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HERITAGE TOURISM AND SUSTAINABLE DEVELOPMENT

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Abstract

The subject of this paper are rules governing protection of world heritage (cultural, natural, common heritage of humankind), on the one hand, and sustainable development on the other. Cultural Heritage and The Common Heritage of Humankind are novel legal tools that have been developed and play a key role in the law of tourism and sustainable development. There are many ways that one state can keep another state from benefiting from its cultural heritage, but international law is there to protect the rights of the host state so that the host can provide travel products and seek sustainable financial gains through tourism. When considering tourism and sustainable development, treaty drafters and legislatures have looked carefully at the products that are produced for touristic purposes; how they are utilized, consumed, reproduced and preserved. Both the needs of the host state and people of that state are reflected in Cultural Heritage law along with its rights, duties, and obligations. The greater needs of humanity are reflected in the Common Heritage of Humankind law with its rights, duties and obligations.

Key Words: *tourism, heritage, sustainable, development, protection, right*
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Introduction

For travel professionals working in Sustainable Tourism, it is useful to understand the legal protection of heritage in the global context as well as issues affecting the individual civil and economic rights. A large part of traveling is being able to learn about different cultures, history, and people. In heritage tourism exchanges, it is often the case that the tourist learns from the host. The host is empowered to tell their story, the history of their people and their land, as organized in a tourism product that is educational and fun for the traveler.² One of the main goals of cultural tourism is to tell the story, but also produce a product from which people can derive a living; here there are so many opportunities to share the host culture's food, artifacts, festivals, events, language, music, clothing,³ drink, hopes, dreams, fears, and a wealth of other cultural traits. Tourism³ therefore, is about travel and cultural exchanges, and but also about job creation and security for future generations.⁴ Seeing numerous

² Although in the essay the terms traveler, tourist, and consumer are used interchangeably, it should be noted that they are in fact distinct: traveler is the person taking the trip and can be for business or pleasure; tourist is a leisure traveler for recreation and whose trip is not wholly paid for by her employer for business purposes; consumer is the purchaser of travel, and may not be the person taking the trip- that is, the purchaser can be a parent or employer; however a fam trip or familiarization tour is for the business of a seller of travel to become familiar with consumer tourist products and destinations normally paid for by their employer. Another distinction can be made that travel law considers consumer issues, while tourism law is based the suppliers of travel viewpoint.

³ The following definition of tourism was officially adopted by the United Nations Statistical Commission in 1993: 'Tourism comprises 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'.

⁴ A positive impact of tourism on an economy is reflected in its great potential to create and indirectly support job creation in several segments of the economy: airlines; hotels; restaurants; transportation; travel agencies; and telecommunications. The greater impact of tourism to be a positive influence on an economy and society has been emphasized numerous times in recent years, following the tragic deaths, economic and touristic devastation resulting from the earthquakes in Japan, Haiti and China tsunamis of Southeast Asia, hurricane Katrina, oil spill in the Gulf of Mexico. The rich cultural heritage of the people of the Chengdu China, the Caribbean, Haiti and New Orleans has again been strongly introduced to the world. Tragically through these disasters – both the natural events and the government based management inefficiencies – the world came to know the plight of the inhabitants of these locales and the importance of tourism to their livelihood and cultural sustainability. This is because, for example, every touristic venture to New Orleans consists of experiencing the legacy of jazz, Creole cuisine and language, the local accepting attitudes, and the history of a people, many of color, whose

governments' responses to recent disasters in our world tourism destinations, makes it clear that having an appropriate administrative government with good laws in place will enable and facilitate touristic development of cultural heritage. The laws regarding Heritage Tourism and Sustainable Development are particularly important for locals as their tourism industry develops in order to protect thousands of years of heritage and make that history available to future generations.

