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LAWS AND POLICIES GOVERNING AIRLINES IN ZIMBABWE: OPTIONS FOR SUSTAINABILITY

MARTIN RUSHIZHA¹

ABSTRACT

Before the advent of colonialism that brought the so-called —modern world, air transport was alien to the African continent. While studies have been conducted to assess the procedure and requirements of boarding flights, there has been little understanding on the laws and policies governing the same airlines. The article reviews the laws and policies that have existed in Zimbabwe since independence in relation to air transport and the challenges faced in the last four decades. This is a unique study in that it seeks to strike a balance between aviation and tourism. These terms can be used interchangeably in the contextual framing of this article, though strictly, they do not yield the same meaning. The aim of the study is to provide a systematic investigation on the current state of policies governing airlines. It seeks to answer the question; who owns airlines? Further to the question, it is an inquiry on what ought to be done to improve the state of aviation. The results of the article suggest that there is need to implement new policies, amend the available laws so that the tourism sector can be the powerhouse in economy development. In addition, the results point to options for sustainability and implementations to improve aviation laws. Here, the laws and policies governing airlines are discussed. What is worthy of mention is that a growth in the tourism sector benefits the field of aviation, and the growth in aviation corresponds to the growth of tourism.

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Keywords: aviation, policy, development, law, implementation, airspace, tourism, international obligation.

INTRODUCTION

The introduction of air transport in Africa was concomitant to the implementation of the colonial project as Africa became the new frontier after the Berlin Conference of 1884-5. The virgin continent of Africa had poor or no roads, railways and infrastructure. There was, therefore, need for air transport for the purposes of moving passengers comprising colonial government officers (Lonsdale and Berman 2015), researchers and missionaries. After colonialism, most African countries became independent, and states began negotiating agreements for the improvement of air transport. Zimbabwe was never an exception. The growth and expansion of air transport in Zimbabwe has been identified by the government as a vital element within its plans for development. Many people, tourists on long distance trips, make use of air transport to travel to and from their destinations. This study will focus on the laws and policies governing the state of airlines in Zimbabwe. Policy can be understood as a system of guidelines implemented to govern a certain entity. Put simply, a policy is a law, regulation, procedure, administrative action that has the mandate to control or govern. There is argument that a policy is not the same as a law. Subscribers to this view assert that laws are rules and regulations that govern conduct and there is always a sanction if there is a breach (Madhuku, 2010). Nevertheless, it cannot be gainsaid that these are academic debates. The terms can, however, be used interchangeably, thus the object of the article will focus on policies and laws that govern the state of airlines in Zimbabwe.

While policy can be understood to mean a normative accepted procedure, in Zimbabwe the airlines do have travel policies that include baggage policy, change of flights, returns and refund policy, marketing policies. Among others. In a bid to manage the state of airlines, the legislative body responsible in the making of laws, have made it easier for many people to understand the policies through the enactment of laws. Some of the laws includes the Civil Aviation Act (chapter

13:16), Statutory Instrument 22 Civil Aviation (Security and Racilitation Regulations), Drugs and Dangerous Act, SI, 2019, Civil Aviation (Personnel Licensing) Regulations, Presidential and Temporary Measures Act, among other laws. The Government of Zimbabwe, through the goal of attaining an upper middle-income economy by 2030, has implemented what it calls the Development Policy. The policy has yielded positive results in the process, resulting in the recent expansion of the Robert Mugabe International Airport. The article will give a brief background on the state of airlines in Zimbabwe and the policies that have been available since it came into being. Along these lines, the article will proceed in highlighting the challenges air transport has been facing, rendering the policies ineffective. At the end of the discussion, emphasis will be placed on what ought to be done in addressing the status and improve the field of aviation. The connectivity of aviation policies and governmental policies poses many interrelated questions.

