



# Perspectives on Transformative Legislative and Policy Frameworks Promoting Tourism for poverty alleviation in South Africa

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## Abstract

There are many legislative and policy frameworks in South Africa that have been introduced specifically to promote tourism as a tool for poverty alleviation and socioeconomic growth and development. Part of the agenda is to make tourism enterprises accessible to all South Africans, especially the black South Africans who were previously denied opportunities to participate and thrive in the sector. The article highlights that there have been a plethora of these legislative and policy interventions for purposes of using tourism for inclusive socioeconomic growth and development. However, the extent to which they are being implemented has to be accelerated in order for these instruments to achieve the desired impacts and outcomes whereby poverty is drastically reduced through the creation of tourism enterprises. This would be ideal for the majority of the black South Africans particularly those who reside around the tourism attractions sites. It is against the backdrop of the potential of tourism to promote and accelerate socioeconomic transformation and alleviate poverty that this article examines legislative and policy frameworks that have been introduced to realise and deliver the needed results.

**Keywords:** Legislative and policy interventions, tourism, transformation, tourism enterprises, socioeconomic growth and development.

## Introduction

South Africa is well-known for its remarkable tourism attractions which are spread across the length and breadth of the geographical landscape of the country. On a yearly basis, tourists from all over the world visit South Africa in order to come and experience different tourism attraction sites in the country (Richards & Wilson, 2006). Before the advent of democracy in 1994, the apartheid government restricted black South Africans from participating actively in the various opportunities provided by tourism while white South Africans had unrestricted access to the tourism sector and its related businesses (Goudie et al., 1999). Post 1994 became a game changer because South Africa metamorphosed from apartheid rule to a democratic country where the black majority had the mantle of leadership which culminated in the country having the first democratic constitution, the Constitution of the Republic of South Africa, 1996. The Constitution which became the cornerstone of the new government, abhors inequality and segregation, and provides that everyone is equal before the law and have same rights. The new democratically elected government of South Africa drew inspiration from the Constitution and promulgated various legislations to entrench equal opportunity, abolish inequality and allow previously denied black South Africans the opportunity to participate in all aspects of life including employment and business opportunities presented by the burgeoning tourism sector. Against this backdrop, legislative and policy frameworks to make tourism more inclusive were promulgated for the purposes of inclusive tourism, to mitigate the lack



economic empowerment and development and poverty alleviation. This article examines these instruments by highlighting their purposes, aims and objectives. It assesses the extent to which these instruments have facilitated transformation in the tourism sector, and it also points out some of the setbacks as a result of implementation and showcases how these can be addressed.

## **Methodology**

This article utilised extensive literature, legislative and policy frameworks in South Africa that have been promulgated as interventions for tourism to achieve socioeconomic inclusiveness, tourism enterprises, black empowerment and economic growth and development. The article postulates that these interventions were put in place to serve as pathways for the previously denied black South Africans to participate in the various employment and business opportunities in the tourism sector thereby reducing black poverty and promoting inclusive posterity. The article analyses these instruments and assesses whether they are producing the desired outcomes of poverty alleviation, inclusiveness and sustainable economic growth and development.

## **The White Paper on Development and Promotion of Tourism in South Africa, May 1996**

The government identified tourism as an engine for socio-economic transformation promoting poverty alleviation, reducing unemployment and facilitating infrastructural development. Legislation and numerous policies have been formulated in this regard. The White Paper on tourism development is one historic legal framework policy adopted in 1996 for tourism development. According to the White Paper, in order to achieve socio-economic transformation, there's a need to implement a different type of tourism. The new type of tourism must have mechanisms capable of creating entrepreneurial opportunities for the previously neglected group, being environmentally friendly and boosting other sectors of the economy. The White Paper (1996) seeks to develop the tourism sector and enable the sector to improve the quality of life for South Africans and make tourism a leading sector within the national economic strategy, assisting the government in its efforts of reconstruction and development. In pursuit of achieving these objectives, the White Paper provides that policies must be directed to strategic sectors. This article discusses selected tourism legislative and policy interventions fostering the tourism development and socio-economic transformation of the people of South Africa.

Part V of the White Paper (1996) provides that safety and security require the government to take steps to provide tourists with information that will enhance their safety and security. In collaboration with the relevant organisation such as the South African Police Service (SAPS) initiate both long term and short term action and strategies to combat crimes and violence and tourists. To achieve this, the government should establish a security tourism sector employing people in the highly populated tourist destinations areas so as to provide safety and security, which will, in turn, be a source of employment for the people as many people will in all probability be employed as security guards.