Protection of World Heritage

Responsible tourism seeks to provide jobs and enable cultural exchanges in a way that will ensure protection of the tourist sites and products meanwhile ensuring sustainable growth for today's hosts and for future generations of both tourists and hosts. To reach these ends, heritage tourism and sustainable development encompass a number of developing trends in international law. This connection between culture, tourism, and recent trends in international law is evidenced in conventions such as *Convention on the Protection and Promotion of the Diversity of Cultural Expressions (2005)* and *The Statement on the Prevention of Organized Sex Tourism (1995)*; and the development of international organizations such as: The United Nations World Tourism Organization (UNWTO), UNESCO and its Transport, Communications, Tourism and Infrastructure Development Division (TCTIDD).

One of the main objectives of UNESCO is to encourage the identification, protection and preservation of cultural⁵ and natural⁶ heritage around the

roots span all of Africa, France, Spain, as well as other parts of Europe and North America. New Orleans is a model of a society that has been greatly developed, marketed and preserved, its tourism cultural products for present and future generations.

⁵ *Cultural sites* are manmade. Historical and religious sites such as the Pyramids of Egypt and the Baroque cathedrals of Latin America are examples of this. Some World Heritage Sites are large enough to span several countries, such as *The Main Andean Road - Qhapaq Ñan* of South America which involves regional cooperation between The Republics of Argentina, Bolivia, Chile, Colombia, Ecuador and Peru to have on their territory a shared cultural heritage of a manmade site dating back long before western arrival of Francisco Pizarro in 1532.

⁶ Sites designated as World Heritage sites can be natural regions such as East Africa's Serengeti, The USA's Grand Canyon, and Australia's Great Barrier Reef. UNESCO has even designated Biosphere Reserves for Natural World Heritage Sites. These sites are under the protection of The World Heritage Centre in cooperation with World Conservation Union (IUCN), The UNESCO Division of Ecological Sciences, the

world considered to be of outstanding value to humanity (<http://whc.unesco.org/en/about/>). UNESCO's World Heritage mission is to: encourage countries to sign the World Heritage Convention⁷ and to ensure the protection of their natural and cultural heritage; encourage States Parties to the Convention to nominate sites within their national territory for inclusion on the World Heritage List; encourage States Parties to establish management plans and set up reporting systems on the state of conservation of their World Heritage sites; help States Parties safeguard World Heritage properties by providing technical assistance and professional training; provide emergency assistance for World Heritage sites in immediate danger; support States Parties' public awareness-building activities for World Heritage conservation; encourage participation of the local population in the preservation of their cultural and natural heritage; and to encourage international cooperation in the conservation of our world's cultural and natural heritage. UNESCO also conducts programs related to tourism and sustainable development through The Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or its Restitution in case of Illicit Appropriation and The Intergovernmental Committee for the Safeguarding of the Intangible Cultural Heritage.

Cultural Heritage, Property and Diversity

Culture and *Interculturality* are aspects of the education, exchange of ideas, and experiences inherent in travel and tourism. Again, one of the main purposes of travel for many people is to experience new environments, activities, and cultures, as well as to witness, and perhaps partake in, new ways of living. It is this cultural exchange that can have a lasting effect on both the host state and the tourist. Cultures exist and interact with one another and it is these realities that interculturalism seeks to define. Interculturality refers to the existence and equitable interaction of diverse cultures and the possibility of generating shared cultural expressions through dialogue and mutual respect (Art. 4. para. 1.

Division of Earth Sciences and the Bureau for Coordination of Environmental Programmes.

⁷ The Convention Concerning the Protection of the World Cultural and Natural Heritage, adopted by UNESCO in 1972, addresses the identification, designation, and protection of World Heritage Sites. Heritage is our legacy from the past, what we live with today, and what we pass on to future generations. Our cultural and natural heritages are both irreplaceable sources of life and inspiration (<http://whc.unesco.org/en/about/>).

item 8. of the Convention on the Protection and Promotion of the Diversity of Cultural Expressions).⁸

Interesting legal concepts of intellectual property and common heritage of humankind, are evolving as the Pyramids of Egypt, and other world renown Egyptian cultural properties. These artifacts have become the object of intellectual property protection against what has been deemed as appropriation by tremendous profit generating enterprises such as the vendors and manufacturers of tourists souvenirs, the Luxor casino of Las Vegas, and the British Museum and Museum exchanges and displays, and others in China and the USA.

