

Travel, Tourism, and Heritage Law

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Abstract

This article describes the impact of heritage tourism law as a positive influence on particular economies and societies. Sustainable tourism law examples illustrate the great potential to create and indirectly support job creation in several segments of the economy, while maintaining the environment, culture, and jobs for future generations. It argues that sustainable development can be achieved through tourism laws by increasing employment opportunities, developing infrastructure, and by creating host people's standards for individual, corporate and social activities related to tourism. This article emphasizes that the significance of maintaining cultural heritage as 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. While some helpful laws and treaties are described, the conclusion points to the need for new and stronger legal protections of cultural heritage to enable sustainable tourism development.

Keywords: Law, Heritage, Sustainability, Cultural Tourism, Space Tourism, Museum

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. 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, drink, hopes, dreams, fears, and a wealth of other cultural traits. Tourism therefore, is about travel and cultural exchanges, and but also about job creation and security for future generations.

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 tourists¹ 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).

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 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.

¹ *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. See also detailed glossaries at UNWTO TOURISTERM website and www.travellaw.com/glossary.php.*

The many ways that tourism impacts an economy has been described as follows:

*It is now recognized that tourism has great potential to create and indirectly support job creation in several segments of the economy: airlines; hotels; restaurants; transportation; travel agencies; and telecommunications. Private sector led development of the tourist industry is an important source of foreign exchange revenues in many countries in the Middle East. The tourism industry has also played an important transformational role as a vocal constituency for improvements to airports, immigration and visa procedures, security, road, rail and telecommunication networks.*²

Seeing numerous 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.

Heritage Tourism and Sustainable Development

The cultural heritage of the Caribbean region (including the Gulf of Mexico, New Orleans and Haiti) has been reaffirmed following the tragic events surrounding its earthquakes, hurricanes, floods, and oil spills. Meanwhile, similar awakenings have occurred in the Yucatan peninsula as its Costa Maya ports have opened to western tourists following destruction by hurricane Dean in 2007, and the cultural destinations of fully protected UNESCO world heritage sites such as Ancient Maya City of Calakmul, Campeche, the numerous Mayan structures and pyramids, underwater heritage destinations are again widely available to tourists. Mexico has a rich cornucopia of heritage developed into tourism products. Mexico's ranging hills, waterfalls, springs, lakes and mountains have developed for tourism along with its World Heritage Sites and receive protection and support from UNESCO, the UNWTO and other development projects to enable these natural beauties to be enjoyed by the peoples of the Caribbean, the USA and all of humankind - now and for future generations of tourists. 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 of, the Caribbean peoples, Creole peoples, the Mayan

² National Development Strategy 2005-2010, Republic of Iraq, Ministry of Planning and Development Cooperation www.export.gov/iraq/pdf/iraq_development_strategy_063005.pdf

descendants, Nigerians, Egyptians, USA tourists and all of humankind.

United Nations Educational, Scientific and Cultural Organization (UNESCO)

The United Nations Educational, Scientific and Cultural Organization (UNESCO) seeks to encourage the identification, protection and preservation of cultural and natural heritage around the world considered to be of outstanding value to humanity.

UNESCO's World Heritage mission is to: encourage countries to sign the World Heritage Convention 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.

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."³

"The United Nations Educational, Scientific and Cultural Organization (UNESCO) seeks to encourage the identification, protection and *preservation of cultural* and natural heritage around the world considered to be of outstanding value to humanity." (*Emphasis added.*)⁴

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.

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

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

³ UNESCO website <http://whc.unesco.org/en/about/>

⁴ UNESCO website <http://whc.unesco.org/en/about/>

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.

Some basic principles of the concept of Common Heritage of Humankind include :

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.

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. Pursuant to these goals, **sustainable development** has 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." The author goes further to state "Development involves a progressive transformation of economy and society." ⁵

The Sustainable Development of Tourism (UNWTO - Tourism, 2004)

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.

⁵ Bruntland, G. (ed.), *Our Common Future* World Commission on Environment and Development, (1987) Oxford, Oxford University Press.