The potential of tourism to create jobs can be realised by providing adequate education and training capable of transferring appropriate skills and experience essential for employment opportunities. Training to acquire skills tourism enabling the historically disadvantaged to effectively compete for employment and establish their own tourism related business must be made readily available and accessible to the historically disadvantaged and neglected groups in society in the form of affordability, location, costs, duration, and language of instruction. But it is important to point out that the previously disadvantaged earning less than a minimum wage could not afford to pay for such training, this notwithstanding, the government has now



announced free education for the poor. The institutions providing tourism education and training can open satellite institutions in the most remote rural areas of the country in order to implement the provisions of the White Paper on training, skilling and empowerment in the tourism sector. Pederson (n.d.) asserts that in providing tourism and training to the previously neglected, tourism must be integrated as a subject in the school curriculum and education system this will help reduce the need to import skilled workers but promote the employment of South Africa's own skilled workers (Zagonari, 2009).

According to the White Paper on Tourism (1996) the development of tourism requires financial injections for socio-economic transformation. The White Paper thus proposes three financing options for the tourism sector: Option 1 provides that funds must be provided to dedicated tourism windows and existing institutions that could champion lending as well as provide specific tourism technical support to potential entrepreneurs, existing institutions include: the Industrial Development Corporation, the Development Bank of Southern Africa, *Khula*, the Independent Development Trust, the Small Business Development Corporation, the *Kagiso* Trust, the provincial Development Corporations, commercial banks, community-based organisations and others. Alternatively, the government may opt for Option 2. Option 2 requires the government to consider the feasibility of establishing a dedicated tourism institution for financing tourism projects and facilitating the involvement of the previously neglected. The last option proposed being Option 3 provides that the government can combine both Option 1 and 2. Khathi (2001) provides insight on the advantages of financing tourism. According to Khathi (2001), the tourism industry requires the lowest ratios of investment to create jobs thus huge investments are not prerequisites to start a business in the tourism sector. Employment opportunities can be achieved in tourism products such as stage drama, selling crafts and fruits and so on (Khathi, 2001). In this way, jobs can be created per unit of capital investment and many tourism activities are within the reach of small-scale business (Khathi, 2001). The White Paper further provides that the South African government must utilise tourism as a magnet for attracting foreign investment. Foreign investment will help improve South African tourism industry, create employment and play a crucial role in facilitating economic growth. According to the White Paper (1996), the government must give priority to foreign investors who seek to invest in rural communities and less developed geographic areas. Typical example is Chinese companies and individuals have invested in small amounts in enterprises ranging from restaurants to acupuncture clinics.

Sustainable tourism development cannot subsist in a degraded environment; in this regard, the White Paper recognises the importance of environmental management in the tourism sector. Environmental legislation such as the National Environmental Management Act, 107 of 1998 must be enforced in such a way that will produce mandatory compliance with environmental management practices in ecologically sensitive areas such as coastal areas and wetlands, ensure that communities benefit from the economic activities generated in an around conservation areas. National Parks such as the Kruger National Parks can be used as agencies to protect and conserve nature and animals while at the same time promoting environmentally responsible and sustainable nature-based tourism (Eagles & McCool, 2002). The National Parks promoting tourism, simultaneously contribute towards the socio-economic development of the communities in which they are located, local people can be employed in different aspects of tourism endeavours such as feeders, cleaners, tour guides, animal veterans, sell crafts, perform traditional dances and so on.

Infrastructural development is one of the key areas identified to be contributing towards tourism development and socio-economic transformation in South Africa (Rogerson, 2006). The White Paper stipulates that the government must consider improving accessibility and infrastructure of rural areas to allow these areas to unleash their tourism potentials (Binns & Nel, 2002). The government can make access to rural areas accessible by constructing quality roads or improve already existing poor maintained roads with endless potholes (Ashley & Roe,



2002). The infrastructural development must not be one that seeks to modernize rural housing because the traditional infrastructure such as the colourful *kwandebebele* traditional huts which is the traditional housing and painting for the *Ndebele* tribe in Mpumalanga forms part of tourist attraction areas and income for the community.

Part of South Africa's unemployment rate is mostly comprised of youth unemployment. The White Paper recognizes that tourism can be used as an aid for youth development. Special agencies aimed at addressing backlogs in training, job creation and recreation must be put in place by the government to address youth unemployment. The White Paper also proposes that programs in the tourism industry such as summer jobs programmes aimed at exposing the youth at an early age to restaurant's, tour guides, trackers, hospitality ambassadors at airports and tourist attractions, this can be achieved by integrating summer jobs programmes into formal education in various High Schools and Institutions of higher learning and training because of their capability to provide career guidance in the tourism industry. In order to expose the youth to careers in tourism, the Department of Tourism acting through its Minister, must take initiative to take part oincareer exhibitions held annually for all South Africans Schools students and higher institutions of learning. This can be done during the open week of the University of Limpopo wherein the University hosts a variety of high school scholars from around the province and it informs them about their available career choices as offered by the institution. This would stimulate great interest in tourism as such.