Under the Egyptian proposed law, manufacturers and retailers worldwide would have to obtain a license with fees being paid to the government of Egypt, for the right to produce and sell products relating to such prized icons as the Giza Pyramids, the Sphinx, and the mask of Tutankhamen (Stanek, 2008). The Luxor hotel pyramid is a familiar landmark casino of Las Vegas within its bright spotlight illuminating the night skies and boasts 4,400 rooms and a cinema, restaurants, shopping hall and shows, and an interesting King Tut Museum. Las Vegas receives about 35 million visitors a year, many times more than the Egyptian city of Luxor, scene of some of the country's key archaeological sites (McCarthy, 2007).

Natural Heritage

Ecotourism and the environment also seek protection for the landscape and its historical and cultural property rights including: 1) the right to maintain the heritage and landscape as identified in literature, art, song, history, and other forms of cultural communication; 2) protection from dilution by untrue associations of products and services with a geographical region. This is an example of an intellectual property issue that is already protected in intellectual property law that deals with false geographic indicators, meaning that certain landscapes cannot be misappropriated by others to deceive consumers into believing that

⁸ On of the main objective of the Convention on the Protection and Promotion of the Diversity of Cultural Expressions is to: encourage dialogue among cultures with a view to ensuring wider and balanced cultural exchanges in the world in favour of intercultural respect and a culture of peace; foster interculturality in order to develop cultural interaction in the spirit of building bridges among peoples (Art. 1. para. 1. items c, d)

products originate from that particular region and communities have protective rights over their landscape views.

The Rio Earth Summit Conference of 1992 was a meeting of world leaders to discuss the environment and sustainable development. Rio addressed the needs of the world's poor and the limitations imposed by states with technology on those without technology. That is, Rio addressed the needs of the developing economies versus the needs of the developed economies (www.un.org/geninfo/bp/enviro.html).

The specifics of the tourism and sustainable development concept have been left unclear by treaty drafters. The term "sustainable development" does not address the distinctions of this dichotomy between the rich and poor, nor can it address the problems involved in providing services that support the host now and in the future. Sustainable tourism instead has been written about more like a list of goals toward which states and corporations can aspire. The Rio Conference of 1992 introduced this unclarity into international environmental regulations. Rio adopted the term "sustainable development," but no specific definition was given and there is no agreement of what is meant by sustainable development on the international level. Rio merely stated that sustainable development "meets the needs of the present without compromising the needs of future generations to meet their own needs" (www.un.org/geninfo/bp/enviro.html).

However, Rio also added other principles that are today considered fundamental considerations for international law making, including, common but differentiated responsibilities, that is, each country is responsible according to the means at its disposal. In practice, this means that one country does not have the same responsibilities as others. This is the basis of the Kyoto Protocol in that those countries that have contributed more to the world's pollution in the past are to take the lead in future reductions.

In fact, some scholars have even wholly separated the environment from sustainable development, making the claim that if these poor developing countries do not utilize the environment today, they will not live long enough to produce future generations. That is to say, as these scholars argue, there will be no future generations if the people of today do not utilize their environment and natural habitat to feed themselves instead of conserving it for the pleasure of western tourists excursions. According to

this view, the environment must be used today, to ensure tourism and sustainable development (Downes, 2005).

As a matter of fact, when viewed from a certain historical perspective, it is the “developed cultures” that have paved their road to development by raping the environment. It is also these developed peoples that are sending their factories out of their home states and into the so called “developing” economies so that they can avoid the harsh environmental and humanitarian laws that their home states violated for decades before becoming “developed.” In the 20th century, these developed states have now implemented strict laws to protect themselves and their national environment, all the while ignoring the historical fact that their past abuses were akin to, or even more extreme than, that of modern “developing economies.”

Remember, the great state powers of the 20th and 21st centuries were developing states in the 18th and 19th centuries, and their economies were founded on child labor, disregard for intellectual property rights, exploitation of the environment, zero waste management controls, theft of cultural property and ancestral lands, and even slave labor. By the 20th century, these western developed states began to criticize the developing countries for disregarding the environment, but on the other hand, it is these same western states that set up factories abroad for the purpose of having cheap labor, all the while they are polluting and destroying the environment of the “developing world.”