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.⁶

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.⁷ 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

⁶ World Tourism Organization www.world-tourism.org/sustainable/concepts.htm

⁷ UN World Tourism Organization www.world-tourism.org/sustainable/concepts.htm

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.

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'.⁸

Both the inter-governmental UNWTO/OMT and the private sector WTTC considers the travel and tourism sector to be one of the largest - if not THE largest - in the world, particularly in terms of its contribution to the world economy. According to WTTC estimates, travel and tourism achieved the following economic impact directly and indirectly in 2001:

- USD3.3 trillion contribution to global GDP, almost 11% of total GDP;
- 207 million jobs worldwide, over 8% of all jobs;
- USD630 billion in capital investment,
- Almost 9% of all capital investment⁹

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.

⁸ UNWTO, 1993: Recommendations on Tourism Statistics, World Tourism Organisation, Spain

⁹ WTTC, May 2001: Tourism Satellite Accounting Research, World Travel & Tourism, Council, London & New York

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.¹⁰

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. I want to emphasize 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.

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

¹⁰ Travel and Tourism as Force for Poverty Reduction, IIPT Newsletter, Vol.1 No.5, October 2002, www.iipt.org/newsletter/October2002.html

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.

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 interaction of cultures through dialog and mutual respect.¹¹

Intellectual Property Pyramids of Egypt

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. "Some 120 antiquities would be protected under the new

¹¹ The term "Interculturality" is used only once in The Cultural Diversity Convention (August 2005 Draft) "to build bridges amongst peoples and intercultural respect to ensure wider and balanced cultural exchanges." See para. C, Art. 1 as described in The Contribution Of International Law To The Preservation Of Cultural Diversity Lecture of D. Trup, The Hague Academy of International Law, Class 2005

law, Zahi Hawass, secretary general of Egypt's Supreme Council of Antiquities, told National Geographic News.¹² The Luxor hotel pyramid is a familiar landmark casino of La 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.¹³

This protection runs counter to open source public domain sphere of objects more than, in most cases, 75 years old. "The Luxor pyramid is good for me. This is publicity for free," said Ashraf El Ashmawi, legal consultant to the antiquities council and author of the new legislation. "It tells the whole world to come to Egypt and see the original."¹⁴

Seemingly in pursuit of the protection of ancient artifacts of Egypt and the Common Heritage of Humanity, protection is also found in further restricting for vendor sales to be beyond one kilometer. "The tourists will have a pyramid view that is more peaceful," El Ashmawi said. "It will be a clean area and it will not be crowded as you see it now."¹⁵ Zahi Hawass, head of Egypt's Supreme Council of Antiquities, said his country wanted to own the copyright to its historic monuments and would use any money raised to pay for the upkeep of its most prestigious sites.¹⁶

Rooftop Gardens

The installation of rooftop gardens can help offset loss of land in urban areas that has been replaced by concrete. Trees, grass and nature are now carefully confined and struggle to survive in most every great cities of the world. Grass and yards for children to play, people to gather, or to picnic is limited and restricted to an ever decreasing size and then, usually found only in public parks. In its place we have the "concrete jungle." But it is

¹² Stanek, Steven, January 15, 2008, Can Egypt Copyright the Pyramids? in Cairo, Egypt National Geographic News.

¹³ Rory McCarthy, Egypt to copyright the pyramids and antiquities December 27, 2007, The Guardian in Jerusalem and also it was reported that "the Luxor announced in July (2007) that it was to get a new, non-Egyptian look." "The pyramid always created a sense of wow and wonder, but the inside never delivered on that promise," Luxor president Felix Rappaport said.

¹⁴ Stanek, Steven, January 15, 2008, Can Egypt Copyright the Pyramids? in Cairo, Egypt National Geographic News.

¹⁵ Stanek, Steven, January 15, 2008, Can Egypt Copyright the Pyramids? in Cairo, Egypt National Geographic News.