### **Tourism Act, 3 of 2014**

The White paper is a policy that laid the foundation for the development of the Tourism Act 3 of 2014. The tourism Act 3 of 2014 is the new legislative framework for tourism, repealing the Tourism Act 72 from 1993. The objectives of the Act are set out in section 2 of the Act. Section 2(1)(e) which provides that the objective of the act is to enhance cooperation and coordination between all spheres of government in developing and managing tourism. The cooperation of spheres of government is important for tourism development; the lack of cooperation negates tourism development. In South Africa, this predicament has been exposed wherein the Department of Home Affairs failed to consult the Department of Tourism when it developed the Immigration Regulations Act, 13 of 2011 that negatively affected the tourism industry. Lack of cooperation and coordination frequently occurs with the Department of Mineral Resources, when issuing mining rights andpermits. Such rights are often given without proper consultation with the Department of Tourism or the Department of Environmental Affairs, and without the required environmental impact assessment plan in environmentally sensitive areas, cultural sites, historical sites, wetlands and so on, which is essential to tourism development.

Responsible tourism proposed by the White Paper (1996) is provisioned for in section 2(2) of the Tourism Act, 3 of 2014. The Tourism Act stipulates that responsible tourism is tourism that (a) seeks to avoid negative economic, environmental and social impacts. This provision of the Act is supported by section 2 of the National Environmental Management Act, 1998 provides that development must be social, environmentally and economically sustainable. Responsible tourism must generate economic benefits for local people, enhance the well-being of host communities and improve working conditions and access to the tourism sector. It is safe to conclude that tourism as an economic sector promotes values of environmental protection. Muhanna (2006) indicates that tourism is a positive incentive for the preservation of the natural areas. According to Muhanna (2006) tourism projects are beneficial to environmental conservation because some projects prohibit local communities from illegal land use and over use of the limited natural resources, furthermore tourism is less damaging to nature in comparison with other economic sectors such agriculture, mining and forestry. Socio-economic transformation can be achieved if the local people residing in host communities benefit from tourism, through job and investment opportunities that prioritize local people as key stakeholders.



Chapter 2 of the Tourism Act 3 of 2014 makes provision for the National Tourism Sector Strategy. Section 4(1) gives the minister the power to establish the NTSS. The established NTSS is required to have plans, guidelines, indicators, targets and foster cooperation with the provincial and local spheres of government relating to the promotion, development, and transformation of tourism.

### **National Tourism Sector Strategy (NTSS)**

South Africa published the NTSS in 2011 as a ten year strategy. The NTSS has undergone some reviews over the years. The final draft of the NTSS published on 5 May 2017 sets out measures and targets that seek to ensure that tourism is an impetus to the socio-economic transformation of South Africa. The NTSS seeks to increase the number of direct jobs supported by the sector from the 2015 baseline of 702 824 jobs to 1 million jobs by 2026. The report of the World Travel and Tourism Council (WTTC) indicates that tourism has contributed to employment including jobs indirectly supported by tourism was 1, 5 million jobs in 2016 accounting for 9.8% of the total employment. This is expected to increase to 1. 6 million a 6.7% increase in 2017 accounting for 10.2% of total employment. The statistics provided by the WTTC explicitly shows that tourism in as an impetus for socio-economic transformation in the Republic. The WTTC report projects that tourism seeks to provide 2, 5 million jobs in 2027 a 4.2% increase over the years and achieve 13.2% of total employment in South Africa.

To achieve socio-economic transformation, the NTSS established a set of five pillars. Pillar five is the essence in this study. Pillar five addresses Broad-Based Benefits. According to the NTSS, pillar five provides that in order to achieve socio-economic transformation, poor communities must be involved in the development and growth of the tourism industry. According to the NTSS transformation is essential to realize social stability, reduce inequality and poverty while at the same time promote inclusive growth. The enhancement of social inclusion in the transformation process of the tourism industry will ultimately help address the challenges of unemployment, poverty, and inequality.

The Constitution of the Republic of South Africa, 1996 guarantees everyone the right to have access to information in section 32(1). The Constitution then also requires that national legislation is enacted in order to give effect to this right, thus the Promotion of Access to Information Act, 2000 came into force in 2001. Section 14(1)(b) of the Act reads as follows:

Within six months after the commencement of this section or the coming into existence of a public body, the information officer of the public body concerned must compile in at least three official languages a manual containing sufficient detail to facilitate a request for access to a record of the body, a description of the subjects on which the body holds records and the categories of records held on each subject.