Sustainable development as it relates to environmental law concerns a matter of Group Rights. And unlike many other parts of the law, some of these rights are for future generations, and will not become vested rights until the present generation that is charged with protecting the rights dies out. So while the present generation of the developed modern countries benefited from the past excesses of its predecessors, it remains to be seen what will become of the future generations that cannot benefit because there are no excesses and development of the land and resources in the present.

Finally, it can be argued that there are more reasons to protect the environment than for the mere benefit of humankind. Another view holds that the environment is more than merely a product for human consumption. Perhaps man, being at the top of the food chain, should be considered more like a caretaker of nature, than as a species that must

protect the environment merely for the benefit of other men. And finally, is it true that humans and humankind own everything we see and encounter, including what is found throughout the earth, at the microscopic level, and in outer space? Not only do other species arguably have a right to exist and enjoy their environment, but why is it that humans believe they have the right to automatically own and can control everything they encounter? Sustainable development is limited in its goal to protect the rights of the living and of future generations, but falls short of seeing the environment as an end in itself.

Common Heritage of Humankind

The Common Heritage of Humankind (a.k.a., Mankind) unites the peoples of the world. All of the common interests of humankind, as found in the international law of outer space, bioethics, and world heritage sites are the Common Heritage of humankind. This concept is linked to interdependence and solidarity and ethical values for international relations. The basis of the concept is the belief that we should leave the world to future generations in no worse condition than it was received by our present generation. These beneficiaries are not just for the living, but also the unborn. As solidarity, Common Heritage serves as a union of interests, purposes, and sympathies among all members of humanity; and within this fellowship are responsibilities, duties, and privileges shared by all of humankind. This solidarity of humankind is manifested for all people, as an ongoing species, existing throughout space and time.

The concept of Common Heritage of Humankind is inter alia, based on the following principles: 1) the non-appropriation of the heritage by any particular state and the exclusion of state sovereignty over heritage; 2) Common Heritage entails freedom of access and freedom of scientific investigation; 3) the heritage may only be used for peaceful purposes; 4) the rational legal use of the heritage and equitable sharing of the Common Heritage of Humankind.

Space is the Common Heritage of Humankind

Who owns outer space? No one, as agreed to in *The Moon Treaty, Article 2* which holds that outer space cannot be owned or under the exclusive control of any state sovereign. States cannot profess any type of *ownership*, send soldiers, or be in occupation of outer space, nor of any

celestial bodies. This concept differs from past notions used in the name of exploration, such *terra nullius* (territory that belongs to no one) used by the west to colonize the globe, and *manifest destiny* as used in the expansion of the United States of America. Both of these concepts hold the same principle that uninhabited and undeveloped areas could be occupied by the first entity to find them, however, as reflected under international law, these expansionist philosophies became obsolete as we entered the 20th century (Moon Treaty, Art. 11).

As appropriately designated world heritage sites have been set aside for all of humankind to enjoy, outer space has also been set aside. Outer space, when thought of as a tourist destination, is a part of **humankind's common heritage**. Primarily, those involved in space endeavors are guided by the principle that all potential scientific discovery and investigation is for the betterment of all people, and as such, any action undertaken in space affects us all. What happens in space affects all of humanity, and as no one owns space, any state is permitted to use equipment or other facilities but only for the peaceful exploration and shared development of outer space. This concept is further explored in *Article 4 of the Moon Treaty*, which states that: *The exploration and use of the moon shall be the province of all mankind and shall be carried out for the benefit and in the interests of all countries, irrespective of their degree of economic or scientific development. Due regard shall be paid to the interests of present and future generations as well as to the need to promote higher standards of living and conditions of economic and social progress and development in accordance with the Charter of the United Nations.*

As with all international law, space exploration and tourism is based on the **equality** of states. The capacity for equality among states is at the forefront of international law, as states in their relations with one another are required to treat each other equally and fairly, and this includes equal access to space activities such as tourism. Therefore, according to the Outer Space Treaties – equality, cooperation, and accessibility must be combined as the basis of space exploration and tourism. Likewise, all travel and touristic endeavors must be in accordance with the principles of tourism and sustainable development of a site that belongs to the Common Heritage of Humankind (Moon Treaty, Art. 1).