RESEARCH METHODOLOGY

In relation to the mandate of the study, the research utilises an extensive literature canon already in existence in search of the policies and laws governing airlines in Zimbabwe. This investigation was made easier through conducted interviews with airline personnel and legal consultants. Only key airline personnel were interviewed to provide insightful answers to the questions asked. The offices of the Chief Executive Officers (CEOs) from the airlines were approached. A comparative analysis was made from legal consultants on their say, regarding the state of laws and policies on airlines and on whether there is need for implementations of new laws. A case study was implemented, adopting a mixture of primary and secondary data. Such a case study offered the study the ability to conduct an in-depth and focused research on the laws and policies governing airlines, making the study easier by bringing out options for sustainability, both in the immediate and in the long run. The study used qualitative philosophical thinking in the process. Such thinking has been coring by the research because it tends to focus on the meanings of the terms and employ methods to address different aspects of the issue.

MARKETING POLICIES GOVERNING AIRLINES: A LOOK IN ZIMBABWE BEFORE INDEPENDENCE

Before Independence, the field of airlines was the responsibility of the department of tourism, a governmental body or public entity. After independence, the Zimbabwe government adopted a more direct interest in tourism when the Zimbabwe Tourist Development Corporation (ZTDC) was formed and had the mandate of promoting airlines through tourism. Turton and Mutambirwa (1996) assert that such coordination to develop the status of tourism involved links with Air Zimbabwe. Between 1984 and 1990, Zimbabwe implemented many policies including marketing policies that had the goal of attracting European countries. All decisions on marketing investment, purchase of aircraft and fare structure, were made subject to ministerial approval (*ibid.*). This position has since changed. Many policies have been implemented, old policies being phased out and new policies being shaped to cater for modern standards. The tourism industry is regarded as one of the biggest industries in the world, generating an estimated 11% of the global gross domestic (GDP)

(Dawson, 2006). In Zimbabwe, many significant changes have occurred in the airlines' marketing policies. It can be safely said that the Zimbabwe Tourism Authority (ZTA) has had a hand in the management of airlines and their marketing policies. The government entity was formed from the Tourism Act, chapter 14:20 with a mandate of marketing Zimbabwe as a tourism destination (Basera, 2019). It can be argued then that, when tourism is marketed, it is not marketed as a stand-alone subject, but the field of airlines is also marketed.

THE CIVIL AVIATION ACT AND THE CIVIL AUTHORITY OF ZIMBABWE

It must be noted that there is a compendium of laws put in place to oversee the field of airlines in Zimbabwe. In 1999, the Government of Zimbabwe established the Civil Aviation Authority of Zimbabwe (CAAZ). The authority was formed subject to the Civil Aviation Act of 1998. It is the main provider of aviation services in Zimbabwe. Section 4 of the Civil Aviation Act outlines the establishment of the CAAZ being a corporate body. The functions of the body includes (a) to establish, develop, operate and own aerodromes in Zimbabwe; (b) to control and regulate the operation of aircraft in and over Zimbabwe; (c) to provide air navigation services, including air traffic control in Zimbabwean airspace and in any areas outside

Zimbabwe, for that the authority, pursuant to international arrangements, is responsible for providing such services; (d) to provide aviation meteorological services in relation to Zimbabwe; (e) to provide aeronautical information services with respect to aerodromes, air traffic control and facilities, meteorological services, hazards to air navigation and such other matters relating to air traffic as may be prescribed or as the authority may consider appropriate; (f) to ensure the maintenance of safety standards prescribed by or under this Act in relation to personnel, aircraft and aerodromes; (g) to provide technical services to the government or any other person for the design, installation, maintenance and modification of electronic, radio and other equipment used in the provision of air navigation and communication services; (h) to investigate the circumstances surrounding all accidents involving aircraft among a plethora of other reasons the body is responsible for. The question is whether the established body has been in tandem with the objects of the Civil Aviation Act.

