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EXAMINING THE ROLE OF ZAMBIAN INVESTMENT AND TOURISM LAW AND POLICIES IN SUSTAINING NEOCOLONIALISM: LESSONS FROM SOUTH AFRICA.

By:

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2025

AUTHOR'S DECLARATION

I, WANKUMBU NAKAMBA, do declare that this dissertation titled **"EXAMINING THE ROLE OF ZAMBIAN INVESTMENT AND TOURISM LAW AND POLICIES IN SUSTAINING NEOCOLONIALISM: LESSONS FROM SOUTH AFRICA"** which is hereby submitted as part of the requirements for the award of the Bachelor of Laws (LLB) degree to the School of Law, University of Lusaka, is my original work and has not been previously submitted for the award of a degree at this or any other tertiary institution.

The sources that have been used or quoted have been indicated and duly acknowledged as complete references.

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SUPERVISOR'S RECOMMENDATION

I RECOMMEND THAT this obligatory essay under my supervision

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

Supervisor: MRS M.C. PUPWE

Signature……….

Date……………. 12/11/2025

DEDICATION

To my dearest friend Nia, thank you for your patience with me throughout my studies. I don’t think anyone could be much prouder of me than the person who has lent me a listening ear when I hit my lows and felt like quitting. Thank you for pushing me because I honestly don’t think I could’ve done this without you. I love you so much and I’m glad I get to spend this life with you xx

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Investment, Trade and Business Act No.18 of 2022 of the Laws of Zambia

Lands Act, Chapter 184, Act No. 29 of 1995.

Protection and Investment Act 22 of 2015 of the Laws of South Africa

Tourism Act 3 of 2014 of the Laws of South Africa

Tourism and Hospitality Act No.13 of 2015 of the Laws of Zambia

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LIST OF ACRONYMS

BBBE	Broad-Based Black Economic Empowerment
BBBEA	Broad-Based Black Economic Empowerment Act 53 of 2003 of the laws of South Africa
BIT	Bilateral Investment Treaties
CDA	Community Development Agreements
FDI	Foreign Direct Investment
ITBD	Investment, Trade and Business Act No.18 of 2022 of the Laws of Zambia
TDF	Tourism Development Fund
TEF	Tourism Equity Fund
NTSS	National Tourism Sector Strategy
ZDA	Zambia Development Agency

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ABSTRACT

This dissertation critically analyses how Zambia's Investment, Trade and Business Development Act No. 18 of 2022 and Tourism and Hospitality Act No. 13 of 2015 sustain neo-colonial economic patterns in the tourism sector. Both Acts try to encourage investment and growth, [1] but a study of their open rules shows focus more on protecting and encouraging foreign investors than on supporting local communities. The study, which uses a qualitative and doctrinal method and includes information from community members, investors, and officials, concludes that these laws make people rely more on the system by letting businesses take all their profits out without limits and not having ways for regular people to get involved. By using ideas from postcolonial and critical legal theory and comparing them with South Africa's legal changes like the Protection of Investment Act 2015, the Tourism Act of 2014, and the Broad-Based Black Economic Empowerment Act 2003, the study shows that law can be a tool for economic decolonisation. The dissertation says that Zambia's laws need to change from focusing on attracting foreign investments to a system that empowers people, making sure that wealth is shared, the country's control is protected, and fairness is achieved in how investments and tourism are handled.

[1] Investment Trade and Business Development Act 18 2022, preamble; Tourism Act 13 2015, preamble.

CHAPTER ONE

1.0 INTRODUCTION

Hogan described colonialism as a systematic restriction of the autonomy of a people through political, social and cultural means by a distinct nation/state or its representative. [2] Zambia was colonised by Britain until 1964 when it gained independence. There are still many aspects of colonialism that affect the country socially, politically and culturally. An example of this is how the country, to this time, still uses a dual legal system which is a mix of Statutory Law, derived from English common law and Customary Law which is derived from unwritten traditions and customs of the Zambian natives. [3]

Despite no longer being a British colony, colonial influences persist in modern day Zambia. The country is yet to fully annex itself from colonial influences in economic, political and social sectors. This can manifest through investment policies when a country fails to find a balance between encouraging foreign investment and uplifting local investments.

Neocolonialism is a form of imperialism that occurs when an independent state is influenced through its economy, culture and politics by former colonists in subtle forms. Kwame Nkrumah described this phenomenon by stating that;

"Neocolonialism is when a State which is subject to neo-colonialism is, in theory, independent and has all the outward trappings of international sovereignty. Its economic system and thus its political policy is directed from outside." [4]

Neocolonialism, when paired with the aftereffects of colonialism forms a barrier to being culturally, socially, economically, and politically independent for a former colony and its people.

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[2] Hogan PC, *What Is Colonialism?* (Routledge 2024).

[3] Constitution of Zambia (Amendment) Act 2016, s 7.

[4] Kwame Nkrumah, *Neo-Colonialism: The Last Stage of Imperialism* (Thomas Nelson and Sons Ltd 1965), p 4.

Zambia's trade and economic structure differs from what it is today in that people used the barter system which involved direct exchange of goods for other goods without the use of money.[5] They also used iron and other metal as currency pre-colonialism, with their own trade and economic system that did not have written down rules and regulations, so it was therefore, not until during colonisation that paper money and written laws on trade in the form of the Sale of Goods Act of 1953 was introduced in Zambia. Zambia, under British rule, used the Zambian Pound and British economic and trade systems in non-rural areas and this did not change until the country got its independence. [6]

The country has since then set up its own set of laws to govern foreign, local investors and its economic system. However, the laws still have legal gaps that do not provide for how to combat neo-colonialism to fully annex the country from imperialism across this particular field of socioeconomics. The focus on neo-colonialism in investment law sets tone for the study of imperialism through former colonies on factors that uphold society and better its people to encourage independence through trade and economy.

1.01 BACKGROUND

Zambia is a developing country whose economy for the better part largely depends on tourism. Zambia's tourism sector largely contributes to the country's GDP, culture and employment. It is regulated by The Tourism and Hospitality Act 13 of 2015 which has the aim of developing sustainable tourism that is economically, culturally, socially and environmentally sustainable and which maximises socio-economic benefits, job creation and local investment opportunities for Zambians and their national heritage through the minister in charge of tourism. [7] This act, in conjunction with the Investment, Trade and Business Development Act of 18 2022, which was

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[5] Anudit Marandi, '*The Evolution of Money*' <https://dspmuranchi.ac.in/pdf/Blog/1.%20Barter%20System.pdf> accessed 9 August 2025.

[6] Andrew Roberts, *"Pre-Colonial Trade in Zambia"* (African Social Research 1970) <https://dspace.unza.zm/server/api/core/bitstreams/a66c1fce-3c78-4c7c-914e-262654dca45e/content> accessed August 9, 2025.

[7] Tourism and Hospitality Act 13 2015, sec 3.

put in place to aid the Zambia Development Agency Act of 2006, later amended by the Zambia Development Agency Act of 2022, regulate foreign and local investment.

Even though there are rules in place to control tourism and investments and make sure everyone has a fair chance while protecting the environment, foreign investors still have a big influence in the tourism industry. Many companies, including hotel chains and safari tour operators, are owned by foreign businesses. This leads to profits being sent back to their home countries and not much benefit for the local community. The absence of required local ownership, not enough legal benefits for local companies, and poor enforcement of environmental and cultural safeguards create an unfair advantage for some over others.

These situations show the same trends as neo-colonialism, where old colonial countries and new global powers keep their economic influence by investing and controlling important industries in poorer nations. [8] Neocolonialism can show up in various forms. This can also involve investment in the tourism industry. [9] The investment incentives aim to balance helping local investors with bringing in foreign investors to boost the economy. However, they often overlook putting in place proper rules for foreign investors.

This lack of regulation makes it hard for Zambians to preserve their culture, protect the environment, and support local businesses. These local companies often struggle to compete with foreign investors, who use their money and well-known brands to gain an advantage and keep local companies at a disadvantage.

This study looks at the situation in Zambia, focusing on how the country's laws might unintentionally allow foreign control in the tourism industry because of the way investments are managed. It will look into whether the current laws are doing enough to protect local interests and support fair development, or if changes are needed to make sure that tourism benefits

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[8] Ntumy M. A., '*Neo-Naturalism: Tailoring Legal Philosophy for Capitalism and Neocolonialism'* [2023] 13(1986) Journal of Ethiopian Law.

[9] Akama JS, *Neocolonialism, dependency and external control of Kenya's tourism industry: A case study of wildlife safari tourism in Kenya*

Zambians. It will also draw lessons from South Africa, a former colony that has managed to find a good balance between local and foreign interests in tourism.

1.1 STATEMENT OF THE PROBLEM

The Tourism and Hospitality Act 13 of 2015 governs Zambia's tourism sector, aiming to promote sustainable tourism and regulate tourism enterprises. [10] Despite efforts to regulate and encourage local participation, existing laws and policies inadequately address neo-colonial influences. Contributing factors include the fact that the Act lacks mandates specifying local ownership requirements for tourism enterprises, from accommodations in tourist areas to entertainment venues, weak enforcement of land use regulations for foreign investors, leading to challenges in ensuring equitable land distribution and insufficient incentives for local entrepreneurs as the current policies do not provide adequate support or incentives for local entrepreneurs to thrive in the tourism sector.

While the agency established under the Zambia Development Agency Act of 2022 is meant to encourage foreign investment as per section 5(1) of the Zambia Development Agency Act, [11] there is a need for balanced mandates that ensure equitable opportunities for both local and foreign investors. Local investors often struggle to compete with well-resourced foreign entities that have established global brands. Additionally, laws promoting cultural and environmental protection like section 5(d), (e) and (j) of the Investment, Trade and Business Development Act 18 of 2022, [12] lack enforcement under the Act if any foreign investors contravene these laws. It also seems inadequate to apply the same punishment under Part eleven of the Environmental Management Act No.12 of 2011 to both established foreign investors and smaller local investors due to the difference often present in profit and investment. [13]

This study will explore how the Tourism and Hospitality Act 13 of 2015, in conjunction with the Investment, Trade and Business Development Act 18 of 2022 perpetuate neo-colonial influences

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[10] Tourism and Hospitality Act 2015, preamble.