¹⁶ Rory McCarthy, Egypt to copyright the pyramids and antiquities December 27, 2007, The Guardian in Jerusalem

more like a concrete desert, devoid of life. Only asphalt, can flourish while life is confined to small patches of land and grass next to the city streets; and these patches of grass are most likely used as toilets for city folk's dogs or to throw their cigarette butts. As a result we have developed these vast urban deserts full of rock and with scarce life to be found. I first discovered them in Milan in 2001. It was the most remarkable thing I had seen in any city. So green, so cool, and refreshing. Then I connected this with another story I saw on the news that described the environmental effects of our modern cities.

This has impacted the weather, as studies have shown that during the day, the black asphalt and roofing materials, absorb all of the sun's heat, then release it into the atmosphere at night. This has resulted in unusual weather patterns. This has been felt and documented in areas surrounding Atlanta, Georgia, USA, and felt as far away as Charlotte, North Carolina, USA as severe and untimely thunderstorms. As all of this stored up hot air from the "desert like days" is mixed with the cooler air at night and then is released into 100 mile radius. Mega-cities of asphalt and concrete have this negative environmental weather pattern influence whose effect goes way beyond their urban sprawl.

But also we must consider the sheer beauty and comfort of grassy rooftops. These are the best views of the city, and are almost untouched for their commercial real estate value. Compare this to parking spots in Chelsea, New York that are now selling for \$225,000. The London rooftop restaurant, the Milan Gardens, and others like it should be the model for the future - making our cities green and alive once again. The tourism industry could work to ensure that we use every piece of land for its maximum value. And of course this makes attractive tourists sites for Sustainable Development and Growth. Many people can go to work revamping our rooftops, and many restaurants, cafes, and social spots can make much more attractive tourists locals with wonderful views of our great cities. There are no real minuses here; governments only need the will to go forward. Perhaps cities could give tax benefits to those roof owners that make their roofs green.

Concerning micro matters that can have a tremendous macro impact,

we can note that several places in the Nigerian NTDC provide for a "roof garden." ¹⁷ Actually, there are so many things to say about these green rooftops.

Natural Heritage

Ecotourism and the environment also seek protection for the landscape and its historical and cultural property rights including:

- The right to maintain the heritage and landscape as identified in literature, art, song, history, and other forms of cultural communication.
- Increasing tourism by maintaining the traditions and traditional façade of buildings, places, and landscapes. For example, if every city has McDonald's, Starbucks, and a Sony store in their shopping malls then the whole purpose of traveling is defeated because every city then offers the same experience. So what need is there to go anywhere?

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. ¹⁸

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

¹⁷ Including N137 1992 No. 81, Schedule Sec 10 part Four Star Hotels 1 (h)

¹⁸ www.un.org/geninfo/bp/enviro.html

the needs of the present without compromising the needs of future generations to meet their own needs." ¹⁹

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, e.g., Germany has higher responsibilities than the Ukraine, and the United States of America has higher responsibilities than Brazil. ²⁰

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. ²¹

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."

¹⁹ www.un.org/geninfo/bp/enviro.html

²⁰ Kyoto Protocol to the United Nations Framework Convention on Climate Change, www.cnn.com/SPECIALS/1997/global.warming/stories/treaty/

²¹ IFTTA President John Downs' essay The Tsunami Disaster: Lessons For or From Tourism Law, presented at The 17th IFTTA Conference Vienna 2005

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.

Heritage in Nigeria

Similar examples of tourism used to promote and protect cultural heritage, can be found in the tourism products of countries such as Nigeria, and its' Nigerian Tourism Development Corporation Act (NTDCA).

The Nigerian Tourism Development Corporation holds:

The potential role of the tourism sector as a major instrument for socio-economic development cannot be overemphasized. These potentials cannot be realised unless our numerous tourist attractions are well developed, packed and promoted, with diligent attention to security and welfare of visitors. Nigeria Tourism Official web site is set to serve as the mouth piece of stakeholders in the pushing for positive changes in this all-important sector. You are therefore, invited to be part of this exciting development.²²

Nigerian Cultural Heritage sites can be found in Eyo in Lagos, Osun Oshogbo and Durbar. Nigerian culture is grounded in diversity as its population consists of over 250 ethnic groups. While the official unifying language of Nigeria is English, it is a land so rich in cultural diversity that it boasts 510 languages!! Evidence of human occupation dates back to 9000 BC.²³ As an indication of Nigeria's celebration of diversity, we see that according to "BBC: Nigeria tops happiness survey":