Records and information provided by the Department of Tourism as a public body is categorised in terms of the following broad categories: policies, strategies, delegations, government notices, legislation, press statements and speeches, departmental personnel, departmental financial records, branch-specific information as described in paragraph 4 inclusive of business plans and so on. The Tourism Act of 2004 upholds this Constitutional right by establishing a National Information and Monitoring System responsible for collecting, recording, managing, analysing, disseminating information and data on tourism and monitor developments and trends. This system will help to identify areas that need development and improve on those areas in order to achieve socio-economic transformation. According to Van den Berg (2016), information on tourism business given to the public contributes to the establishment of new tourism business by providing guidance to the public.. The opening of new tourism businesses will stimulate economic growth, reduce poverty, and create employment and infrastructure development for new tourism business.



The South African Tourism Board is retained in terms of Section 9 of the Act. The board is responsible for marketing South Africa as a desirable domestic and international tourism destination and market South African products and facilities internationally and domestically. The board helps to save resources by marketing South African as a whole. Pederson indicates that the fact that the provinces were responsible for marketing tourism of their provinces domestically and internationally, such competition contributed to the waste of valuable resources. This is particularly true because instead of providing a national budget for marketing tourism South Africa's tourism in each province would use its own finances to market tourism of the particular resources which are often wasted, in the sense that provinces such Limpopo who may not be well exposed in both domestic and international tourists, and would thus spend exorbitant amounts of money to try not to be over-shadowed by well exposed provinces in tourism such as Gauteng and the Western Cape. The South African Tourism Board ensures that a national budget safeguards that South Africa's tourism is marketed as a whole, thus all provinces receive a fair share of tourist that in turn provide impetus for socio-economic transformation to marginalised provinces of the country such Limpopo and Mpumalanga.

Global competitiveness and outstanding standards are essential in attracting tourists and investment achieving the objective of making South African tourism an impetus for socio-economic transformation. The Act authorizes the Minister of Tourism in terms of section 28 of the Tourism Act 3 of 2014 to implement a National Grading System for the purpose of maintaining or enhancing the standards and quality of tourism accommodation services, facilities, and products. The grading system is a system still the same as the one founded by the Tourism Act 72 of 1993 (Van den Berg, 2016) wherein accommodation establishments categorised in different classes according to their quality, variety, availability, and services rendered as stipulated by section 18(2) of the Tourism Act, 72 of 1993. Accommodation of high standard receive more stars in terms of section 18(5) of the Tourism Act, 72 of 1993 for example five star hotels which attract more tourists and employ thousands of South Africans to work in the accommodation establishments. A Grading Council established in terms of section 29 of the Tourism Act, 3 of 2014 is responsible for managing and implementing the National Grading System. The Grading Council is an important contribution by the Tourism Act of 2014 that will ensure that there is compliance with high quality standards in the tourism accommodation and assist tourism development because it is crucial for socio-economic transformation for historically disadvantaged South Africans. The TGCS is the officially recognized assurance body for tourism products in South Africa. And its vision is to implement a globally bench marked system of quality assurance for accommodation and MESE (Meeting Exhibitions and Special Events), self-catering accommodation, caravan and camping, experiences, which can be relied upon by visitors when making their choice of establishment. As a matter of fact, TGCS ensures that the establishments and any tourists sites or accommodations tourists visit adhere to and operates very high quality and **standards** tourism services to their clients.

Regulation of tourist guides by the National Registrar of Tourist Guides in tourism forms part of the many significant developments in South Africa's tourism. Section 48(2) mandates that a database of all registered tourist guides by registrar must be maintained. The database will help tourists to have access to recognized tourist guides. The level of crimes against tourist by those pretending to be tourist guides will be reduced because one of the challenges faced by South Africa tourist guide industry is in the influx of illegal tourism guides (Van den Berg, 2016). The regulation of the tourism guide sector is important to socio-economic development because it is one of the tourism areas wherein black participation has increased (Khathi, 2001), therefore regulation of the sector will encourage more participation by providing them tourism opportunities arising from tourism guide, for example, encourage black to start and register tourism guide lucrative business proving employment for the unemployed.



## **National Environmental Management Protected Areas Act, 57 of 2003 (NEMPAA)**

The National Environmental Management Protected Areas Act (NEMPAA) forms part of the significant national legal frameworks facilitating the development of the tourism industry in South Africa. The NEMPAA seeks to “provide for the protection and conservation of ecologically viable areas representative of South Africa’s biological diversity and its natural landscapes and seascapes; for the establishment of a national register of all national, provincial and local protected areas; for the management of those areas in accordance with national norms and standards; for intergovernmental co-operation and public consultation in matters concerning protected areas; and for matters in connection therewith.” Protection by the Act is extended to areas inclusive of special nature reserves, nature reserves, protected environments and heritage sites. To ensure effective protection of these areas the Minister is mandated to maintain a registrar to be known as the Registrar of Protected Areas. The registrar must have a list of all protected areas. The publication of the list by the registrar is an important tool for protected areas because it helps any person, company or entity wishing to conduct any activities on the environment to avoid conducting such activities in an environmentally protected area. The list of protected areas will help the South African Judiciary to save time by not having to deal with cases involving disputes of which areas qualify as protected areas. For an example if it is not clear that an area falls under the protection of the Act the government and parties will waste funds and the courts time arguing whether a certain area is protected by the Act this is evident in the discussed case of *Mpumalanga Tourism and Parks Agency v Barberton Mines (Pty) Ltd*.