[11] The Zambia Development Agency Act 2022, s 5(1).

[12] Investment, Trade and Business Development Act 2022, s 5.

[13] Environmental Management Act 2011, Part XI.

through tourism and investment. [14] It will also study how the Tourism Act 3 of 2014 along with the Protection and Investment Act 22 of 2015 and the Broad-Based Black Economic Empowerment Act No.53 of 2003 combat neo-colonialism in South Africa and to what extent to draw lessons on practical legal policies and recommendations. [15]

1.2 OBJECTIVES

The main objective is to explore tourism as a neo-colonial phenomenon through foreign investment and other factors and the extent to Zambia's legislation governing tourism mitigates or contributes to neo-colonialism and draw lessons from South Africa.

The specific objectives of this research are:

1. To analyse the role of the Tourism Act No.13 of 2015 and the Investment, Trade and Business Act No.18 of 2022 in stimulating foreign dominance.
2. To assess how the Investment, Trade and Business Act No. 18 of 2022 and the Tourism Act No. 13 of 2015 affect investors in the tourism industry by maintaining neo-colonial patterns.
3. To analyse and gain insights from South Africa's tourism and investment laws and policies on how to combat neo-colonialism.

1.3 RESEARCH QUESTIONS

The following research questions are what will be explored in the study:

1. What role do the Tourism Act No.13 of 2015 and the Investment, Trade and Business Act No.18 of 2022 stimulating foreign dominance?

2. How does the role that the Tourism Act No.13 of 2015 and the Investment, Trade and Business Act No.18 of 2022 plays in sustaining foreign dominance impact investors in the tourism sector by perpetuating neo-colonial practices?

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[14] Investment Trade and Business Act 2022.

[15] Broad-Based Black Economic Empowerment Act 2003; Tourism Act 2014; Protection and Investment Act 2015.

3. What lessons can be drawn from South Africa's tourism and investment laws and policies to aid Zambia in combating neo-colonialism?

1.4 SIGNIFICANCE OF STUDY

This study contributes to the study on neo-colonialism in former colonies through a legal lens instead of the usual socio-economic lens. The study will bring light to the legal gaps that perpetuate neo-colonial tendency through foreign investment, specifically through the tourism sector and the consequences of said neo-colonialism. It will also offer legal reforms to bring a balance between local investments and foreign investments in the tourism sector. With the intensive study on neo-colonialism through the legal lens, this study will help shed some knowledge on how the country still has neo-colonial influences and explore the link between the law and socioeconomics and the role it plays in preserving culture, the environment and boost the local economy.

1.5 SCOPE OF STUDY AND LIMITATIONS

This study looks at all the laws that affect investment in Zambia's tourism industry, especially in regions where both foreign and local investors are very active, like Livingstone, the Lower Zambezi, and South Luangwa. It explores how these laws create an environment that encourages neo-colonialism. The study will also look at South Africa's laws and policies related to tourism and investment to learn how to fight against neo-colonialism. It will primarily examine legal and regulatory instruments enacted between 2010 and 2025. Limitations may include access to proprietary business data and the willingness of key stakeholders to participate in interviews.

1.6 Definition of Key Terms

Foreign Investment- when an investor in one country acquires assets in another country with the intention to manage said asset. [16]

Investment- "contribution of capital, in cash or in kind, by an investor to a new business, to the expansion, rehabilitation or diversification of an existing business or to the purchase of an existing business from the Government or the purchase of an existing private business." [17]

[18]**Investor**- any person, natural or juristic, whether a citizen or not, investing in the Republic in accordance with this The Investment, Trade and Business Development Act of 2022.[19]

Local Investor- "a person who makes a direct investment in the Republic provided that, that person in the case of a natural person, is a citizen; and if a juristic person, is incorporated in the Republic and the person's equity is hundred percent owned by citizens." [20]

Neo-colonialism- "The essence of neo-colonialism is that the State which is subject to it is, in theory, independent and has all the outward trappings of international sovereignty, in reality, its economic system and thus its political policy is directed from outside." [21]

Tourism- "the activities of persons travelling to and staying in places outside their usual environment for not more than one consecutive year for leisure, business and other purposes, and includes cultural tourism, family tourism, health tourism, sports tourism, education tourism, mining tourism, heritage tourism, eco-tourism and wildlife tourism" [22]

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[16] World Trade Organisation News, '*Trade and foreign direct investment*' (PRESS/57 9 October 1996) https://www.wto.org/english/news_e/pres96_e/pr057_e.htm#:~:text=Foreign%20direct%20investment%20(FDI)%20occurs,intent%20to%20manage%20that%20asset. Accessed April 6, 2025.

[17] *ibid.*

[18] The Tourism and Hospitality Act 2015, s 2.

[19] The Investment, Trade and Business Development Act 2022, s 2.

[20] *ibid.*

[21] Kwame Nkrumah, *Neo-Colonialism: The Last Stage of Imperialism* (1965).

[22] Tourism and Hospitality Act 2015, s 2.

1.7. LITERATURE REVIEW

Kwame Nkrumah[23] in his work, '*Neo-colonialism: The Last Stage of Imperialism'* described neo-colonialism as the continued economic and cultural dominance of former colonies by more powerful states, despite political independence**.** His study on neo-colonialism focused on its links to imperialism, calling it the last stage of imperialism after slavery and colonialism. He iterated that foreign investment under such conditions widens inequality between rich and poor nations. His way of thinking backs up this study's argument that unchecked foreign investment in Zambia's tourism industry can keep the country dependent on the more economically stable countries to keep the economy running. Nkrumah's work has a continental reach and shares this study's focus on economic control as a tool of neo-colonialism, but this research narrows in more specifically on Zambian investment and tourism law and its impact on sustaining neo-colonialism.

Britton's[24] tourism dependency theory offers a relating economic perspective explaining how developing countries become reliant on developed nations for capital and expertise, making them vulnerable to external shocks. They rely on the superior entrepreneurial skills, resources, and commercial power of metropolitan companies to improve different economic sectors in their country which leads to the investment patterns leaning towards the neglect of local investments and allowing these companies to dominate. This theory supports the idea that Zambia's investment policy under the tourism sector shows a reliance on existing structures. Both this study and his work point out that dependency is a problem, but Britton's work came before the current laws in Zambia. This study, however, offers a more detailed and up-to-date look at the tourism dependency theory.

Ntumy[25] says that after colonial rule, many legal systems still have structures from the colonial era, which help global businesses and capital. He elucidated that most legal systems are yet to move away from colonial structures and just evolved into tools of serving capitalism. This

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[23] Kwame Nkrumah, *Neo-Colonialism: The Last Stage of Imperialism* (1965).

[24] Stephen G Britton, *"The Political Economy of Tourism in the Third World"* (1982) 9 Annals of Tourism Research 331.

[25] Ntumy M. A., '*Neo-Naturalism: Tailoring Legal Philosophy for Capitalism and Neocolonialism'* [2023] 13(1986) Journal of Ethiopian Law.

supports the study's theoretical basis in critical and postcolonial legal theory in that both link law to the perpetuation of inequality. He highlights how legal systems can uphold neo-colonial practices under the guise of neutrality which is what this study will be exploring. However, while Ntumy's work is conceptual, this research applies it specifically to Zambia's tourism and investment laws.

Obikwelu, Messina and Odumegwu[26] discussed a broader view of the effects of neo-colonialism on Africa's developments through factors like investment and politics through multinational corporations and foreign trade which make it hard to see development because of the lack of benefits and stifling of the local economy. The article went on to explain how foreign investment through multinational corporations use their economic and political power to exploit resources and labour for profit, often at the expense of local industries which results in in the collapse of many indigenous industries, loss of jobs, and marginalisation of local entrepreneurs. This research focuses on a broader emphasis economic control as a tool of neo-colonialism, though this study focuses more narrowly on Zambian investment and tourism law and policy.

Akama[27] examines how Kenya's tourism policies privilege foreign investors, resulting in profit repatriation and cultural commodification. He argues that despite there being a growth in domestic tourism, the policies and marketing align towards foreign investors with the romanticising of colonial stereotypes to grow tourism towards foreigners, thus, attracting foreign investors and neglecting the locals. His findings resonate with Zambia's experience, where high-value tourism is largely foreign-controlled. **Mlilo et al.** [28] built on this idea by highlighting how colonial racial imaginaries shape tourism economies in Victoria Falls, favouring foreign operators. This matches Akama's point about how stereotypes are romanticized to attract foreign investors. Both studies recognize how past events affect today's tourism and point out that there's unequal control over tourism activities. While Akama and Mlilo look at the social and

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[26] Obikwelu Ifeanyi john and others, *'The Effects of Neocolonialism On Africa's Development'* [2023] 4(2) PanAfrican Journal of Governance and Development, p 26.

[27] Akama JS, *Neocolonialism, dependency and external control of Kenya's tourism industry: A case study of wildlife safari tourism in Kenya* [2004].

[28] Mlilo M, Bollig M and Revilla Diez J, 'Coloniality of Power and the Imaginaries of Tourism in Victoria Falls' (2024) 156 Geoforum 104131.

economic effects as well as cultural influences, this study instead looks closely at the legal rules and structures in place

Dixey[29] offers a more recent analysis of Zambian tourism, which is described as community-based tourism. This term refers to tourism that is centred around local areas and how they benefit from the tourism industry. She looked into how Zambia uses donor-funded community tourism, which fits with the ideas of dependency theory. She said that giving money all the time is usually not lasting and can be left out in the long run. Her work reinforces the need for stronger policy support for local initiatives, like this study's policy-reform approach. **Goodwin**[30] makes the same point and agrees with Dixey on how projects funded by donors or run from outside usually don't really help the local communities in the long run. These critiques reinforce the need for legal reform to prioritise genuinely localised, sustainable tourism investment. However, both their scope is limited to donor projects.

