offence.²

It is also an offence for a person to drive a motor vehicle without authorization of owner. Any person who drives a motor vehicle on any occasion when he is not expressly or impliedly authorized by the owner of such motor vehicle shall be liable on conviction

to a fine of one hundred naira or to imprisonment for six months or to both such fine and imprisonment.³

By and large, any person who commits or who is alleged to have committed any of the offences aforementioned must give his name and address or such other information whenever same are demanded otherwise refusal or given of a false name or address or false information shall attract punishment and liability.⁴ Any police officer may apprehend without warrant any person, who commits or whom he reasonably suspects of having committed any of the offences.⁵

Incidentally, the owner of commercial vehicle may be liable in certain cases of overloading and exceeding speed limit. In other words, the principle of vicarious liability is very material under this situation. Where a person is convicted of an offence in respect of the overloading of a commercial vehicle or trailer or of driving a commercial vehicle at a speed exceeding that provided by law, then in addition to the person driving the vehicle at the time of the commission of the offence, if such person be not the owner

1 Section 26 Ibid.

2 Section 27 Ibid.

3 Section 28 Ibid.

4 Section 30 Ibid.

5 Section 31 Ibid.

of the vehicle, the owner of such vehicle shall also be liable, and may be charged accordingly unless the owner can prove to the satisfaction of the court that no act or omission on his part was conducive of the offence; and no proceeding shall be commenced against such an owner except with the approval of a member of the police force of or above the rank of Assistant Superintendent.¹

Also, where a person is convicted of an offence relating to the condition of a commercial motor vehicle then in addition to the person convicted the owner, if such person is not the owner, shall also be guilty of the offence unless he can prove to the satisfaction of the court that he was not aware and could not by reasonable inquiry have been aware that the vehicle did not comply with the requirement of the law relating to condition of the vehicle. No proceedings can however be commenced without the approval of a member of the police force of or above the rank of Assistant Superintendent.²

In many cities where there are used to be traffic congestion on the highway, provisions of pedestrian bridge are put in place for the pedestrians to have easy access to the use of the highway. In some situations, monitoring groups are employed and engaged to ensure that pedestrians use the pedestrian bridge to avoid been knocked down by the moving vehicles on the busy highways.

A COMPARATIVE ANALYSIS OF THE TRAFFIC LAW IN NIGERIA AND UGANDA.

A cursory study and examination of the Traffic Laws in Nigeria and Uganda manifestly show a degree of similarities as well as some dissimilarities. Interestingly, both Countries share in common membership of Commonwealth and it is easy to notice the similarity in almost all the provisions regulating the Road and Traffic Laws. To this end, attempt shall be made here to make some comparisons between some of the provisions on the subject under the Nigerian Law under review and the Uganda Law particularly the Traffic and Road Safety Act, 1998, Laws of Uganda 2000.

1 Section 34 (a) & (b) Ibid

2 Section 35 (1) & (2) Ibid

It is pertinent to point out some of these areas of similarities in order to justify the above assertion of membership of the two Countries to Commonwealth of Nations. Reading side by side the provisions of Sections 4 of the Road traffic Law of Nigeria with Section 15 of the Traffic law Of Uganda show a magnitude of similarity with regards to the driving of a particular vehicle only after such vehicle has been duly registered and licensed. The provisions of these two Sections make it mandatory that no person shall drive a vehicle unless such has been duly licensed and registered.

It is also important to note of similarity between the provisions of the Proviso to Section 10 of the Road Traffic Law of Nigeria and Section 35 (3) of the Uganda Law with regards to vicarious liability of any person who allow or permit any person to rive the motor vehicle without that person having obtained valid license or permit. Also worthy of note is the provision of Section 36 of the Nigerian Law and Section 33 (3) of the Uganda Law with regards to the prohibition and the penalty of using the motor vehicle for the purpose for which it is not licensed. Both laws frown against the use of vehicle for the purpose for which it is not registered and licensed.

It is of equal significant to note that the application of the two Laws also overlap with regards to the issue of the court having jurisdiction. Whereas, as stated earlier, the court having jurisdiction on road traffic offences is the Magistrate Court, it is also the same in Uganda having regards to the provision of section 161 of the Law. However, it appears the Law expressly kept silent on to which court does appeal lies in case of either party not satisfied with the decision of the Magistrate.