"In 2003, Nigerians were reported to be the happiest people in a scientific survey carried out in 65 nations in 1999-2000., Thursday, 2 October, 2003. The research was reported by one of the world's top science magazines, *New Scientist*, and was picked up by a number of news outlets. The report considered that the country's family life and culture were more important than its problems and material wealth in determining happiness."²⁴

Protection of Nigeria's culture heritage is found in its hotel law as the NTDC provides that Five Star hotels provide "furnishing and décor shall be of superior quality reflecting the local culture, history and traditions of Nigeria."²⁵ Also interesting to note is the requirement that in Restaurant and Dining facilities "there shall be provision of Nigerian food."²⁶

Importantly, for the development of local economies the NTDC's

²² www.nigeriatourism.net/inter1e.html.

²³ McIntosh, Susan Keech, *Current directions in west African prehistory*. Palo Alto, Calif.: Annual Reviews Inc., 1981. 215-258 p.: ill.

²⁴ <http://news.bbc.co.uk/2/hi/africa/3157570.stm>.

²⁵ N137 1992 No. 81, Schedule Sec 10 Minimum Standard Five Star Hotel, part 4 (c)

²⁶ N137 1992 No. 81, Schedule Sec 10 part 8(c)

authority includes regulation of the souvenir industries²⁷ Yet again a standard beyond that found in the USA and most western hotels is the requirement that "on the premises for a small supermarket selling items such as pictures, postcards, postal stamps, books, newspapers, toiletries and cosmetics."²⁸ Handcrafts and souvenirs include "local products which may be woven, painted, carved decorated or designed to influence and imprint the cultural and aesthetic ethos of a particular people and origin."²⁹ And the NTDCA even covers governance of "leisure, recreation enterprises includes health clubs and fitness centres."³⁰

For purposes of Sustainable Development, the *Nigerian Tourism Development Corporation Act* (NTDCA) empowered the Nigerian Tourism Board to "identify, preserve, protect and develop tourism assets and resources." Then the NTDCA authorized the local government committee to seek means of "preserving and maintaining monuments and museums in their areas of jurisdiction; and promoting and sustaining communal interest in tourism."³¹ An example of the application of the NTDCA is found with:

"The desire of Cross River State to become the preferred tourist destination of West Africa and indeed Africa is fast becoming a reality as people from various parts of the world defied the torrential rains to visit the state just for the Leboku Yam Festival which lasted 21 days.

*The Leboku Yam Festival is one of the ancient traditions among the central communities of Cross River State, which was adopted from Ugep in Yakurr local government area by the immediate past governor, Mr. Donald Duke as one of the state's tourism packages. The adoption of Leboku was because of its numerous traditional and cultural embellishments and the significance not only to the Ugep people but the entire Yakurr and by extension, the Central Senatorial District. * * **

²⁷ N137 1992 No. 81, 3(b)(vii)

²⁸ N137 1992 No. 81, Schedule Sec 10 part 15 Facilities

²⁹ N137 1992 No. 81, Sec 15 Interpretation

³⁰ N137 1992 No. 81, Sec 15 Interpretation

³¹ N137 1992 No. 81, (10)(3)(c-d)

The Leboku Festival is getting bigger and bigger every year and is now playing a significant role in the tourism development initiative of government. It is in recognition of this cultural and tourism potentials of Leboku that the Cross River State government through the Department of Culture and Heritage and the Turismo Bureau in collaboration with the Yakurr local government area, Ministry of Information and other stakeholders is making Leboku an international tourist event," the Special Assistant stated.