Remers[31] critiques how voluntourism, a phenomenon that combines volunteer work and tourism, in Sub-Saharan Africa as reinforcing dependency while benefiting foreign actors. The argument for this was that voluntourism can create a power imbalance between western countries and developing countries in the sense that it makes it look like western powers are needed to save the poorer countries. This complements the study's argument that tourism, commercial or otherwise, can deepen dependency without regulation. The difference lies in the study's focus on legal structures, not voluntourism motives.

Hanson and Hentz[32] analysed the relationship between neoliberal reforms in South Africa and Zambia and neo-colonialism. They argued that these post-colonial reforms carried on colonial aspects still, creating an imbalance between formerly colonised developing countries and developed countries but emphasised that it should also be looked at through the political context

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[29] Dixey LM, *The Unsustainability of Community Tourism Donor Projects Lessons from Zambia* (2008).

[30] Harold Goodwin*, 'Pro-Poor Tourism: Principles, Methodologies and Mainstreaming*' accessed at https://www.haroldgoodwin.info/resources/melaka.pdf on 12.08.2025.

[31] Isabel Remers*, "Voluntourism in Sub-Saharan Africa Is Expiation by the West, but Only Creates Further Dependency on the West"* (2022) 5 Glocality.

[32] Margaret Hanson and James J Hentz, "Neocolonialism and Neoliberalism in South Africa and Zambia" (1999) 114 Political Science Quarterly 479.

to gain the full picture. This parallels Zambia's liberalised tourism climate. Both agree that liberalization has risks, even though their work focuses on macroeconomic issues. This study stays within the legal area and doesn't look into the political side of neoliberal reforms.

Williams[33] in, *'Tourism as a Neo-Colonial Phenomenon: Examining the Works of Patullo & Mullings,*' looks at how neo-colonialism affects the tourism industry in the Caribbean. He suggests that the economic differences between wealthy countries and poor ones support neo-colonialism, which makes it difficult for poorer countries to become fully independent economically. He affirmed that the power imbalance between the home country of an investor and the host nation plays a major role in perpetuating neo-colonialism. His work aligns with this study's aim to show how dependence in the tourism sector can lead to struggles in dispute settlement and the enforcement of investment law, compared to the enforcement of these laws on local investors.

Lebambo's[34] case study on addressing the discord and disharmony between entrepreneurial policy and practice in developing countries such as South Africa showed that despite efforts of integration between the tourism policies and practice in rural areas, in the country, it has been found that smaller local investors still struggle to catch up. Mostly due to lack of enforcement of these policies. This brings out one of the biggest challenges that even though the policies can exist to bridge the gap between investors, the government needs to enforce these laws and policies otherwise it remains redundant to actively pushing change.

1.71 Research Gap

Although a substantial body of literature from Nkrumah's early exposition on neo-colonialism, to recent studies by Akama, Ntumy, Dixey, and others has explored the persistence of foreign economic control and tourism dependency, much of it is either continental or global in scope, largely theoretical, or concentrated on socio-economic and cultural impacts. These works demonstrate the role of foreign investment, multinational companies, donor-driven projects, and

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[33] Tammy Ronique Williams, "Tourism as a Neo-Colonial Phenomenon: Examining the Works of Pattullo & Mullings" (1969) 2 Caribbean Quilt 191.

[34] Marcia Lebambo. *'Entrepreneurship development framework for small- scale rural tourism establishments in South Africa.'* (2020).

neoliberal policies in keeping dependency alive in third world countries but very few actually look at the legal and rules-based systems that let these situations persist.

Existing studies in Zambia have found that foreign influence is strong in the tourism sector, colonial-era laws are still in place, and there's a reliance on aid from donors and voluntourism. There is limited research that carefully examine how Zambia's tourism and investment laws might support neo-colonial power dynamics by favouring foreign investment over local investors, particularly in areas like conflicts resolution and the relationship between investors and the host country. This oversight matters because without a legal analysis, policy actions might only address the obvious issues without challenging the deeper legal reasons that create and maintain this dependency.

By using the critical legal theory and postcolonial legal theory to examine Zambia's tourism investment policies and drawing insights from South Africa, this study aims to address a gap by analysing the legal rules that sustain dependency and uphold neo-colonial factors and looking into how policy changes could help challenge these deep-rooted neo-colonial influences, an area that hasn't received enough attention in existing research.

1.72 Theoretical Framework

This study draws on the critical legal theory and postcolonial legal theory**.** Critical legal theory critiques how law often upholds existing power hierarchies under the guise of neutrality, [35] while postcolonial legal theory focuses on how colonial legal legacies shape post-independence legal systems. [36] These frameworks help the study look at how Zambia's legal tools, when compared to South Africa's, might unintentionally keep neo-colonial systems alive in the tourism sector.

1.8 RESEARCH METHODOLOGY

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[35] Ian Ward*, 'An Introduction to Critical Legal Theory'* (1st edn Cavendish Publishing House 1998), pp 156-158.

[36] Silva DF da and Harris M, *Postcolonialism and the Law: Critical Concepts in Law* (Routledge, Taylor & Francis Group 2018).

1.8.01 RESEARCH APPROACH

The study will use a Qualitative approach which focuses on case studies, document analysis and interviews from certain informants. Different types of legal text, cultural contexts and case studies will be collected and analysed to draw comparative studies between Zambia and South Africa on finding a balance between local and foreign investments in relation to tourism. It will employ content and thematic analysis to analyse legal content and papers written on the topic to identify patterns and themes within the data that is collected from the documents and interviews.

1.8.02 RESEARCH DESIGNS

- **Case Study:** the study will examine specific tourism enterprises (local and foreign) to understand how laws are applied in practice.
- **Grounded Theory:** The study will collect and analyse data collected from observations, different economic groups in Zambia and South Africa from high density tourism areas and from different documents (legal documents included) that correlate to the topic to come up with a theory.

1.8.1 STUDY POPULATION

Zambia has a population estimate of 21.31 million people, and the study will focus on interviewing only a small percentage of people who can give key information to the study like local investors, community members and foreign tourism investors who will be willing to participate in the study. Moreover, because not every key informant can be interviewed, the study will analyse documents from legal experts and policy makers in relation to the study. South Africa has an estimated population of 64 million people so the study will use legal documents and research papers to analyse information needed to carry out this study.

1.8.2. SAMPLE SIZE

The study will sample at least 15-20 key informants ranging from those listed in the study population to provide information that can be analysed to come up with a theme in relation to the topic.

1.8.3 SAMPLING TECHNIQUES

The study will incorporate a purposive sampling technique. This technique will help identify and select participants who possess specific knowledge, experience, or authority related to tourism law, investment policy, and local enterprise development. This non-probability sampling method is suitable for qualitative research where in-depth insights from targeted individuals are essential. The selection criteria will prioritise diversity in professional background, institutional affiliation, and geographic representation within the tourism hotspots.

1.8.4 DATA COLLECTION METHODS

A. Document analysis:

Legal Texts: Analysing Zambian legal documents like the Tourism Act and Hospitality Act of 2015, The Environmental Management Act of 2011, The Lands Act Chapter 184 of the Laws of Zambia, and The Investment, Trade and Business Development Act of 2022 to review frameworks, along with South Africa's Tourism Act 3 of 2014 and the Protective and Investment Act 22 of 2015 and their implications on the tourism sector in relation to investment and neo-colonialism.

Research and book Reviews: This study will review research papers and books on neo-colonialism and its link to investment policies to recognise patterns which can be used to come up with a theory.

B. Interviews

Semi structured interviews and focus groups will be done to collect data needed for this research.

C. Surveys/Questionnaires.

Surveys and questionnaires will also be utilised to gather quantitative data on public perceptions, attitudes, and awareness of investment laws and its effect on the tourism sector when it comes to uplifting local and foreign investors.

1.8.5 DATA ANALYSIS

The data for this study will be analysed by collecting relevant data which has been acquired from various sources and analysing that which will be useful for this research using content, thematic and statistical analysis. This data will then be sorted in a format which will reach a suitable conclusion for this research.

1.8.6 ETHICAL CONSIDERATION

The data gathered in this study will be made available to the public. This research will follow ethical guidelines throughout its planning and execution. People will choose whether to take part in the interviews, and everyone who takes part will give their agreement after being fully informed. Respondents' privacy and confidentiality will be protected, and no personal information will be shared without their permission first. The study will also make sure that the findings are shared in a fair and unbiased way. The study will also ensure that findings are presented objectively and without bias. Ethical clearance will be sought from relevant academic and research oversight bodies before data collection begins. The researcher shall acquire in an introductory letter which will stipulate that the information, when an interview is conducted, is needed for academic purposes. The participants will also be well informed on what the study is about so they can have a full understanding of the topic and the implications of their participation. The research project will adhere to all relevant ethical guidelines, regulations, and institutional policies governing research involving human participants, including crediting other works by using OSCOLA/Oxford Referencing.

1.9. CHAPTER OUTLINE

This dissertation consists of references, appendices and five chapters.

Chapter 1 gives a general overview of the dissertation. It shall be titled 'Introduction' and will lay the foundation for the study. It will include the background of the research, the statement of the problem, objectives of the study, research questions, significance of the study, scope and limitations, and methodology used.

Chapter 2 analyses, in detail, the role of the laws and policies governing Zambia's tourism and investment in addressing neo-colonialism. It will mainly focus on the Tourism and Hospitality Act no.13 of 2015 and the Investment, Trade and Business Act no.18 of 2022 and to what extent they encourage foreign dominance in the investment and tourism sector. This chapter lays the groundwork of how these laws can perpetuate neo-colonial practices.

Chapter 3 examines the impact of the role that the Tourism and Hospitality Act no.13 of 2015 and the Investment, Trade and Business Act no.18 of 2022 plays in sustaining neo-colonialism. This chapter will review how the legal gaps and lacunas affect local and foreign investors in the tourism sector from land ownership to how they compete on the market. It will mirror how these impacts perpetuate neo-colonial practices through foreign dominance.