Section 17(i) reads; “the purpose of the declaration of areas as protected areas is to create or augment destinations for nature-based tourism.” This particular section of the Act ensures that the environment is utilized as a tool to promote tourism development; often commercial use of the environment for mining purposes or other industrial use takes priority. According to Meyer and Meyer tourism is an effective tool for economic growth providing opportunities for employment, poverty alleviation, local development, foreign investment and so on (Meyer & Meyer, 2015). The NEMPAA seeks to protect the opportunities provided by tourism, by empowering the Minister -Mr Derek Hanekom to declare an area as a nature reserve. Section 23(3)(e) further provides that the declaration can only be issued in order to provide for tourism opportunities. The management authority of nature reserves and world heritage sites can carry out or allow (i) commercial activities or (ii) any activity to raise revenue. Commercial activities or activities of raising revenue that can be implemented include transportation, accommodation, catering, crafts which are generally dependent on tourism, will help achieve the opportunities set out by Meyer and Meyer as they are essential for socio-economic transformation.

Nicolaidis (2011) defines medical tourism as “when tourists travel to another country for medical treatment as well as for sightseeing.” According to Nicolaidis (2011) South, African tourism structures such as hotels and resorts possess potential to drive medical tourism. Nicolaidis (2011) further provides that thriving medical tourism requires that environmental integrity, social justice, and economic development prevail. Section 50(1)(b) of the NEMPAA reads; “the management authority of a nature reserve and world heritage site may, despite any regulation or by-law referred to in section 49, but subject to the management plan of the reserve or site-enter into a written agreement with a local community inside or adjacent to the reserve or site to allow members of the community to use in a sustainable manner biological resources in the reserve or site.” This section of the Act is important because it promotes access and use biological resources by local communities for traditional medicinal tourism purposes, for example, traditional medicine prevalent in South Africa promotes medical tourism that contributes to the socio-economic transformation of the people of South Africa, because African inspired treatments such as the *Umdlonyane* a healing massage available at a number of lucrative spas such as *Fordoun* spa. The section empowers people like Dr Elliot



Ndlovu a traditional healer to have access to 120 species of herbs and plants and supplies top spas such as *fordoun*, *Mangwanani* and *Falaza* spas in turn for profit. World heritage sites such as *Isimanagaliso* and *Hluhluwe-Imfolozi* Game Reserves also offers traditional African treatments. African herbs and plants such as fynbos, buchu, the marula plant, rooibos and many others are used in various African-inspired treatments, the Act provides for the sustainable use of these herbs and plants while at the same time making them accessible to local communities to utilize them in the tourism industry for their socio-economic development.

### **National Heritage Resources Act, 25 of 1999**

The principle of protecting World Heritage Sites as contributing sources of tourism development in South Africa is mutually enforced by the NEMPAA and the National Heritage Resources Act of 1999. The National Heritage Resources Act provides a set of general principles for resources management. Heritage resources contribute significantly to research, education and tourism and they must be developed and presented for this purpose in a way that ensures dignity and respect for cultural values. The respect for cultural values opens a doorway for cultural tourism that is paramount to foster socio-economic development. Developing the diverse communities of South Africa together with the intriguing history gives South Africa the advantage of establishing sustainable cultural tourism (Khathi, 2001). According to Saarinen and Rogerson, with the spotlight on nature-based and wildlife tourism, cultural tourism never saw the light of day (Saarinen & Rogerson, 2015). However, recent developments indicate that cultural tourism is becoming more recognised and contributes to tourism development and policy making. The White Paper on development and promotion of tourism provides that cultural tourism makes South Africa's tourism to more competitive, with a focus not only placed on nature-based and wildlife-oriented tourism, for example, focused only on promoting the big 5 animals consisting of (Lions, Elephants, Rhinos, Leopards and Buffalos). There are arguments that cultural tourism could and should be utilised in socio-economic transformation, empower communities and the historically disadvantaged groups. With visitors interest inclined to visit rural areas and the fact that cultural tourism involves local people, providing an inclusive business model, cultural tourism is regarded as a feasible incentive for inclusive socio-economic development and poverty alleviation (Saarinen & Rogerson 2015).