He also reiterated that the state government's disposition to cultural excellence and making the state the preferred tourist destination as denoted by the huge finances invested in the state's tourism sub-sector just as she said that the effort was aimed at making the Leboku festival to compliment the desired economic growth of the state."³²

Japan's Singing Beaches

The Orikoshinaikaigan beach in Japan was famous for singing a song to tourists. Japan's singing beaches have sand particles with silica mixed into them that produce a pleasant sound when walked upon. The experience was a big draw for tourists making the Orikoshinaikaigan beach community (Aomori Prefecture), and others like it, famous for their singing beaches. Gradually, at least since the 1960's, some of these unique beaches became silent.

Many, such as The Japan National Trust for Cultural and Natural Heritage, blame the urban development and business ventures authorized by local authorities because of new construction projects that are digging on and around the beaches. Local authorities and businesses had the good intentions of expanding the beach area at Orikoshinaikaigan to create a campground. After the ground had been dug up and rocks brought to the surface, the natural balance of the area was disturbed, thereby stopping the beaches from singing.

Other Japanese beaches, although not many, still sing when their sands are walked upon. The governments of: Kotobikihama (Kyoto Prefecture), Kugunatihama (Miyagi Prefecture), Koijigahama (Aichi Prefecture), and

³² Nigeria: Leboku Yam festival as tourism goldmine eTurboNews Travel Industry Review, www.travelindustryreview.com/print/6174

Anegonohama (Fukuoka Prefecture) have sought to protect the development of these beaches for sustainable tourism.³³

Asian and Buddhist National Treasures

How would you feel if you saw the head of Jesus in a museum? Just the head; no body, no arms, no legs, and no cross. How about the head of the Virgin Mary, Saint Paul or Saint Peter? What if there were several heads of Jesus and the Saints lined up in a few rows side by side alongside an odd collection of swords blades, helmets, pottery bowls, and other artifacts from ancient and medieval kitchens? Would you feel comfortable praying or visiting in front of a Jesus statue that was missing a head?

Throughout the world, museums are filled with the ancient heads of Buddha statues. Most people don't realize that many of Thailand's temples and historic sites, and other country's temples and historic sites, are filled with headless Buddha statues. These heads somehow made it into the most renowned western museums. These statues are the Common Heritage of Humankind and are important to all of humanity and to our future generations. Despite the illegality of defacing these religious icons in their natural historical locals, as well as their illegal sale and export, Bangkok is a notorious center in South East Asia for the purchase of these ancient artifacts. The tourists who make these purchases normally have little idea of what is they are buying, and that the artifact was probably illegally removed from a temple. Nor do they consider the impact these purchases will have on future generations. Greater protection of these national treasures will nurture the preservation of local cultures, such as the Thai culture, and continuous growth of the tourism industry.

There are regulations regarding the export of antiques from Thailand. Buddha images, Bodhisattva images, or fragments thereof are strictly forbidden to be taken out of Thailand. A license must be obtained from the Department of Fine Arts before export to protect objects of antiquity, or objects of art, irrespective of whether they are originals or reproductions before they may be taken out of the country. But all enforcement techniques are relatively recent, as the rampant theft of artifacts and acquisition by museums dates back to western colonial times.

³³ Skyward - Japan Airlines, page 5, Down to Earth, Steven L. Herman October 2005.

China's Lack of Historical Artifacts & the Museums of the World

A touristic or business trip to Beijing is likely to include at least a short visit to Tiananmen Square and the Forbidden City, formerly the Palace of the Emperor of China. One expects to find, organized away in those 500 year old historic buildings, belonging to one of the greatest and oldest civilizations in all of man's history, a virtual treasure trove of historical artifacts. One expects to see them in several museums throughout the capital of the country that boasts one fifth of the human population and originates one of man's oldest civilizations, if not the first civilization. After all, the great museums of every city in the world play host to numerous Chinese treasures and historical artifacts, so it only seems logical that the former Palace of the Emperor of the Middle Kingdom (China historically being the geographical and cultural center of Asia) will also hold similar collection.

However, that is not the case, as the Forbidden City museum is strikingly under stocked. There is simply not much to see in the museums of China. Why? Because most of the ancient treasures of the People's Republic of China have been removed, either during western colonization and Opium War trading, or during the Exodus of the Chiang Kai-shek regime to Taiwan, or destroyed by the communist Cultural Revolution, or through modern commercial trading and illegal trafficking of cultural property. The result is that there is not much to see and this leads to not much reason for tourists to visit these sites. Seasoned western tourists have probably visited the British Museum and the Louvre prior to visiting the Forbidden City, and are quick to note that the display in China is lacking.