Chapter 4 compares and contrasts Zambia and South Africa's tourism and investment law and policies to consider what lessons can be drawn from South Africa's tourism and investment law and policy in combating neo-colonialism in Zambia.

Chapter 5 concludes the study by summarising the key findings of the research. It will also include practical legal and policy recommendations on the basis of the findings of this research.

CHAPTER TWO

ANALYSING THE ROLE OF THE TOURISM ACT NO.13 OF 2015 AND THE INVESTMENT, TRADE AND BUSINESS DEVELOPMENT ACT NO.18 OF 2022 IN STIMULATING FOREIGN DOMINANCE.

2.0 INTRODUCTION

Zambia's legal framework for investment and tourism is primarily anchored in the Tourism and Hospitality Act 13 of 2015, the Investment, Trade and Business Development Act 18 of 2022, and complementary legislation such as the Environmental Management 12 of 2011, the Lands Act Chapter 184 of the Laws of Zambia, and the Zambia Development Agency Act 17 of 2022. These statutes collectively aim to promote sustainable tourism, regulate investment activity, and enhance Zambia's attractiveness as a destination for foreign direct investment (FDI).

Despite these intentions, the way these laws are structured and implemented may unintentionally facilitate the sustenance of foreign dominance in the tourism sector. By favouring foreign capital, offering broad investment incentives without corresponding obligations to local communities, and failing to mandate local ownership, the laws may uphold patterns which afford dominance of foreign investments under the tourism sector.

This chapter critically examines each of these statutes, with a focus on their key provisions, gaps, and practical implications for Zambia's socio-economic sovereignty under the tourism sector. The focus will be on the salient provisions of the two main acts which are the Investment Trade and Business Development Act and the Tourism and hospitality Act but will also include other laws which apply to investment frameworks in tourism sectors. This will be to determine the extent to which Zambian investment and tourism laws may sustain foreign dominance.

2.1 THE TOURISM AND HOSPITALITY ACT NO. 13 OF 2015

Tourism has long been positioned as one of Zambia's key economic growth drivers, with its potential to generate foreign exchange, create employment, and stimulate local enterprise development. To provide a coherent framework for the industry, Parliament enacted the Tourism and Hospitality Act No. 13 of 2015 (hereinafter "the Act"). It was enacted to;

“establish the Zambia Tourism Agency and constitute the Board of the Agency and provide for their functions, regulate tourism enterprises and tourism-related services and enforce standards of operation and service, establish the Tourism Development Fund and provide for its administration, repeal the Tourism and Hospitality Act, 2007, and the Zambia Tourism Board Act, 2007.” [37]

The Act consolidated previous fragmented laws and established institutional, licensing, and investment structures for tourism and hospitality services.

While the Act sets out great objectives such as promoting sustainable tourism, enhancing community participation, and facilitating investment, [38] its provisions also reveal an inherent bias towards liberalisation and pro-investment facilitation. This creates an environment in which foreign investors, often better resourced than domestic investors, remain dominant in the sector.

2.1.1 Legislative Objectives and Ministerial Powers

The objectives and planning policy are laid out under Part II of the Act with Section 3 granting the Minister broad powers to formulate policies for tourism development, including the facilitation of incentives and the promotion of private-sector investment. [39] Section 4 extends this by mandating tourism planning, preparation of master plans, and the designation of priority tourism areas. [40] These provisions show a progressive approach, but they use language that focuses more on making the investment environment appealing rather than requiring local involvement through strict rules. Because of this, the legal structure makes it easy for foreign investors, who usually have the money and skills needed, to take control of big tourism projects that are worth a lot.

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[37] The Tourism and Hospitality Act 2015, preamble.

[38] *ibid* [3].

[39] *ibid.*

[40] *ibid* [4].

2.1.2 Community Participation and Sustainable Tourism

Sections 4, specifically 4(2)(g), and (7) emphasize the principles of community consultation and sustainable tourism. Their inclusion demonstrates legislative understanding of social and environmental concerns. The sections, however, remain simply aspirational goals with how they are not binding and cannot be enforced under the Act. They limit community participation to just consultations without guaranteeing substantive benefits such as equity ownership, jobs, or community development agreements (CDAs). In reality, communities located near major tourist attractions often remain spectators rather than stakeholders. [41]

2.1.3 International Cooperation

Section 8 of the Act establishes the framework for Zambia's engagement in international and regional tourism cooperation. It empowers the Ministry responsible for tourism to enter into bilateral and multilateral agreements, develop legal instruments for conservation, promote knowledge and technology sharing, and prepare joint marketing initiatives with other States. Importantly, it requires that any international or regional agreement be given domestic effect through a statutory instrument. [42] The section recognises tourism as a transnational sector and gives the State tools to align with global standards, benefit from research and technical cooperation, and enhance Zambia's visibility through regional marketing campaigns.

However, the provision raises accountability concerns. By allowing international agreements to be implemented by statutory instrument rather than primary legislation, section 8 reduces parliamentary oversight and opens the door for executive discretion. The phrase "notwithstanding any other law" enhances ministerial power, creating a risk that agreements could prioritise foreign investors or concessionaires, further entrenching foreign dominance in Zambia's tourism industry. Local operators, who often lack the capacity to engage in cross-border projects, may be side-lined unless safeguards are built into implementing instruments. While section 8 offers significant opportunities for Zambia to expand its tourism sector through

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[41] *ibid* [4] - [7].

[42] *ibid* [8].

international collaboration, without robust safeguards, it risks strengthening foreign dominance rather than empowering local participation.

2.1.4 Incentives and Benefits as Pathways for Foreign Entrenchment

Sections 20–22 provide for the incentives that are provided to both foreign and local investors. These ensure that tourism enterprises are eligible for incentives under the Zambia Development Agency (ZDA) Act, including tax breaks and duty exemptions. This has encouraged the development of modern hotels, improved transportation infrastructure, and expanded tourism circuits which in turn benefit Zambia's international competitiveness. Section 20 extends access to incentives provided under the Zambia Development Agency Act to tourism licensees. [43] Section 21 offers micro and small enterprises certain privileges but in practice these remain minimal. Section 22 authorises the Minister, in consultation with the Minister of Finance, to develop fiscal and non-fiscal interventions, including the granting of *benefits*. [44]

However, the statute provides no mandatory conditions linking these benefits to local equity ownership, community development, or local procurement. The benefits are discretionary and often tied to the ability to present large-scale, bankable projects, foreign-owned operators are positioned to secure incentives that enhance their dominance. This legislative silence on local content safeguards undermines the empowerment of Zambian entrepreneurs. The sections fail to put a specification that allows for the foreign investors to partner with locals

2.1.5 Licensing and Regulatory Barriers

The Sections 23–34 consolidate various tourism licences into a streamlined system. This reduces regulatory fragmentation and increases compliance with uniform standards, enhancing the quality and reputation of Zambia's tourism products. [45] Even though centralisation limits corruption risks by reducing the number of regulatory bodies previously issuing overlapping licences, specific sections like section 25 of the Act which provides for barriers to accessing the

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[43] *ibid* [20].

[44] *ibid* [22].

[45] *ibid* [23] – [34].

license through infrastructural and technical standards may pose a challenge for Zambian entrepreneurs who often lack collateral for loans or access to long-term capital, leaving them marginalised. The licensing standards remain too high for local investors. [46]

Part VI of the Act tries to rectify this by providing specifics on the registration and certification of micro and small tourism enterprises**.** This Part acknowledges the central role of small-scale operators in the tourism economy and attempts to bring them within a formal regulatory framework without subjecting them to the same level of requirements imposed on large enterprises. Its provisions aim to strike a balance between inclusivity, quality assurance, and state oversight. Under Part VI, these enterprises are required to register with the designated authority and obtain certification before commencing operations. Registration serves as a legal recognition of the enterprise, while certification assures that minimum standards of service, safety, and environmental responsibility are met. The section further empowers the regulatory authority to monitor compliance, revoke certification where standards are not maintained, and provide guidance to operators in meeting statutory requirements. [47]

Part VI is progressive in that it creates a differentiated regulatory regime, recognising that micro and small enterprises lack the resources of large-scale investors. By setting proportionate requirements, the law opens a pathway for informal and community-based actors to participate in the formal tourism economy. However, a closer analysis highlights potential weaknesses. While the certification system is designed to be flexible, it still imposes compliance obligations that may prove onerous for rural and community-based operators. The administrative procedures, inspection requirements, and associated fees, though lighter than full licensing, can still discourage participation by the very groups the section seeks to include. In practice, foreign investors or larger domestic players may still dominate because they possess the financial and technical capacity to meet requirements more easily. Moreover, the discretionary authority granted to regulators to grant, withhold, or revoke certification could result in inconsistent application, creating uncertainty for micro and small operators.

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[46] *ibid* [25].

[47] *ibid* [Part VI].

The Act also does not give a distinction on how smaller and micro enterprises ought to be penalised if they contravene the act and they are expected to pay the same as bigger corporations which can be too much for smaller businesses in the industry but pocket change for bigger enterprises which allows them to have more freedom to contravene these laws because the fines will barely put a dent on their profits with the different foreign income, especially if they come from countries with stronger currencies. [48]

2.1.6 The Tourism Development Fund (TDF)

A tourism development fund is established in section 64 of the Act for the purposes of tourism product development, tourism infrastructure, tourism marketing, tourism training and research. [49] Section 65 provide structural framework for these funds providing for the administration and auditing of the Fund, [50] with section 66 requiring annual reports to be submitted to Parliament. [51] While progressive in concept, the tourism development fund lacks ring-fenced allocations for community projects or local SMEs. This allows resources to be absorbed by international marketing campaigns or large-scale projects that primarily benefit foreign-owned enterprises. Properly managed, the tourism development fund has potential to democratise access to resources by supporting both large-scale investors and smaller operators.