On the issue of offences and penalties relating to the laws, it appears that the two Laws have adequately provided for the punitive measures for any breach of the offences only that, most of the penalties are not judiciously enforced in Nigeria. It is therefore safe to say that most of these provisions only exist in our statute book without adequate potent machinery to ensure their enforcement.

It is significant to point out one area of interest which is noticed to be silent upon under the Uganda law. In Nigeria, particularly Section 5 of the Road Traffic Law provides for the qualification an intending driver must possess

before he or she could be allowed to drive. The provision is to the effect that no person under the age of eighteen shall be granted license to drive because he is still a child who cannot be sued in case of an accident. On the other hand reading the provision of Section 12 (2) of the Uganda Law with regards to the application for registration of motor vehicles, the law is to the effect that any person whatever his age may be registered as the owner of a motor vehicle if he has legal capacity to own it. It seems the law was absolutely silent on outright prohibition of allowing an underage to qualify to have his or her motor vehicle registered. Because the moment his or she is allowed to registered his motor vehicle, he is by implication eligible to drive upon obtaining valid license. The position of the law with regards to the legal status of a child to sue and be sued will definitely be put in jeopardy especially whenever he wronged or he is wronged. Still on the issue of qualification, the provision of Section 56 with regards to automatic disqualification did not mention a child of under eighteen as one those that is disqualified. My submission here is that is there should be a clear provision prohibiting both the issuance of driving license to a child and driving on the highway.

It is interesting to observe that as elegant as the provision of Section 13© of the Uganda Law, its applicability in Nigeria is at the lesser degree despite the fact there is a similar provision for a vehicle to be certified whether or not the same was imported lawfully. However, one also appreciates the provision of Section 16 of the Uganda Law with regards to the production of the vehicle before license is issued. In Nigeria, with or without the production of the vehicle, license is issued and this is one of the areas of challenges been faced with respect to enforcement of the Traffic law in Nigeria. As noted earlier, a list may just be submitted and in no time at all, licensed will be issued and this has increase the numbers of non- qualified drivers on our highway.

The provision of Section 99 of the Uganda Law is also of equal importance especially when view with the happenings and events in Nigeria. The Section is to the effect that, no owner, driver or conductor, or person acting on behalf of the owner, driver or conductor of a public service vehicle authorized to carry passengers shall make noise or sound any instrument in order to attract the attention of the public or of a possible passengers. It is very

important to here that, the Nigerian law is silent on this kind of provision as making noise, and sounding instrument is an order of the day in Nigeria and it will be like making a camel to pass through the eye of a needle to enforce this provision in Nigeria.

CONCLUSION AND RECOMMENDATIONS

From the above discussions, it is clear that the law has copiously provided for how our highways can be legally, and carefully use so as to make good the maintenance of the same. Also, the law has provided for how to curb, minimize and arrest the incessant casualties been observed and recorded on our highways with sanctions attached to any of the highway traffic offences. On this note, the government is therefore commended to set-up adequate monitoring group to see that these provisions of Traffic Laws and Regulations are enforced to the latter. The Agencies vested with the responsibilities to overseeing the highways are also commended to stand to the challenges of ensuring absolute compliance by road users. These, it is believed will go a long way to reduce the high rate and incessant motor accidents on our highways. It is also commended that road users-motorist, pedestrians, and the likes,-should be enlightened and sensitized of the nitty-gritty of the highway regulations.

It is observed that, in Uganda, it appears that for an intending driver to be issued with a license, he or she must have been to the driving school where he learns the nitty-gritty of how to drive. It is recommended that Nigerians should also take a clue from this and stop obtaining driving license through illegal means. It is also hope that our law enforcement agents will assist greatly in this regards particularly with all other conditions precedent to the issuance of valid documents to lawfully operate on our highways.

On the other hand, it is also humbly suggested that the Uganda Law on the subject be expressly made to prohibit a child from being eligible to have a motor vehicle registered and even obtain a license in his own name as it is obtainable in Nigeria. This it is submitted will be in line with the principle of law on the legal capacity of a child to be bound by the law.

REFERENCES

Federal Republic of Nigeria "*Fatal Accident Act Laws of Northern Nigeria*" 1990

Kwara State of Nigeria "*The Road Traffic Law Cap 142 of the Kwara State Laws of Nigeria* 1994

The Government of Uganda "*The Traffic and Road Safety Act Cap 361 Laws of Uganda*, 2000.