World Heritage Sites must promote socio-economic transformation (Rogerson & Van der Merwe 2016). Rogerson and Van der Merwe in this regard examine socio-economic transformation attributed to the Cradle of Humankind which is one of South Africa's well-known heritage sites (Rogerson & Van der Merwe 2016). According to Rogerson and Van der Merwe, the heritage site has the potential to grow the economy of the region in which it is situated since it is one of the poor marginalized parts of the country (Rogerson & Van der Merwe 2016). The geo-spacial tourism development project in the cradle of humankind was launched for two reasons to create jobs and grow the economy (Rogerson & Van der Merwe 2016). Rogerson and Van der Merwe indicate that the local impact of the project indicate that new family businesses emerged in and around the Cradle contributing to the socio-economic of the people of the community, furthermore in addition to leisure travel, this area became established as a business tourism destination for corporate events, conferences and meetings (Rogerson & Van der Merwe 2016).

### **National Environmental Management Biodiversity Act, 10 of 2004 (NEMBA)**

According to the National Environmental Management Biodiversity Act, 10 of 2014 "Biodiversity means the variability among living organisms from all sources including, terrestrial, marine and other aquatic ecosystems and the ecological complexes of which they are part and also includes diversity within species, between species, and of ecosystems." Protection and conservation of biodiversity is crucial for tourism development and socio-economic transformation that promotes poverty alleviation, the creation of employment and



infrastructural development. The National Environmental Management Biodiversity Act, 10 of 2004 is South Africa's measure to fulfil the mandate of Article 8 of the Convention on Biological Diversity, because section 5 of the National Environmental Management Biodiversity Act, 10 of 2004 states that this Act gives effect to ratified international agreements affecting biodiversity to which South Africa is a party, and which bind the Republic. The NEMBA affords protection to biodiversity by empowering the Minister to provide a list of the ecosystem, threatened species and a list of invasive species in need of protection. The Act prohibits any person to carry out any restricted activities in regard to the listed threatened species and invasive species without the required permit. The list published in 2007 by the then Minister of the Department of Environmental Affairs and Tourism Marthinus Van Schalkwyk in the government notice contains species like Lions, African Elephants, Leopards, Trout fish which form part as tourism attractions. The South African National Biodiversity Institute established in terms of section 100(1) of the Act has the duty to monitor and report to the Minister on the conservation status of all the listed threatened or protected species and listed ecosystem as provided for in terms of section 11(1)(a) of NEMBA. The reports by the institute are crucial for the government so as to enable the government to have insight with regard to species threatened with extinction because their extinction negatively impacts tourism development and how best can biodiversity be sustainably conserved and protected. Monitoring by the institute will reveal stakeholders who are failing to comply with environmental laws and indicate which measures can the government take to ensure compliance because the lack thereof defeats tourism potential to grow and improve the lives of ordinary poor South Africans. The institute is not only responsible for reporting it has a variety of duties stipulated in section 11 such as prohibiting the public from gaining access to the botanical garden, provide environmental education, rehabilitate ecosystem and so on.

Benefits arising from bio-prospecting which is the search for, and commercialization of, new products derived from nature usually tapped to develop important compounds used in the fields of medicine must be equitably shared and this is a mandate required by section 80(1)(c). The declaration of a botanical garden in terms of section 33 constitute bio-prospecting for commercial benefit. The botanical gardens can then be used as tourist attraction areas, wherein tourism activities such as relaxation, exploring, hiring for conferences or weddings and so on can contribute towards the socio-economic transformation of the communities where it is located. To protect the benefits of bio-prospecting the Act provides that those who commit offences stipulated in terms of section 101 of the Act such as fraudulently altering a permit or giving false information to a permit, if found guilty of having committed the offence shall be liable to a fine or five years' imprisonment or both as stipulated by section 102(1) of the Act. Section 102(2)(b) provides that a person found to have committed an offence against the listed species the fine will be equivalent to three times the commercial value of the species. The imposition of such fine is meant to deter criminal from perpetrating crimes against those specimens, however, there is no amount of money that can replace extinct biodiversity thus protection and conservation of the species must take priority over punishment of perpetrators.

### **Tourism Broad-Based Black Economic Empowerment Sector Code 2015 (Tourism B-BBEE)**

The Tourism Broad-Based Black Economic Empowerment Sector Code (Tourism B-BBEE) formally gazetted in November 2015 is a key legal framework for tourism development and socio-economic transformation. The code seeks to address the racial injustices of the past that excluded the majority of black people from the opportunities and benefits arising from the tourism sector, thus rendering the black majority of South Africans deprived of the use of tourism benefits and opportunities to enhance their socio-economic transformation.

The Tourism B-BBEE applies to tourism enterprises of accommodation, hospitality and related services and travel and related services. The code sets out elements of transformation that



need to be implemented by these enterprises to ensure that they contribute towards meaningful participation and development of black people in the tourism sector.

The key elements of development in the code are also recognised by the National Tourism Sector Strategy. The strategic pillars that the Tourism B-BBEE focuses on as means of achieving socio-economic transformation for the previously disadvantages include Ownership, Management Control Element, Enterprise and Supplier Development Element and Socio-Economic Development. The aforementioned elements of development are discussed hereafter.