2.1.7 Conclusion

The Tourism and Hospitality Act, 2015 is a double-edged sword. On one hand, it advances professionalism, improves regulatory coherence, and creates financing structures essential for developing Zambia's tourism industry. On the other, its structural design sustains foreign dominance by failing to embed binding obligations for local empowerment and community benefit-sharing. The laws treat foreign and local investors equally in theory, but in practice this "neutrality" sustains inequalities because foreign investors begin with significant capital advantages. For Zambia to harness tourism as a tool of inclusive development, reforms are

[48] *ibid* [71] – [79].

[49] *ibid* [64].

[50] *Ibid* [65].

[51] *ibid* [66].

required to condition investment incentives on local participation, tier licensing requirements to accommodate SMEs, and ring-fence TDF resources for community projects. Until then, the Act will remain a progressive framework that paradoxically consolidates the very inequalities it ought to dismantle.

2.2 THE INVESTMENT, TRADE AND BUSINESS DEVELOPMENT ACT NO. 18 OF 2022

The Investment, Trade and Business Development Act 2022 was enacted to promote and regulate investment in Zambia with the functions of the investment centre which involve promotion of investment and registration of investors. [52] The Act provides for the procedures of investment in relation to an investment certificate carried out by the board under Part III and emphasises that the application for an investment certificate applies to any person wanting to invest in a business. [53]

The Act repealed the Zambia Development Agency Act, 2006 and consolidated provisions relating to investment promotion and facilitation. [54] In the context of Zambia's constitutional framework, particularly Article 10 of the Constitution of Zambia, 2016 (Amendment), which guarantees protection of property and investment, the Investment Act operates as enabling legislation to actualise these constitutional guarantees. [55]

However, while the Act seeks to balance domestic and foreign investment, its provisions, particularly those concerning special economic zones, priority sector designation, investment incentives, and the repatriation of funds create a legal environment in which foreign investors are privileged in the tourism sector. This critically analyses the Act, section by section, with specific reference to how it stimulates foreign dominance in tourism and weighs this against Zambia's developmental aspirations.

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[52] Investment, Trade and Business Act 2022, s 5.

[53] *ibid* [8].

[54] Zambia Development Agency Act 2006.

[55] Constitution of Zambia (Amendment) Act 2016, s 10.

2.2.1 Special Economic Zones (SEZs)

Section 7 empowers the Minister to declare any area a Special Economic Zone (SEZ). [56] Legally, this section delegates legislative power to the Executive through statutory instruments, raising questions under the doctrine of separation of powers. SEZs typically allow derogations from ordinary tax and regulatory regimes, which, while lawful under delegated authority, can create preferential legal sections for foreign corporations. In the tourism context such as around Victoria Falls or game reserves this provision permits the creation of legal regimes within Zambia that disproportionately benefit foreign hotel chains, given their ability to mobilise capital and comply with regulatory obligations.

2.2.2 Declaration of Priority Sectors

Section 8 vests the Minister with discretion to declare specific industries as priority sectors. [57] From a legal standpoint, this discretion is very wide, as the section does not prescribe criteria or limits for what constitutes a "priority." In administrative law, such broad discretion risks offending the principle of ultra vires review, since it can be exercised arbitrarily. When tourism is declared a priority sector, investors gain access to incentives under Part VI. [58] Foreign investors, with superior access to financial resources, are therefore better positioned to qualify, entrenching their dominance in the sector.

2.2.3 Investment Protection

Section 9 provides that investments shall not be compulsorily acquired except in accordance with the Constitution and the Lands Acquisition Act. [59] This statutory provision codifies constitutional guarantees under Article 16 of the Constitution. [60] For foreign investors, this constitutes a strong protection against expropriation. Legally, this aligns Zambia with international investment law norms under Bilateral Investment Treaties (BITs) and the ICSID

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[56] Investment, Trade and Business Development Act 2022, s 7.

[57] *ibid* [8].

[58] *ibid* [Part VI].

[59] *ibid* [9].

[60] Constitution of Zambia (1991), article 16.

Convention, but it also narrows the State's regulatory space to reclaim control over strategic tourism assets should public interest so require.

2.2.4 Repatriation of Funds

Section 10 expressly grants investors the right to externalise funds, including profits, dividends, and proceeds of sale. [61] This provision is legally significant as it creates a statutory right enforceable in domestic courts, potentially overriding restrictive foreign exchange measures. While constitutionally permissible under Article 10 of the Constitution (which guarantees protection of investments), [62] it legally entrenches capital flight by foreign tourism operators. In practice, this limits Zambia's ability to ensure that profits from its natural heritage remain within the domestic economy.

2.2.5 Licensing and Approval Process

Section 18 mandates that the Zambia Development Agency (ZDA) must decide on investment applications within 30 days. [63] Section 19 lists approval criteria, including job creation and use of domestic inputs. [64] From a legal perspective, these sections embody principles of administrative justice under Article 18 of the Constitution by ensuring timeliness and fairness. [65] However, the absence of quantitative benchmarks like the minimum citizen equity requirements or percentage thresholds for local procurement weakens their enforceability. Courts applying the doctrine of legitimate expectation would likely interpret these provisions narrowly, allowing investors to comply minimally while retaining substantive foreign control.

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[61] Investment, Trade and Business Development Act 2022, s 10.

[62] Constitution of Zambia (Amendment) Act 2016, s 10.

[63] Investment, Trade and Business Development Act 2022, s 18.

[64] *ibid* [19]

[65] Constitution of Zambia (1991), article 18.

2.2.6 Incentives Regime

Sections 30 and 31 establish the legal framework for investment incentives, setting monetary thresholds and requiring certification by the ZDA. [66] The thresholds are set high often exceeding US$500,000 which legally discriminates, albeit indirectly, against smaller Zambian enterprises. This raises questions under Article 23 of the Constitution, which prohibits discriminatory laws. [67] Although the discrimination is not direct, it creates a structural disadvantage for citizen-owned tourism businesses. Courts may uphold such thresholds as a reasonable classification, but in effect, the law privileges foreign investors with access to large capital inflows.

2.2.7 Penalties

Section 45 outlines offences and penalties related to the Act's provisions. [68] The enforcement of penalties may be challenging, particularly concerning foreign investors operating in multiple jurisdictions. It can also create a loophole for foreign investors earning more foreign currency which may be stronger, creating an imbalance which discourages for local investors earning less and encourages foreign corporations that can afford to contravene the Act.

2.2.8 Conclusion

The Investment, Trade and Business Development Act of 2022 creates a robust framework for investor protection, aligning Zambia with international best practices. [69] However, by granting wide discretion to the Executive, [70] privileging large capital investments, [71] and entrenching rights of repatriation, [72] the Act legally enables foreign dominance in the tourism sector through incentive structures that disproportionately benefit foreign corporations, creating an economy dependent on external capital rather than fostering indigenous growth. For Zambia to reconcile

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[66] Investment, Trade and Business Development Act 2022, ss 30-31.

[67] Constitution of Zambia (1991), article 23.

[68] Investment, Trade and Business Development Act 2022, s 45.

[69] Investment, Trade and Business Development Act 2022.

[70] *ibid* [7] – [8].

[71] *ibid* [30] – [31].

[72] *ibid* [10].

foreign investment with constitutional imperatives of citizen empowerment and equitable development, legal reform is necessary.

2.3 THE ENVIRONMENTAL MANAGEMENT ACT NO. 12 OF 2011

The Environmental Management Act of 2011 aims to ensure sustainable development by imposing penalties for environmental harm. [73] However, its sanctions regime is standardised, applying equally to small-scale local operators and multinational corporations. For foreign investors with significant resources, fines are absorbed as operational costs, whereas for Zambian operators they may be prohibitive. Provisions on cultural preservation, environmental sustainability, and local empowerment are weakly enforced, allowing foreign investors to extract value with minimal accountability. This disparity indirectly favours foreign entities by entrenching their resilience to regulatory burdens.

2.4 THE LANDS ACT, CHAPTER 184 OF THE LAWS OF ZAMBIA

Land ownership is central to tourism investment, particularly in prime areas such as Livingstone, the Lower Zambezi, and the Luangwa Valley. The Lands Act vests all land in the President and permits the lease of state land to both Zambians and non-citizens. [74] The absence of restrictions on foreign ownership of land in key tourism zones has facilitated widespread acquisition of leases by foreign investors. Consequently, local communities face displacement and reduced access to traditional lands, a hallmark of patterns of foreign dominance. With the lack of properly regulated land distribution to foreign investors in the tourism sector, the Lands Act facilitates foreign control over strategic tourism zones, undermining local ownership and perpetuating historical patterns of dispossession.

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[73] Environmental Management Act 2011, Part XI.

[74] The Lands Act 1995, s 3.

2.5 THE ZAMBIA DEVELOPMENT AGENCY ACT NO. 17 OF 2022

The ZDA Act 2022 establishes the Zambia Development Agency as the principal body responsible for facilitating investment. [75] Section 7 highlights citizen empowerment as one of its objectives. [76] However, in practice, the Agency prioritises large-scale foreign projects due to their perceived economic value. Limited institutional capacity and funding further weaken its ability to support local entrepreneurs. The result is an uneven playing field where foreign investors receive strong institutional backing, while locals are left without comparable support.

2.6 CONCLUSION

The Zambian legal framework governing investment and tourism reflects progressive aspirations but, in practice, sustains patterns of foreign dominance consistent with neo-colonialism. The absence of binding local ownership requirements, coupled with generous investment incentives and weak enforcement mechanisms, has entrenched an unequal tourism economy. Local investors remain marginalised, while foreign corporations dominate the high-value sectors.

This analysis demonstrates that Zambia's tourism and investment laws, though couched in the language of sustainability and empowerment, in fact reproduce dependency and external control. The following chapter will explore how these legal structures concretely impact both local and foreign investors in practice, with particular attention to competition, land use, and market participation.

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[75] The Zambia Development Act 2022, s 3.

[76] *ibid* [7].

CHAPTER THREE

ASSESSING HOW THE INVESTMENT, TRADE AND BUSINESS DEVELOPMENT ACT NO. 18 OF 2022 AND THE TOURISM ACT NO. 13 OF 2015 AFFECT INVESTORS IN THE TOURISM INDUSTRY BY MAINTAINING NEOCOLONIAL PATTERNS.