The space related treaties facilitate and encourage international **cooperation** in scientific investigations of outer space, with emphasis on

the duty to ensure that exploration and use of space is beneficial to interests of all countries and peoples. All participants are encouraged to assist developing states that have little or no resources to pursue this endeavor on their own, and this includes the cooperation and opening of space tourism services to all of humanity (Outer Space Treaty, Preamble).

Space exploration follows the principles of *accessibility* and *reciprocity* for all other states. Related facilities, including space stations, must be managed as open to approved representatives of states' parties. In doing so, space exploration is truly open to all, not just elite private sectors, and not just to certain rich states. The owners of Space Station Alpha "the *International Space Station*" are fulfilling their treaty bound obligations by opening the facility to tourists, as tourists are representatives of another state party in a treaty (Outer Space Treaty, Art. 1).

When engaging in outer space activity, a state must conduct due *consultation* with other states. Consulting with one another allows states to actively pursue a form of sustainable development which is beneficial to all. Space tourists are not government trained members of the crew, and this is analogous to passengers onboard an aircraft or cruise ship. Therefore, a state wishing to send a tourist into outer space must consult with other states before doing so. Sending a person into space who is not a professional is, in itself, very risky. As this type of tourism is rare, space stations with tourists on board present uncertain variables to the crew and to other states, and so the originating state must "undertake appropriate international consultations before proceeding" (Outer Space Treaty, Art. 9).

Starlight as a Common World Heritage

First let's understand the evolution of "common heritage of mankind" from previous conventions. Although the *Outer Space Treaties* from the 1960's used the term "mankind," the more modern and gender neutral term of "humankind" has been adopted in most recent legal instruments and international treaties have also moved from "Common Heritage of Mankind" to "World Heritage."⁹ Thus, the Right to Starlight might best be framed as a "World Heritage" property right owned by all of humanity.

⁹ Examples: The United Nations Framework Convention on Climate Change 1994, and Convention on the Rights of Persons with Disabilities 2006.

The law of World Heritage Rights as presently understood, was crystallized in Article I of the *Outer Space Treaty*, signed by most countries including the Launching states of China, Russia, the USA, holding that Outer Space is “the Common Heritage of All Mankind.” So that one State – through light pollution or other means – may not interfere with another State’s right to explore space through starlight. The *Outer Space Treaty* describes how outer space, as a territory, along with the objects that derive from it, cannot be owned by individuals or States.¹⁰ Therefore, as one State cannot exclude another from space exploration, as all peoples have a right to utilize outer space as a property right for tourism, and to enjoy and access starlight for recreation, artistic and religious inspiration, scientific development, or any other pursuits.

Outer space, including the moon and other celestial bodies, shall be free for exploration and use by all States without discrimination of any kind, on a basis of equality and in accordance with international law, and there shall be free access to all areas of celestial bodies (The Outer Space Treaty, Art 1. Para. 2). This means that States cannot prevent other States from having access to any other form of space for exploration including the use of Starlight.¹¹

Although this doctrine subsequently was a basis for appropriately designated UNESCO World Heritage Sites being set aside as destinations for all of humanity to enjoy, it is of importance to the Starlight Initiative that prior to later heritage conventions, outer space had already been designated as the “common heritage of mankind.”¹² *The World Heritage Convention*’s primary mission is to define and conserve the world’s heritage, by drawing up a list of sites whose outstanding values should be preserved for all humanity and to ensure their protection through a closer

¹⁰ Outer space, including the Moon and other celestial bodies, is not subject to national appropriation by claim of sovereignty, by means of use or occupation, or by any other means (The Outer Space Treaty, Art. 2). However, there is a great movement to get around this rule from the international treaty. For example, taking the position that since no one owns space, anyone can exploit space.

¹¹ But it does not mean that the State is required to provide access to Starlight for its citizens.