**Ownership:** in this regard, black people must be afforded ownership in economic interest that guarantees black people the right to receive dividends, capital gains and economic benefit of shareholders must be enforced. It is not enough to create employment for black people in the tourism industry. To ensure that employment of black people is socially and economically sustainable, employee ownership programmes must afford black people the opportunity to acquire ownership interest which can be in the form of shares in a tourism entity such as hotels, lodges, restaurants and so on. Ownership of tourism businesses gained by black South Africans will ensure that socio-economic transformation is not only for the current generation but also guaranteed for future generations. Idasa quoted by khathi points out that black people will not experience socio-economic development because as they are excluded from acquiring private ownership of lucrative lodges and safari and hunting concession (Khathi, M.G. (2001). Without the ownership of assets in the tourism industry benefits sought to be used for socio-economic development will be marginal and short-term.

(b) **Management Control Element;** the Tourism B-BBEE requires that black people must be afforded empowerment in managerial positions in the tourism sector complying with the set targets and they are as follows;

- 50% for Board participation;
- 60% for Other Executive Management;
- 60% for Senior Management;
- 75% for Middle Management;
- 80% for Junior Management; and
- 2% for Employees with Disabilities.

This can be achieved by appointing auditors that ensure the Tourism B-BBEE aspects are complied with, Further companies and businesses that fail to implement this should be heavily fined by the government and be sanctioned from obtaining tourism businesses tenders such as catering and accommodation tenders. By empowering black people to occupy managerial control helps aid socio-economic empowerment in that with the acquired experience of business management in the tourism industry will empower black people to be at the forefront as leading entrepreneurs in the tourism business space. (C) **Skills Development;** The Amended Tourism B-BBEE recognises that to fully exhaust the benefits of tourism to contribute to socio-economic transformation, skills development in tourism must be made a key priority. According to the Tourism B-BBEE Amended Codes, programmes of internships, learner ships and apprenticeships are programmes that can be used as tools for the skills transfer.

(d) **Enterprise and Supplier Development Element;** this element of transformation mandates that at least 25% of the cost of sales must be from local producers or local suppliers of South Africa. This will ensure that the quality of local products and services is improved, for example local farms that supply goods to tourism agencies such as hotels, lodges, game reserves,



restaurants must ensure that the quality of the goods is exceptional in order to gain more than 25% of cost of sale, thus growing the economy. The high levels of unemployment signal that there has been little socio-economic transformation in the post-apartheid era, therefore to remedy this predicament the amended sector codes mandate that 85% in cost of employment must be paid to South Africans and 50% of jobs created in the industry must be for black. However the challenge remains that majority of black people are not skilled in the tourism sector, therefore the implementation of the outlined skills development programmes must be highly prioritised to avoid outsourcing skills. Enforcement and compliance with the Skills Development Act will assist realise the objects of skills development in the amended tourism sector code, because the Skills Development Act purports to develop the skills of the South African workforce to ensure that skills acquired improve the furtherance quality of life of workers, furthermore the Act seeks to empower people to become employers through promoting self-employment. Employees must be provided with various opportunities to acquire new skills by so doing the prospects of employment for those previously disadvantaged must be improved. The Act aims to achieve this by establishing the Sector Education and Training Authority (SETA). Learnership programmes must focus on empowering the youth to gain learning and working experience in the tourism business sector by providing the youth with practical work such for example, soft and hard skills in managing hotels, nature reserves or any other tourism-related businesses.

(d) Socio-Economic Development: the desired socio-economic development by the code is a further improvement which ensures that 75% of benefits generated from tourism, are distributed amongst the previously disadvantaged majority of blacks. According to the amended tourism B-BBEE, socio-economic is achieved when sustainable access to the economy is made a readily available to those who were systematically excluded from having meaning access to economic resources. Development programmes that target the youth, women, people disabilities, people residing in rural areas, healthcare, community training for unemployed people, sporting development and so on are areas in dire need of transformation and benefit from socio-economic development.

## **Provincial instruments on tourism**

### **Limpopo Tourism Act, 2 of 2009**

According to Ramuhashi (2007), there exist high levels of disparities in socio-economic development in the different provinces, while provinces such as Gauteng continue to thrive socially and economically, the Limpopo province struggles to grow and develop rapidly. Ramuhashi also indicates that the Limpopo province contributes 75% in terms of formal employment which is the least portion compared to other provinces. The province at 25% is the highest in terms of informal employment. According to the Department of Tourism, in order to address unemployment, the government must create job opportunities requiring low-skill levels, thus accommodating the 25% employed in the informal sector and seeks to increase the percentage of those employed in the formal employment sector. In this regard, the UNWTO provides that tourism offers opportunity get a job for unemployed prone groups such as youth, unskilled or low-skilled workers and women. Tourism is a labour intensive industry employing a wide range of skills, which is particularly useful in tackling poverty. Tourism is recognised as a sustainable industry capable of enhancing Limpopo provinces socio-economic development by generating revenue and contributes to the Gross Domestic Product (GDP).