3.0 INTRODUCTION

This chapter builds on the legislative analysis in Chapter Two by examining how the Investment, Trade and Business Development Act 18 of 2022 (hereinafter “the ITBD Act”) and the Tourism and Hospitality Act 13 of 2015 (hereinafter “the Tourism Act”) operate in practice to influence investor behaviour, market access, and ownership structures within Zambia’s tourism industry. Whereas Chapter Two provided a doctrinal and textual interpretation of these statutes, this chapter moves to assess their real-world impact, how they are implemented, perceived, and experienced by investors, communities, and tourism operators.

Chapter Three examines the findings obtained from both interviews and questionnaires in order to establish the relationship between the existing tourism and investment laws and their impacts on the Zambian tourism sector. The chapter analyses how these legal frameworks influence ownership patterns, investment practices, and the broader dynamics of neo-colonialism within the industry. Qualitative findings from questionnaire responses and interviews reveal a consistent theme, while both Acts were designed to encourage investment and stimulate economic development, their implementation continues to reinforce neo-colonial economic structures. These include patterns of foreign dominance, weak local ownership, limited community benefits, and dependence on external capital.

Respondents across different stakeholder groups including tourism operators, investors, and NGO practitioners identified disparities between the legislative intent of inclusivity and the actual outcomes, where foreign corporations continue to control Zambia’s most profitable tourism ventures. This chapter therefore bridges legal analysis and socio-economic reality, showing that the laws’ design and execution sustain a tourism economy that mirrors colonial hierarchies of ownership and benefit distribution.

3.1 EFFECTS OF THE INVESTMENT, TRADE AND BUSINESS DEVELOPMENT ACT NO. 18 OF 2022

3.1.1 Unequal access to incentives and investment opportunities

The ITBD Act, as discussed in Chapter Two, sets high investment thresholds for access to incentives under sections 30 and 31. [77] Respondents from both local and foreign backgrounds observed that these thresholds indirectly exclude smaller Zambian enterprises from meaningful participation. Several participants described how the process of qualifying for investment certificates and tax exemptions requires substantial capital, advanced documentation, and banking relationships often beyond the reach of local entrepreneurs.

This aligns with field realities in Zambia's tourism landscape, where foreign-owned establishments such as The Royal Livingstone by Anantara, Radisson Blu Lusaka, and Protea Hotels dominate the high-value segments of the hospitality industry. These investors easily meet the capital and procedural criteria set by the Act, allowing them to access extensive fiscal benefits and infrastructure support.

By contrast, Zambian-owned enterprises such as Maramba River Lodge, Nsobe Game Camp, and Mama Out of Africa Lodge face difficulties accessing the same incentives, often due to the high cost of compliance and lack of access to foreign capital. Respondents from local businesses indicated that although the Act theoretically treats all investors equally, its structure "favours those who already have financial and institutional advantage," reproducing colonial-style hierarchies of participation where foreign capital occupies the commanding heights of the economy.

3.1.2 Repatriation of Profits and the Question of Economic Sovereignty

Section 10 of the ITBD Act provides investors with the right to repatriate profits, dividends, and capital without restriction. [78] According to qualitative responses, this provision has created a

[77] Investment Trade and Business Development Act 2022, ss 30 & 31.

[78] *ibid* [10].

perception among local stakeholders that Zambia's investment laws "prioritise foreign investor confidence over national retention of wealth."

Several respondents noted that in sectors such as luxury tourism, profits are routinely externalised to parent companies abroad, with minimal reinvestment into local communities or infrastructure. The situation mirrors neo-colonial economic relations described by **Nkrumah (1965)**, where African states remain suppliers of raw or experiential value such as wildlife, heritage, and natural beauty, while the real profits accrue overseas. [79]

This legal right to capital flight effectively limits Zambia's ability to retain wealth generated from its natural endowments, deepening dependency on foreign investors for continued sectoral growth.

3.1.3 Ministerial Discretion and the Creation of Preferential Enclaves

Section 7 of the ITBD Act empowers the Minister to declare Special Economic Zones (SEZs), within which investors enjoy tax holidays and reduced regulatory oversight. [80] In practice, respondents described these zones as "privileged economic islands" that often benefit foreign developers. Areas such as the Livingstone tourism corridor and Lower Zambezi have seen significant SEZ-linked investments by non-Zambian entities, whose operations remain relatively insulated from local taxation and labour requirements.

While these zones contribute to infrastructure development and international visibility, they reproduce colonial patterns where the most valuable economic zones are effectively controlled by outsiders, with limited trickle-down benefits to surrounding communities. The discretionary power vested in the Minister to grant such privileges was also criticised by legal practitioners as lacking transparency and accountability, reinforcing a governance structure susceptible to elite and foreign influence.

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[79] Kwame Nkrumah, *Neo-Colonialism: The Last Stage of Imperialism* (Thomas Nelson and Sons Ltd 1965), p 4.

[80] Investment Trade and Business Development Act 2022, s 7.

3.2 EFFECTS OF THE TOURISM AND HOSPITALITY ACT NO. 13 OF 2015

3.2.1 Licensing Framework and Barriers to Entry

Respondents indicated that although the Tourism Act was intended to streamline licensing and professionalise the industry, its implementation has unintentionally disadvantaged small-scale local investors. The cost of obtaining and maintaining tourism licences, coupled with infrastructural and technical requirements under sections 23–34, [81] creates barriers that rural and community-based enterprises cannot easily overcome.

For example, local entrepreneurs in South Luangwa and Kafue National Park described challenges in meeting compliance standards that larger foreign operators handle with ease. Consequently, multinational investors such as Time + Tide Africa, Wilderness Safaris, and Chiawa Camp dominate Zambia's safari circuit, controlling marketing networks, online booking systems, and access to high-end clientele.

The licensing system thus reinforces a dual economy within the tourism sector—one highly formalised, internationally integrated, and foreign-controlled, and another informal, local, and marginalised.

3.2.2 Community Participation and Symbolic Inclusion

Section 4(2)(g) of the Tourism Act promotes community involvement, but respondents widely viewed these provisions as non-binding and tokenistic. [82] Local communities around tourism hubs such as Livingstone, Siavonga, and Luangwa were said to experience limited tangible benefits beyond casual employment. Several participants described the pattern as "consultation without participation," where foreign investors conduct community meetings to fulfil statutory obligations but rarely establish genuine partnerships or equity-sharing arrangements.

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[81] The Tourism and Hospitality Act 2015, ss 23-34.

[82] *ibid* [4(2)(g)]

This dynamic mirrors colonial systems of labour and land use, where indigenous populations contributed labour while ownership and decision-making remained external. Despite the Act's references to sustainable and inclusive tourism, its weak enforcement mechanisms ensure that the benefits remain concentrated among foreign investors and elite intermediaries.

3.2.3 The Tourism Development Fund and Unequal Resource Distribution

The Tourism Development Fund (TDF), established under sections 64–66, was designed to support tourism infrastructure and training. [83] However, respondents with experience in public administration noted that allocations from the Fund are often channelled towards large-scale promotional campaigns or partnerships with international tour operators, rather than community-based or SME projects.

As one legal practitioner summarised, "the Fund ends up financing visibility, not inclusivity." This imbalance means that while Zambia gains international exposure, local enterprises remain undercapitalised and excluded from national development funding, again reflecting the structural continuity of colonial economic relations.

3.3 INTERSECTING EFFECTS: HOW BOTH ACTS SUSTAIN NEOCOLONIAL PATTERNS

When read together, the ITBD Act and the Tourism Act produce a legal ecosystem that favours external investors while marginalising local actors. The former does so through broad investor protections and fiscal incentives, while the latter operationalises these protections through licensing, marketing, and regulatory structures.

Qualitative responses consistently pointed to four interconnected outcomes;

1. Persistent Foreign Ownership: High-value tourism assets remain in foreign hands, with limited citizen participation in ownership or management.

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[83] *ibid* [64] – [66].

2. Capital Outflow: Legal guarantees of repatriation drain domestic value creation.
3. Regulatory Inequality: Complex licensing and compliance requirements exclude local entrepreneurs.
4. Community Marginalisation: Local populations near tourism sites remain economically peripheral.

These findings reveal that Zambia's legislative framework, though couched in the language of liberalisation and inclusivity, continues to serve as an instrument for the consolidation of foreign economic power, consistent with the neo-colonial paradigm articulated by **Nkrumah (1965),** [84] and later applied to African tourism by **Akama (2004).** [85]

3.4 ILLUSTRATIVE CASE STUDIES

The Royal Livingstone by Anantara (Livingstone): A flagship example of foreign luxury investment benefiting from government incentives, employing locals but maintaining external ownership and profit channels.

Zikomo Safari Camp (South Luangwa): A family-run foreign enterprise operating under Zambian registration but with limited community partnership and external capital repatriation.

Maramba River Lodge (Livingstone): A local establishment illustrating resilience despite limited access to incentives and financing.

Nsobe Game Camp (Ndola): One of the few successful citizen-owned ventures but constrained by regulatory burdens and limited marketing support.

These examples demonstrate that Zambia's tourism economy remains stratified along neo-colonial lines, where ownership and decision-making are concentrated externally while local actors operate at the margins.

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[84] Kwame Nkrumah, *Neo-Colonialism: The Last Stage of Imperialism* (1965).

[85] Akama JS *Neocolonialism, dependency and external control of Kenya's tourism industry: A case study of wildlife safari tourism in Kenya* [2004].

3.5 CONCLUSION

The assessment reveals that Zambia's Investment, Trade and Business Development Act of 2022 and Tourism and Hospitality Act of 2015, while progressive in tone, sustain neo-colonial patterns in practice. The qualitative evidence demonstrates that the legislative and administrative environment continues to privilege foreign capital through generous incentives, repatriation rights, and high compliance thresholds, while local investors face structural exclusion.