¹² This concept of outer space territory differs from past notions of territory used in the name of exploration. *Terra nullius* was a principle, at least as old as ancient Roman times, holding that territory that belonging to no one, may be seized by the State or an individual. *Manifest destiny*, a more recent version of terra nullius, was the 19th century doctrine that the United States of America had the right and duty to expand its State throughout the North American continent.

cooperation among nations. The *World Heritage Convention* is easily construed to include heritage destinations such as outer space and locales that provide starlight. A natural heritage property is considered to be of outstanding universal value for the purposes of the *World Heritage Convention*. Outer space and the starlight it produces is arguably a natural heritage and the *Space Treaties* collectively treat outer space in a similar manner with outstanding universal value, to be used, enjoyed, and explored by all humanity.

The Preamble of the World Heritage Convention holds that “the deterioration or disappearance of any item of the cultural or natural heritage constitutes a harmful impoverishment of the heritage of all the nations of the world.” This protection appears again in the 1994 *Universal Declaration of Human Rights for Future Generations: Persons belonging to future generations have the right to an uncontaminated and undamaged Earth, including pure skies; they are entitled to its enjoyment as the ground of human history of culture and social bonds that make each generation and individual a member of one human family (Art. 1 and 2).*

UNESCO has undertaken activities for the safeguarding of cultural heritage related to astronomy under the “*Astronomy and World Heritage*” project launched by the World Heritage Centre in 2003. This concept was taken up again by UNESCO in 2005 as: *The sky, our common and universal heritage, is an integral part of the environment perceived by humanity. Humankind has always observed the sky either to interpret it or to understand the physical laws that govern the universe. This interest in astronomy has had profound implications for science, philosophy, religion, culture and our general conception of the universe (Proclamation of 2009 as International Year of Astronomy, 2005, p. 1).*

These protections for Starlight are necessary as the impact that Starlight has held on humanity has been expressed in works of religion, art, literature, science, philosophy, business, and travel (Cameron, 2007b, p. 239).

Heritage and the Right of the Host State to Provide Travel Services

Tourism serves many functions, but it also serves as a vehicle for the host culture to explain their history and tell their story. Cultural Heritage and The Common Heritage of Humankind are novel legal tools that have been

developed and play a key role in the law of tourism and sustainable development. The drafters of both international law and diplomacy policies must consider all of the financial and moral implications of its positions and then seek to avoid depriving a given people of their right to tell their story, share their culture, and enjoy their heritage through historical, cultural, religious, natural sites and artifacts. There are many ways that one state can keep another state from benefiting from its cultural heritage, but international law is there to protect the rights of the host state so that the host can provide travel products and seek sustainable financial gains through tourism.

When considering tourism and sustainable development, treaty drafters and legislatures have looked carefully at the products that are produced for touristic purposes; how they are utilized, consumed, reproduced and preserved. Both the needs of the host state and people of that state are reflected in Cultural Heritage law along with its rights, duties, and obligations. The greater needs of humanity are reflected in the Common Heritage of Humankind law with its rights, duties and obligations.

Registration and Ownership of UNESCO World Heritage Sites

The Convention Concerning the Protection of the World Cultural and Natural Heritage, adopted by UNESCO in 1972, addresses the identification, designation, and protection of World Heritage Sites. “Heritage is our legacy from the past, what we live with today, and what we pass on to future generations. Our cultural and natural heritages are both irreplaceable sources of life and inspiration” (<http://whc.unesco.org/en/about/>). Arguably, sites on the World Heritage List could gain further protection. The UNESCO website states that: “The site is the property of the country on whose territory it is located, but it is considered in the interest of the international community to protect the site for future generations. Its protection and preservation becomes a concern of the international World Heritage community as a whole” (<http://whc.unesco.org/en/faq/>). It seems that in the 21st century the rights of humanity, individuals, and world bodies should include the right to protect the property common to all of mankind.