It is an accepted policy to observe and respect the Chicago Convention that aims at entrenching and respect of the safety, security, regularity and efficiency of air navigation. This policy ensures that no person shall cause an aircraft to arrive in or depart from or overfly Zimbabwe, except with the authority's permission and in accordance with any terms and conditions specified by the authority (Civil Aviation Act, 1999). This policy guides and protects the national sovereignty of Zimbabwe and ensures safety and security of airlines. It has its roots in the broad provisions and respect of the Chicago Convention which Zimbabwe was a party to. The authority is also responsible for the safety of the aerodromes, airlines and general safety of the people. According to the Act, it can be said that the safety policy allows the authority to oversee the maintenance of aircraft, airlines and for them to meet international standards. It is worthy of mention that the Government of Zimbabwe, in trying to develop the status of airlines, refers to the Civil Aviation Act.

CIVIL AVIATION (SECURITY AND FACILITATION) REGULATIONS, 2022

Statutory Instruments, hereinafter to be cited as SIs are legally referred to as secondary laws and are constitutive of delegated legislation. The safety of airlines in Zimbabwe is also guarded by the Civil Aviation Security Regulations. The main

purpose of the SI is to provide rules and regulations that govern the security and safety not only of airlines, but of international airports. The policy allows security agents or officials to oversee control of persons boarding aircraft and such a process involves special screening and searching of passengers. It outlines the procedure for authorised carriage of weapons or their prohibition. These laws are essential for the safety and security of those on board. The need to enact these laws is essential as it avoids on-board crimes. It is a criminal offence if these rules are not respected. The Civil Aviation Act also reinforces the importance of security purposes through the envisaging of section 64 of the Act. It can, therefore, be argued that these acts are important because they act as guidelines in helping officials in protection not only of airlines, but also aerodromes and other air-related issues.

The Dangerous Drug Act (Chapter 15:02) is also another piece of legislature that governs the state of airlines in Zimbabwe. This position can be supported with an argument that not all laws that govern airlines specifically are titled aviation Acts. It is important that no person is allowed by law to import or export dangerous drugs. The process of importing or exporting can also involve travel by air, thus making the use of airlines. What can be deduced is that these kinds of laws indirectly govern airlines in Zimbabwe. In terms of the Act, subject to provision of section 14, no person shall import into or export from Zimbabwe goods such as coca leaves, cannabis plant, raw opium or any drug believed to be dangerous in terms of the Act. It is also the same act that outlines that a person found in contravention of this piece of legislation shall be guilty of a criminal offence. It simply means no person is allowed to board a flight while in possession of these dangerous drugs. These drugs have negative effects if allowed to be imported into the country. When these drugs are allowed entry, they can have a bad impact on the youths who can abuse them, that significantly becoming another problem. Such abuse of addictive psychoactive substances is usually characterised by negative health and social consequences, not only for the user, but also for non-users in the community or society (Korpi, 2015).

CHALLENGES IN POLICY IMPLEMENTATION

Sylva and Amah (2021) posit that there are challenges that the Zimbabwean aviation sector needs to attend to the challenges that evolve from poor infrastructure, inadequate power, inadequate fleets, shortage of jet fuel and poor

management in general. These challenges, if not addressed, can surely hinder development. Turton (1987) asserts that the aviation sector has been overwhelmed with a myriad of challenges that need attention. The international long-distance and short domestic routes have always been constrained by inadequate facilities, small fleets of aircraft and problems dealing with arrivals still exist. He further asserts that many of the airline's problems are a result of indirect control through the ministry of transport, with its policies not conforming to development policy. Poor management can eventually correspond to a negative result, mostly arising from poor policy decisions. Duvai and Schiff (2011) underscore the idea that airport-based infrastructural challenges can have very negative impacts on the flow of air traffic and tourist management. Omeleke (2012) also observes that the lack of cooperation between the tourism authority and the ministry of transport that oversees various aspects of aviation creates another challenge that must be addressed. This shows that poor management of facilities can record negative impacts that can pose long-term challenges, requiring more resources than needed at first instance. Developed countries like China, have taken interest in a policy that aligns with development is key. The Chinese government has played a major role in shaping the aviation industry amidst a fast-transforming economy (Lei, 2011). Policymakers in a developed or developing country, must understand that policy is development and development is policy. If poor policies are implemented, they will likely result in challenges that can be detrimental to the whole system. Zhang and Cheng (2003) observed that all aspects of the industry, including market entry, route entry and frequency, fare levels, aircraft purchasing, passenger eligibility, were heavily controlled by the state. They observed that this was the responsibility of the state, something that slowed development and there was need for transformation from state ownership of airlines to control by the organisation. They also believe that state monopoly hindered development of the aviation sector and the reform saw China's aviation from purely state-owned airlines to a mixture of state- and private-owned airlines. The emergence of private airlines can always act as checks and balances that eventually lead to strong policies that promote development. Lindbeck (2007) strongly emphasises that the private sector plays a major role in China's economic development.