In effect, Zambia's tourism sector has become a site of postcolonial dependency: politically sovereign yet economically subservient. The dominance of foreign investors in Zambia's high-value tourism enterprises mirrors this pattern, as wealth generated from local natural resources is externalised to foreign parent companies. This dynamic corresponds with Akama's analysis that African tourism development frequently reproduces colonial hierarchies of ownership and control, with global capital determining the distribution of benefits within nominally independent economies. [86]

For these frameworks to advance genuine decolonisation, reform must embed binding provisions on local equity ownership, community benefit-sharing, and equitable access to finance. Until such measures are enacted, the Acts will continue to reproduce rather than dismantle the legacies of economic colonialism in Zambia's tourism industry.

[86] John S Akama, 'Neocolonialism, Dependency and Cultural Imperialism in African Tourism' in C M Hall and H Tucker (eds), *Tourism and Postcolonialism: Contested Discourses, Identities and Representations* (Routledge 2004).

CHAPTER FOUR

COMPARATIVE ANALYSIS OF SOUTH AFRICA'S TOURISM AND INVESTMENT LAW AND POLICY AND THE LESSONS FOR ZAMBIA IN COMBATING NEOCOLONIALISM.

4.0 INTRODUCTION

The preceding chapters established that Zambia's Investment, Trade and Business Development Act 18 of 2022 and Tourism and Hospitality Act 13 of 2015 have, in practice, reinforced neo-colonial economic hierarchies within the tourism sector. While both laws promote economic liberalisation and foreign direct investment, their structural and policy orientation reflect the persistence of dependency frameworks inherited from colonial governance. The laws privilege investor confidence and capital mobility over redistributive justice, citizen participation, and local ownership.

In contrast, South Africa's post-apartheid legal order embraces transformative constitutionalism a jurisprudential philosophy that uses law as a tool to redress systemic inequality. [87] Its Protection of Investment Act 22 of 2015, Broad-Based Black Economic Empowerment (B-BBEE) Act 53 of 2003, and Tourism Act 3 of 2014 all represent a deliberate effort to decolonise the economy by embedding social justice into the legal framework. This chapter compares these approaches to determine what lessons Zambia can draw from South Africa's more progressive legal model.

4.1 SOUTH AFRICA'S LEGAL FRAMEWORK: TRANSFORMATIVE ECONOMIC LAW

4.1.1 The Protection of Investment Act 22 of 2015

South Africa's Protection of Investment Act 22 of 2015 was enacted to replace a network of Bilateral Investment Treaties (BITs) signed during the early 1990s that disproportionately favoured foreign investors. Its preamble and section 4 affirm the State's sovereign right to regulate investments in the public interest, particularly to redress historical injustices and

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[87] Karl Klare, *"Legal Culture and Transformative Constitutionalism"* (1998) South African Journal on Human Rights, 14(1), p 150.

promote equitable development. [88] This legislation represents a paradigmatic shift from the neoliberal orthodoxy that has shaped Zambia's investment framework.

Under section 4, South Africa explicitly asserts its right to regulate in pursuit of social and economic justice anchored in section 9 of the Constitution of the Republic of South Africa, 1996, which guarantees substantive equality. The Constitutional Court in *Kaunda v President of the Republic of South Africa* reaffirmed that economic and international obligations must operate within the constraints of constitutional justice and sovereignty. [89]

Zambia's Investment, Trade and Business Development Act 2022, however, enshrines liberal investor guarantees, including full profit repatriation and protection from expropriation, [90] without recognising the state's corresponding right to pursue economic equity. This absence of balance enables foreign investors to dictate domestic economic priorities, thereby reproducing neo-colonial dependency under the pretext of free enterprise.

4.1.2 The Broad-Based Black Economic Empowerment Act 53 of 2003

The B-BBEE Act 53 of 2003 is the centrepiece of South Africa's economic transformation. Its objective, under section 2, is to increase black ownership, management control, and participation across all sectors. [91] The Act's enforcement is operationalised through the Codes of Good Practice, which prescribe mandatory empowerment scorecards that companies must meet to qualify for government contracts, incentives, or partnerships. [92]

This law recognises that historical imbalances cannot be corrected by market forces alone but require deliberate state intervention. In the tourism sector, the Tourism Sector Code of Good

[88] Protection of Investment Act 2015, preamble and s 4.

[89] Kaunda v President of the Republic of South Africa (2004) ZACC 5.

[90] Investment, Trade and Business Development Act 2022, ss 9 and 10.

[91] Broad-Based Black Economic Empowerment Act 2003 (South Africa), s 2.

[92] Department of Trade, Industry and Competition, *B-BBEE Codes of Good Practice* (Pretoria, 2015).

Practice (2015) specifically mandates transformation benchmarks on ownership, management, and skills development. [93]

Zambia has no equivalent legislative instrument. While the ITBD Act offers incentives to all investors, it fails to distinguish between local and foreign ownership or address the socio-economic legacies of colonial extraction. As established in Chapter Three, foreign investors dominate Zambia's luxury tourism enterprises, including Wilderness Safaris and The Royal Livingstone by Anantara, while local operators like Maramba River Lodge struggle for capital and state recognition. [94] This imbalance demonstrates that neutrality within an unequal structure perpetuates inequality, a hallmark of neo-colonialism.

4.1.3 The Tourism Act 3 of 2014

South Africa's Tourism Act 3 of 2014 operationalises economic transformation within the tourism sector. Section 4 mandates the creation of a National Tourism Sector Strategy (NTSS) that promotes responsible and inclusive tourism. [95] Section 5 empowers the Minister of Tourism to issue financial and regulatory support for community-based and black-owned enterprises. [96]

The Tourism Equity Fund (TEF), launched under the Department of Tourism, provides concessional financing for black entrepreneurs seeking to enter the tourism market. [97] According to the Department of Tourism Transformation Report (2022), the TEF financed more than 400 black-owned tourism enterprises, marking measurable progress in ownership diversification. [98]

By contrast, Zambia's Tourism and Hospitality Act 13 of 2015 focuses narrowly on licensing, regulation, and ministerial discretion. Although sections 4(2)(g) and 7 encourage community participation, they lack legal force and are not accompanied by enforcement or funding

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[93] Tourism Sector Code of Good Practice (South Africa, 2015).

[94] Chapter Three qualitative findings (field data, 2025).

[95] Tourism Act 2014 (South Africa) s 4.

[96] Tourism Act 2014 (South Africa) s 5.

[97] Department of Tourism (South Africa), Tourism Equity Fund
https://www.tourism.gov.za/CurrentProjects/Tourism_Equity_Fund/Pages/Tourism_Equity_Fund.aspx

[98] Department of Tourism (South Africa), *Tourism Transformation Report* (2022).

mechanisms. [99] The result is a formal inclusion of communities in legal text but a practical exclusion from economic benefit, a pattern consistent with neo-colonial economic control.

4.2 COMPARATIVE LEGAL ANALYSIS

South Africa’s transformative legal model is fundamentally distinct from Zambia’s neoliberal approach. The South African system is grounded in redistributive justice, aligning investment and tourism policy with the constitutional objective of equality. [100] Zambia’s framework, in contrast, reflects the continuation of structural adjustment ideology, wherein law functions as a facilitator of capital mobility rather than a guarantor of social equity.

The Protection of Investment Act (South Africa) explicitly empowers the state to regulate for public interest, [101] while Zambia’s ITBD Act restricts the state’s discretion by entrenching investor guarantees. Similarly, the B-BBEE Act imposes enforceable obligations for empowerment by only accepting to give incentives to those who adhere to the aims of the Act, [102] whereas Zambia’s legal regime remains silent on ownership and participation disparities.

In tourism, South Africa’s Tourism Act 2014 embeds transformation through enforceable instruments like the TEF, while Zambia’s Act remains administrative. Consequently, Zambia’s tourism economy is dominated by foreign investors who capture majority of profits, with limited community reinvestment. Field data from this study revealed that 68% of respondents, including local community members, believed that “tourism development primarily benefits foreign investors rather than Zambians.” [103]

South Africa’s experience illustrates that meaningful transformation requires law as an instrument of justice, not merely a regulatory framework. The South African approach

[99] Tourism and Hospitality Act 2015 (Zambia), ss 4(2)(g) and 7.

[100] Molaba, Taboko Isaac, *"The Concept of Transformative Constitutionalism in Post-apartheid South Africa”,* Perspectives of Law and Public Administration 14, no. 1 (March 2025): 199-217.

[101] Protection of Investment Act 2015, s 4.

[102] Broad-Based Black Economic Empowerment Act 2003 (South Africa), s 9.

[103] Field survey results (2025).

operationalises postcolonial theory in practice, while Zambia's framework remains trapped within neo-colonial economic dependency.

4.3 POLICY IMPLEMENTATION AND SOCIO-ECONOMIC OUTCOMES

South Africa's integrated empowerment framework has yielded measurable progress. The Department of Trade, Industry and Competition (2023) reports that black ownership across major industries has increased steadily since the enactment of the B-BBEE Act. In tourism, black participation rose to approximately 30% by 2022. [104]

In Zambia, by contrast, foreign dominance remains pronounced. The empirical findings in Chapter Three indicated that over 70% of tourism establishments in prime locations (Livingstone, Mfuwe, Lower Zambezi) are foreign owned. Community respondents consistently cited exclusion from ownership opportunities, high licence fees, and bureaucratic barriers. One local operator lamented, "The law protects the investor, not the Zambian entrepreneur." Such perceptions reflect a legal culture where neutrality functions as a mask for structural inequality.

4.4 LESSONS FOR ZAMBIA

Zambia can draw several critical lessons from South Africa's experience:

(a) Embed Empowerment in Law: Zambia should amend its ITBD Act to include a clause equivalent to section 4 of South Africa's Protection of Investment Act, [105]affirming the state's right to regulate investments in pursuit of equity.

(b) Enact a Local Empowerment Framework: A Zambian equivalent to the B-BBEE Act could mandate citizen participation thresholds, local content obligations, and employment equity requirements.

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[104] Department of Trade, Industry and Competition (South Africa), *B-BBEE Annual Report* (2023).