The provincial government of the Limpopo promulgated the Limpopo Tourism Act, 2 of 2009 repealing the Limpopo Tourism and Parks Board Act 8 of 2001. This is an important piece of legislation established on the foundation of providing for sustainable development and management of tourism, promotion of tourism in the province, stimulation of tourism



development and investment in the province and also the establishment a tourism agency to assist in achieving the objectives of the Act, stated by section 2 of the Act.

Section 3(2)(a) of the Limpopo Tourism Act, 2 of 2009 states that “tourism development in the province requires the provincial government to monitor and support the implementation of the tourism strategies in the provincial and local spheres of government. The purpose of this provision is thus to ensure that the people of the province benefit from tourism strategies meant to facilitate socio-economic transformation actually benefit those intended to benefit from tourism strategies, furthermore, the provision is a mechanism of compliance in that it requires the provincial government to ensure implementation of any provincial tourism strategies that seek to promote the development of the provinces tourism such as the Limpopo Tourism Agency.

In terms of section 3(2)(c) of the Limpopo Tourism Act, 2 of 2009 tourism development require the provincial government to implement measures to ensure tourism skills development and capacity building programme. The purpose of recognising skills development is to ensure that the people of the province are equipped with all the necessary skills to penetrate the tourism industry and effectively compete in the formal sector of employment, which requires a person to have certain skills. To ensure that the objectives of the Act are carried out, Section 5(1) of the Limpopo Tourism Act, of 2009 establishes The Limpopo Tourism Agency (LTA). Section 6(a) provides that functions of the Agency includes that to develop and implement a tourism marketing strategy with the framework of the provincial tourism strategies is vital. This provision is for the purpose of ensuring that tourists are drawn into the province by marketing the province’s wide range of tourism products such as wildlife tourism, cultural tourism and so on. Section 6(d) provides that the Agency must enhance and enable investment opportunities on provincial nature reserves. These provisions are essential in that when nature reserves draw investment, the investment can be used for environmental protection in the nature reserves and provide infrastructural development that stimulates job creation. Section 6(g) requires that the Agency must provide hospitality services in provincial nature reserves. The inclusion of hospitality will help in all likelihood create more job opportunities within the nature reserve for the local community because the hospitality sector provides a wide range of jobs including chefs, housekeepers, waiters, and so on. Section 7(1) of the Limpopo Tourism Act, 2 of 2009 requires the MEC for tourism to constitute the Limpopo Tourism Board. The Limpopo Tourism Board sets out to perform the duties of the agency as required by section 7(2) of the Limpopo Tourism Act, 2 of 2009. Section 8(1) of the Act requires that the board must consist of the following stakeholders:

- (a) A representative of the-
  - (i) Department, nominated by the Head of Department; and
  - (ii) South African Local Government Association, nominated by the Chief Executive Officer;
- (b) Two members with experience and skills in tourism marketing, development and research;
- (c) One member with experience and skills in the wildlife industry;
- (d) One member with experience and skills in managing protected areas and biodiversity conservation;
- (e) Two members with experience and skills in business management;
- (f) Two members with experience and skills in community development; and
- (g) Two members from the Limpopo House of Traditional Leaders

The inclusion of different skilled personnel in the board is important because all the expertise combined together ensure that tourism of the province is environmentally sustainable



promotes economic growth and ensures that tourism contributes to the socio-economic development of the people of Limpopo.

## Conclusion

The article demonstrates that legislative and policy frameworks on tourism have the potential to fast-track socioeconomic growth and development in South Africa if properly utilised to their fullest extent. This is because the common goal of making tourism an engine that drives socio-economic transformation is to implement all the lofty interventions that have been put in place to the fullest. Implementation to the fullest will likely create job opportunities and serve the needed purpose of eliminating poverty particularly of the indigents and the poorest of the poor in South Africa. The national legislative and policy frameworks ensure that historically disadvantaged South Africans who were deliberately excluded from the tourism sector by the then apartheid rulers, are incorporated into the sector and allowed to freely participate in order to reap at least some benefits arising from the tourism sector. In terms of sustainable tourism, there is a need to implement these interventions for the purposes of ensuring the protection of all tourist sites and attractions such as the South Africa's rich biological diversity by creating national parks and botanical gardens without losing foresight, that such biological resources provide a tourism market for locals who use biodiversity for traditional medicines and animal skins for traditional clothing sold to tourists for profit thus creating employment, while conserving nature and maintaining a required ecological stability.

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