The question posed is: can Zimbabwe adopt the policies countries like China have been implementing? In Zimbabwe, a private institution is seen as a barricade and

threat to the interests and affairs of the state (Nyaruwata, 2017). This is seen through persecution of non-governmental organisations (NGOs) by the state. The Private Voluntary Organisation Act has been viewed by human rights defenders, the Zimbabwe Human Rights Commission, as a violation of people's liberties as it requires strict rules in registering of these organisations. The fact that these private institutions are seen as threats by the state, the state can never allow private companies to independently own airlines and control same. Obviously, there is competition, competition between the two that the state can never be happy about, but according to Zheng and Cheng (*ibid.*), that is what can lead to development.

Isah (2018) opines that poor corporate governance and bad management has led to the proliferation of unethical practices and dubious activities that stunt the growth of the airline industry. He added that transparency and accountability exist only in the theoretical realm, reflecting some of the challenges faced in implementation of policies. It is to be noted that other countries, like Nigeria, are believed to be lacking modern landing aids that include adequate airfield lighting and landing systems to safely land at night (Phillips 2015). This major challenge must be addressed to promote the field of aviation. It is the same situation in most sub-Saharan African countries where governments are unwilling or neglecting to provide reliable power. This has resulted in countries resorting to the use of generators (Adebukola and Fagbemi, 2015). The situation is never the same as of Zimbabwe. The problems that have been facing the country have recently been addressed by the government. The Government of Zimbabwe expanded. The Robert Mugabe International Airport in Harare, a celebrated developed. This expansion of the airport addressed the challenges of poor infrastructure and facilities that never met modern international standards. Despite the managerial challenges the country has been facing, the government has made strides in improving the aviation sector. If corruption is eradicated, development can be done through efficient policies. The president of Kenya announced that Kenya had signed an international agreement with the United States of America for direct flights from Kenya to the USA. For this agreement to be implemented, Kenya needed to demonstrate that it had complied with international standards of aviation law (Muendo, 2018). Zimbabwe should adopt policies from other countries, like the establishment of aviation schools. In 1970, Kenya amended the Kenya Aviation Act. Dempsey (2008) asserts that because the aviation industry is harmonised and global in nature, a weak legal

framework would bring about various problems, for example, high jacking, aircraft accidents, loss of lives, financial and managerial challenges. The amendment of the law is, therefore, key in improving the field of aviation in Zimbabwe.

The Government of Ethiopia drives growth in the domestic aviation sector by building airports throughout the country by 2024 (Daumer, 2017). This move proves how other countries are moving, through policies both locally and internationally.

DISCUSSION

A fundamental review of government policy on Air Zimbabwe's management is essential if the airline is to survive within the framework of Southern African air transport services (Mutambirwa, 2000). The laws and policies that govern airlines in Zimbabwe vary. Covid-19 drove the president to implement and make use of a piece of law, the Presidential and Temporary Measures Act. The Act can supersede other existing laws in times of. This resulted in new rules being implemented resulting in the use of protective measures to contain the spread of the virus. What it means is that, other laws and policies can be suspended, including already existing policies governing airlines. It, therefore, can be argued that the Act indirectly is a law that governs the state of airlines, especially in times of emergency, resulting in new rules being put. Poor management defeats sustainable development goals and governments should adopt measures to address issues like corruption, hiring qualified personnel and proper management of funds. No wonder why Ndlovu *et al.* (2016) warns that an overhaul of management and operations structures and systems at Air Zimbabwe is desperately needed.