Also of note is the development of potential underwater heritage sites. Here we can look to an example from the Dominican Republic as a model

for development of underwater heritage products. In 2002, three groups¹³ came together to create a perfect example of a product for tourism and sustainable development that involves recent trends in international law. An International Team of underwater Archeologists, beachfront Hotels, and the government of the Dominican Republic put together an underwater tourist site where guests can visit and explore the excavations of 16th -18th century Spanish, French and English Warships and Merchant Vessels along the North Coast of the Dominican Republic. The guests stay in a hotel and dives are arranged through North Caribbean Research, a de facto tour operator. Guests can walk out onto the beach and into the water, then scuba dive to see the underwater park of real sunken treasure ships that were carrying gold from South America back to Europe.

Such a site developed in, Mexico's Yucatan, Nigeria or off the coast of New Orleans might fall under *The Convention on the Protection of the Underwater Cultural Heritage* which holds that if the object found on the ocean floor, that is on *terra nullius* is more than 100 years old, then that treasure is The Common Heritage of Humankind, to include: *all traces of human existence having a cultural, historical or archaeological character which have been partially or totally underwater, periodically or continuously, for at least 100 years such as: sites, structures, buildings, artifacts and human remains ...; vessels, aircraft ... [and] their cargo, together with their archaeological and natural context; and objects of prehistoric character* (The Convention on the Protection of the Underwater Cultural Heritage, Art. 1).

Ancient Maya city of Calakmul, Campeche is a UNESCO site, but a candidate for is "El Caracol" of Chichen Itza an *astronomical observatory*.

The Sustainable Development of Tourism

The United Nations, along with other governments and non-governmental organizations, (NGOs) have sought ways in which regular and continuous economic development can lead to the betterment of humankind (Cameron, 2007a). Pursuant to these goals, *sustainable development* has

¹³ The Maritime Archaeology & Cultural Resource Management Project Monte Cristi - 2000 was sponsored by the Northern Caribbean Research S.A. in association with National Center for Shipwreck Research Ltd. (USA), Nova Southeastern University (USA), and Oxford University MARE (UK).

been advocated and is defined as “development that meets the needs of the present without compromising the ability of future generations to meet their own needs. It contains within it two key concepts: the concept of ‘needs’, in particular the essential needs of the world’s poor, to which overriding priority should be given; and the idea of limitations imposed by the state of technology and social organization on the environment’s ability to meet present and future needs.” Furthermore, development involves a progressive transformation of economy and society (Bruntland, 1987, p. 41).

Sustainable tourism development guidelines and management practices are applicable to all forms of tourism in all types of destinations, including mass tourism and the various niche tourism segments. Sustainability principles refer to the environmental, economic and socio-cultural aspects of tourism development, and a suitable balance must be established between these three dimensions to guarantee its long-term sustainability. Thus, sustainable tourism should: 1) make optimal use of environmental resources that constitute a key element in tourism development, maintaining essential ecological processes and helping to conserve natural heritage and biodiversity; 2) respect the socio-cultural authenticity of host communities, conserve their built and living cultural heritage and traditional values, and contribute to inter-cultural understanding and tolerance; 3) ensure viable, long-term economic operations, providing socio-economic benefits to all stakeholders that are fairly distributed, including stable employment and income-earning opportunities and social services to host communities, and contributing to poverty alleviation.

Sustainable tourism development requires the informed participation of all relevant stakeholders, as well as strong political leadership to ensure wide participation and consensus building. Achieving sustainable tourism is a continuous process and it requires constant monitoring of impacts, introducing the necessary preventive and/or corrective measures whenever necessary. Sustainable tourism should also maintain a high level of tourist satisfaction and ensure a meaningful experience to the tourists, raising their awareness about sustainability issues and promoting sustainable tourism practices amongst them (www.world-tourism.org/sustainable/concepts.htm).

A significant part of sustainable development involves the balancing of diverse social and economic needs of the present and respecting the needs

of future generations. We quickly see that a great deal of jobs, affecting both individuals and whole economies, are tied in with the concept of tourism and sustainable development. The need to produce a product for which tourists are willing to take their time and money to visit, and to make purchases from that economy, is of the utmost concern for the financial needs of the host country and its individual citizens that will act as hosts and guides for the tourists (www.world-tourism.org/sustainable/concepts.htm). The UN World Tourism Organization emphasizes this point: *The challenge for stakeholders involved in all industries is to find a balance between sustenance, prosperity and people's desire to improve their financial/material well-being, with the underlying need for identity, community, religion, home and family. Travel and tourism can play a vital role in balancing these forces. It not only provides the livelihoods for both rural and urban communities, but has the capacity, when planned, developed and managed properly, to enhance community relations and build bridges of understanding and peace between nations* (WTCC/IFTO/IH&RA/ICCL, 2002, p. 17).