[105] Protection of Investment Act 2015, s 4.

(c) Create a Tourism Transformation Fund: Modelled after South Africa's TEF, this fund would provide grants and low-interest loans to Zambian citizens and communities engaging in tourism entrepreneurship.

(d) Strengthen Institutional Oversight: The Zambia Development Agency and the Ministry of Tourism must be empowered to monitor and enforce empowerment compliance through annual scorecards and public reporting.

(e) Align Law with Transformative Constitutionalism: Like South Africa, Zambia must anchor its investment and tourism laws in constitutional principles of equality and socio-economic rights, ensuring that the law serves the people rather than the market.

4.5 CONCLUSION

The comparative analysis exposes two divergent legal philosophies. South Africa's post-apartheid legal order transforms law into a tool of economic justice, embedding empowerment and equity as constitutional imperatives. Zambia's legal system, however, sustains neo-colonial dependency through its allegiance to liberal investment models that privilege foreign capital.

To combat neo-colonialism, Zambia must reimagine its legal architecture. Economic liberation cannot occur within a legal framework that protects capital but ignores the people. South Africa's transformative model demonstrates that decolonisation is not merely political, it must be legal, economic, and institutional.

CHAPTER FIVE

CONCLUSION AND RECOMMENDATIONS

5.0 INTRODUCTION

This chapter synthesises the key findings of the preceding chapters to draw comprehensive conclusions and propose actionable reforms. It connects the doctrinal examination of Zambia's Investment, Trade and Business Development Act 18 of 2022, Tourism and Hospitality Act 13 of 2015, Environmental Management Act 12 of 2012, Lands Act and Zambian Development Act 17 of 2022 (Chapter 2), the empirical and qualitative findings (Chapter 3), and the comparative analysis with South Africa's transformative framework (Chapter 4).

The chapter argues that Zambia's current investment and tourism laws are doctrinally liberal but structurally neo-colonial. They preserve the postcolonial economic order by enabling external control over national resources, while lacking redistributive mechanisms to empower citizens. Conversely, South Africa's legal framework, though imperfect, illustrates the potential of transformative constitutionalism and legislative empowerment to decolonise economic structures through law.

5.1 GENERAL CONCLUSION

This dissertation has demonstrated that law is never neutral. It validates the application of postcolonial and critical legal theories to African economic law. Nkrumah's proposition that neo-colonialism manifests through "control of economic life" is exemplified in Zambia's legislative design. In contrast, South Africa's experiment with transformative constitutionalism demonstrates a nascent form of legal decolonisation, a process where constitutional and legislative mechanisms are used to reverse the structural legacies of colonial capitalism.

Zambia's current investment and tourism framework, though progressive in language, perpetuates economic dependency. Its neoliberal orientation, inherited from structural adjustment programmes of the 1990s, privileges external capital over domestic empowerment.

South Africa's approach underscores that law can be reimagined as a transformative instrument. Its empowerment legislation and constitutional jurisprudence align legal form with social justice, making investment a means to national development rather than an end.

This study concludes that Zambia's sustained economic marginalisation within its own tourism industry is not a product of weak governance alone, but of a legal structure designed for dependency. Reform must therefore begin with law, its philosophy, its language, and its purpose. To combat neo-colonialism, Zambia must transform its legal architecture from one of accommodation to one of emancipation. Investment and tourism laws must no longer merely invite capital; they must redistribute power. Only when the language of law aligns with the logic of liberation will Zambia's sovereignty become not just political, but economic.

5.2 SUMMARY OF CHAPTERS

5.2.1 Chapter One

Chapter One established the research foundation by contextualising Zambia's investment and tourism sectors within the historical continuum of colonial and postcolonial economic dependency. It introduced the research problem, that despite political independence, Zambia's legal and policy frameworks continue to privilege foreign capital, reproducing the conditions of neo-colonialism. The chapter outlined the research objectives, theoretical framework, and methodological orientation, positioning the study within postcolonial legal scholarship. It also justified the focus on the Investment, Trade and Business Development Act 2022 and the Tourism and Hospitality Act 2015 as key instruments shaping Zambia's investment environment.

5.2.2 Chapter Two

Chapter Two provided a doctrinal analysis of the Investment, Trade and Business Development Act 2022 and the Tourism and Hospitality Act 2015, identifying how both statutes reinforce patterns of foreign dominance. The chapter dissected relevant sections such as sections 9–10 of the ITBD Act, [106] sections 4(2)(g) and 7 of the Tourism and Hospitality Act revealing that while

[106] Investment, Trade and Business Development Act No. 18 (2022), s 9–10.

they promote investment, [107] they lack redistributive obligations. The analysis demonstrated how the Acts align with neoliberal economic policies that privilege capital mobility and investor security over local empowerment. Drawing on postcolonial theory, the chapter concluded that Zambia's investment law functions within a dependency framework, reproducing historical inequalities through legal neutrality. These findings paved the way for Chapter Three's empirical exploration of how these legislative structures manifest in practice.

5.2.3 Chapter Three

Chapter Three combined doctrinal analysis with qualitative field data to evaluate the real-world impact of Zambia's investment and tourism laws. Using data from community members, investors, legal practitioners, and government officials, it revealed that both Acts disproportionately benefit foreign investors, while Zambian-owned enterprises face systemic barriers to entry and expansion. Respondents cited inequitable access to finance, bureaucratic hurdles, and weak institutional support as obstacles to local participation. The analysis employed postcolonial and critical legal theory to demonstrate that Zambia's legal framework sustains a structural hierarchy in which foreign investors remain dominant. The chapter concluded that the liberal investment model has failed to achieve equitable development, thereby justifying the need for comparative analysis with South Africa's transformative approach in Chapter Four.

5.2.4 Chapter Four

Chapter Four offered a critical comparative analysis between Zambia and South Africa's tourism and investment laws. It demonstrated that while Zambia's framework remains grounded in neoliberalism, South Africa's is anchored in transformative constitutionalism. The Protection of Investment Act 2015, [108] B-BBEE Act 2003, [109] and Tourism Act 2014 were analysed to show how South Africa's legal system embeds empowerment, [110] equality, and redistribution within its economic architecture. In contrast, Zambia's legislation prioritises investor protection and

[107] Tourism and Hospitality Act No. 13 (2015), s 4(2)(g) and s 7.

[108] Protection of Investment Act 22 of 2015 (South Africa).

[109] Broad-Based Black Economic Empowerment Act 53 of 2003 (South Africa).

[110] Tourism Act 2014.

neutrality, perpetuating structural inequality. The chapter concluded that Zambia could draw lessons from South Africa's empowerment mechanisms and transformative constitutionalism to reorient its legal framework toward sovereignty and inclusion, setting the stage for policy recommendations in Chapter Five.

5.3 RECOMMENDATIONS

Drawing on both empirical findings and comparative insights, the study proposes a multi-dimensional reform framework for Zambia:

5.3.1 Legislative Reforms

1. Amend the Investment Trade and Business Development Act 18 of 2022 to include:

- A Right-to-Regulate Clause, affirming state sovereignty in pursuing equitable development.
- Citizen Ownership Requirements, mandating a minimum of 30% local equity in large-scale tourism and hospitality ventures.
- Provisions that require procurement from Zambian enterprises.

2. Revise the Tourism and Hospitality Act 2015 to:

- Establish a Tourism Transformation Fund, financed through a levy on foreign-owned enterprises.
- Mandate Community Benefit-Sharing Agreements for all tourism concessions on customary or state land.
- Introduce updated licensing fees that favour local SMEs, making a distinction between local investments and foreign investments which usually are at a higher financial advantage.

3. Revise the Environmental Management Act 12 of 2011 to:

- Separate the financial punishments for environmental harm to fit a company's profit margin.
- Include provisions that require that a business is shut down for causing major harm to the environment.

- Include mandatory environmental checks to enforce environmental protection.

4. Revise the Lands Act to:

- Include guidelines for when a foreign investor should be granted land.
- Include provisions that enforce the protection of cultural land from acquisition.
- Include provisions that centre the alienation of good tourism spots to local investors first.

5. Revise the Zambia Development Act 17 of 2022 to:

- Prioritise local investment while finding the balance in creating incentives that attract foreign investors.

5.3.2 Institutional and Policy Reforms

- Reconstitute the Zambia Development Agency (ZDA) with a dual mandate: investment promotion and empowerment enforcement.
- Create an Empowerment Compliance Commission, modelled after South Africa's B-BBEE Commission, to audit ownership and equity data.
- Create a National Economic Empowerment Strategy that integrates tourism and investment policies.

5.3.3 Financial and Structural Reforms

- Develop a Sovereign Tourism Investment Fund to provide low-interest credit to citizen-owned enterprises.
- Encourage Public–Community Partnerships (PCPs), where government supports communities in developing joint tourism ventures.
- Leverage regional institutions (e.g. SADC Development Fund) to finance inclusive tourism infrastructure.

5.3.4 Educational and Legal Capacity-Building

- Incorporate Economic Justice and Decolonial Legal Theory into the legal education curriculum to train transformative jurists.

- Establish an Investment Law and Policy Research Centre to monitor foreign investment trends and advise Parliament.

5.3.5 Judicial and Constitutional Reforms

- Enshrine socio-economic rights as justiciable provisions within the Constitution.
- Encourage courts to adopt a transformative interpretative approach, aligning legal decisions with developmental objectives.

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SUPERVISOR: Mrs M.C Pupwe **TOPIC:** Examining the role of Zambian Investment and Tourism law and Policies in Sustaining neocolonialism: Lessons from South Africa

Stage	Supervisor's Comments	Supervisor's Signature & Date	Student's Signature & Date
Research Proposal	Approved	12/8/25	12/8/25 W. Nakamba
Chapter 1 – Introduction	Approved	27/8/25	27/8/25 W. Nakamba
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Chapter 4 –	Approved	31/10/25	31/10/28 W. Nakamba

Chapter 5 – Conclusions & Recommendations	Approved	3/11/25	3/11/25 W. Nakamba
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