Some sources attribute Air Zimbabwe's financial problems to the appointment of inefficient managers who lack aviation experience and knowledge (Bhebhe, 2016; Chibhamu (2016). This is a question of reforming the law and transformation within the government. Turton (1987) asserts that Zimbabwe can never attain the status of aviation for countries like Kenya, Ethiopia and Rwanda. There is no scientific proof to the contrary. While it is fair to appreciate that these countries have done a lot in developing aviation to being Africa leading giants in aviation, Zimbabwe needs to address internal challenges before it adopts what other countries are doing. Most of the Board members were incompetent political

appointees without any aviation knowledge and experience (Bhebhe, 2016). An airline with a Board of Directors consisting of professionals has a greater chance of being managed prudently than an airline whose board directors do not have professional management competencies (Zhou, 2012). Therefore, Ndlovu (2016) warns that an overhaul of the management and operations structures and systems at Air Zimbabwe is desperately needed. A typical example in Air Zimbabwe is the appointment of an inexperienced Chief Operating Officer in October 2016 (Muzulu 2016).

There is evidence that Zimbabwe has been trying hard to make development its number one priority, but it should also address internal challenges, as they are a panel to development and sustainable growth. Hence, some research endeavours argue that there is a positive correlation between the qualifications of managers and the performance of airlines, while Swartz and Rohleder (2008) found that stability and earned value among aviation managers was of high importance. Although Zimbabwe has had a long history of ill-qualified personnel appointed based on political relationships, there is still enough time to effectively attend to and recover from the problems the airlines industry has faced. There is need for strong a desire to improve the policies already in place so as to promote development. The Zimbabwe Anti-Corruption Commission (ZAAC), a body responsible for combating corruption should carry out their mandate without fear or favour. This will certainly advance transparency at the airlines.

CONCLUSION

It is becoming increasingly evident that the field of aviation has attracted so much attention and traction over the last few decades with different countries trying to improve their state and implementing reforms thereof. The understanding of the intricate relationship between policy and laws is essential. It has been argued that while policies are subject to laws, laws are never policies. A policy is a principle that forms part of laws but laws cannot be said to be policies. Whatever the argument, the study aimed at examining policies and laws that govern Airlines in Zimbabwe. Before Zimbabwe attained its independence in 1980, the Rhodesian Government owned Air Rhodesia. As a new branded authority, Air Zimbabwe had to implement new policies to suit the new government. The policy involved the establishment of an act of parliament to govern the state of aviation. There is a

myriad of these laws that govern airlines, evolving from procedure of boarding flights, travelling, seating, prohibited goods and fares among others.

The article discussed laws that include the Civil Aviation Act Chapter 13:06, SI Statutory Instrument of 22 Civil Aviation (Security and Facilitation Regulations), Dangerous Drugs Act, SI 2019, Civil Aviation (Personnel Licensing) Regulations, Presidential and Temporary Measures Act. These laws directly and indirectly govern Airlines through the powers vested into the Civil Aviation Authority of Zimbabwe, ministry of transport and ministry of tourism. The article went further in highlighting some of the challenges aviation has been facing. These include, among others, poor management and lack of resources. Turton and Mutambirwa (1987) highlighted in the 1980s that Zimbabwe has been a ground of poor infrastructure at the international airports. Times has, however, moved, the situation has changed. In July 2023, the Government of Zimbabwe officially opened the new expanded Robert Mugabe International Airport, a move in line with creating an upper middle-income economy by the year 2030 as pronounced by the government. The research found that other countries, like Kenya, Ethiopia, and China, to have succeed in the field of aviation, there is an availability of private-owned airlines. The existence of these private-owned airlines creates development competition that improves the state of airlines. Out of concern, the article avers that there is need to amend the laws that give exclusive authority to the state in owning airlines and its affairs, just like other countries. If the laws are amended, then there can be development. Only time will tell when aviation in Zimbabwe will improve. This will need commitment, dedication, patience, hard work and togetherness, from governmental organisations, private sector and the international community.

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