Travel and Tourism as a Force for Poverty Reduction

The UNWTO has also demonstrated the significant benefits tourism brings to host countries including: Export Earnings, Employment, Rural Opportunities, Infrastructure Investment, Tax Revenues, and Gross Domestic Product (GDP).

The tourism industry places many demands on the host country and greatly influences its society, economy, and environment. Both state policy and domestic promotion of tourism must reflect the concerns of sustainable growth and development for present and future generations, as responsible tourism is also arguably the key to economic growth in the least developed countries. Sustainable development can be achieved through tourism by increasing employment opportunities, developing infrastructure, and by creating standards for individual, corporate and social activities related to tourism.

The elimination of poverty through tourism requires the understanding and cooperation of state, corporate, and individual tourists. Tourism as the means to alleviate poverty was one of the major issues discussed at the *2003 International Institute for Peace through Tourism (IIPT) Summit*. At the *Summit*, The Pacific Asian Travel Association's (PATA) President De Jong noted that the four aspects needed by governments for supporting

tourism are: power of tourism government, transportation, tax reduction, and health insurance (Travel and Tourism as Force for Poverty Reduction, 2002).

With every tourist(s) destination and activity, a great deal of money is invested to maintain the destination and many jobs are created to cater to the traveler. It needs to be emphasized that the significance of maintaining cultural heritage is important both for the common heritage of humanity but also for the daily lives of people that make a living from the income created by tourism.

Conclusion

The law generally reflects the society that generated it, and usually moves in response to the issues of the day, however, there is a great need today for the law to reflect the realities of our emerging global village. In our age of mass communication, transportation, travel, and immigration, our laws, both international and state-based, must adopt to enable humankind to enjoy the freedoms our technology has provided. The law should not act as a barrier to the free movement of people, products and production; it should enable all of humanity to flourish.

Even the ancient Chinese Great Wall, was built, not as a military barrier, but as a vast fire and smoke based communication network, as well as an immigration check point to halt the travel of “barbarians” from the north into the civilization of the Chinese south. But in the end, no government can stop all people from travelling across international borders, anymore than they can stop birds from flying, deer from running, or diseases from spreading. The numerous immigration, travel, and security restrictions has only resulted in creating an underground “servant class” to work and slave for the more developed countries’ legal residents and citizens. These servants are trapped and forced to cater to the desires of sex tourists, sell black market products, and slave in unsafe factories because travel and trade restrictions prevent them from producing and disturbing products for themselves legally. Their economics are stagnated and are only in the shadow of the developed countries they are forced to serve with services and labor because the laws of immigration, currency exchange, and intellectual property have put shackles on them. Tourisms and sustainable development is about jobs and future jobs based on legitimate and ethical products, and as long as the law of the western states encourages illegal

travel to support the underground immigrant economy and black market goods, true sustainable development will never occur.

Likewise, Cultural Heritage is the product and property of the cultures that produce it. To have national treasures dispersed, absorbed, and consumed by western tourists and museums, halts the future sustainable development of the same people that produced these treasures. When property becomes of such important significance as to have an impact on the lives of all of humankind, it is the common heritage of humanity – and belongs to us all – not just western museums and corporations that grew from the age of imperialism and colonialism. Natural heritage sites also belong to all of humankind, not just those that find nature’s wonders within their nation states’ borders.

While the economic impact that tourism plays on local, national, regional, and international economies may be apparent, it is also true that cultural heritage and property belonging to the common heritage of humankind play a very significant role in tourism and sustainable development. As sustainable development concerns group rights for the living and for future generations, the respective laws should therefore seek to balance the needs of the present to allow all economies to develop, while preserving jobs, culture, and tourism for the future of all humankind.

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