In fact, the museums of the world are filled with artifacts of cultural heritage and significance to specific peoples and other items that should be considered the Common Heritage of Humankind. However, most of them came into the possession through individual and state sponsored acts of aggression and thievery rather than through mutual exchanges between sovereign autonomous state parties that are the rightful guardians of these national and world treasures.

Perhaps the solution for these past crimes is not to simply empty all of the world's museums by returning all of the artifacts back to their rightful owners. After all, a strong argument can be made that by putting the items

in museums, the culture of the local peoples is shared throughout the world and can continue to grow, educate, and influence others in all of the major cities of the world. This is a kind of museum based on Interculturality. This is especially relevant as our great cities like London, Berlin, Paris, and New York become more and more international in their residential composition. For example, since London is a city that now has a minority of English residents, Chinese residents visiting these museums locally may find it to be a great way to remain connected to the home culture.

Alternatively, these items could be shared by the international community and rotated to the different museums around the world so that all can share in the history and teachings of the civilizations that are celebrated in these museums.

In 2009, the U.S. Department of State and the People's Republic of China State Administration of Cultural Heritage concluded a bilateral agreement to work closely together to prevent illicit trafficking of archaeological objects. The USA has been a party since 1983 to the 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property. As a means of domestic codification of an international treaty, the United States enacted the Convention on Cultural Property Implementation Act, to restrict the importation of archaeological material originating in China and representing China's cultural heritage.

This agreement was enforced on March 11, 2011, when for the first time, the United States repatriated to China cultural property illegally trafficked in New York, Alaska and New Mexico. The returned artifacts included a Song Dynasty (960-1279) Bodhisattva head, a Ming Dynasty (1368-1644) stone frieze, a Qing Dynasty (1644-1911) ceramic vase, terracotta, pottery and stone sculptures from the Sui (AD581-618), Northern Qi (AD550-577) and Tang (AD618-907) dynasties.³⁴

Registration & 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,

³⁴ The United States Returns Artifacts to the People's Republic of China, 2011 Culture News and Events, <http://unesco.usmission.gov/us-returns-chinese-artifacts.html> and http://usa.chinadaily.com.cn/china/2011-03/14/content_12165210.htm.

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."³⁵ 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."³⁶ 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.³⁷

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 groups³⁸ 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,³⁹ 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.⁴⁰

³⁵ UNESCO website <http://whc.unesco.org/en/about/>

³⁶ UNESCO website <http://whc.unesco.org/en/faq/>

³⁷ Philosophical Foundations of World Citizenship, Phil Cameron www.spacetravelaw.com/ Dr.PhilC

³⁸ 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).

³⁹ www.datanet.co.uk/sqs

⁴⁰ Field School in the Dominican Republic, Dr. R. Duncan Mathewson III, www.imadigest.com/field.html and From Interview with Pablo Torres Hernandez, The Hague, Netherlands 2005. And see Why...go wreck diving?, By Mike McCullough, http://jojaffa.com/guides/scuba_wreck_diving.htm

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. ⁴¹

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

Skyscape Observatories

El Caracol (translated as conch shell) is astronomical structure. It is a giant observatory dome as well as religious center with as the site for numerous rituals and celebrations. The structure consists of a dome with many windows strategically placed in the building. Celestial bodies, planets, and stars can be seen through different windows mathematically corresponding to specific dates which signify religious significance. El Caracol was the Mayan architectural marvel as the difficulty in creating such a Skyscape observatory requires great levels of expertise and organizational skills related astronomy, mathematics, religion and engineering.

A project I am very excited to be developing, as through work for the Starlight Initiative, ⁴² UNESCO, and through a Skyscape Working Group, is to help designate and protect those sites around the world that have a historical relationship between the natural, manmade, and cultural sites and their requirement to utilize observation of the day or night skies. Many historical sites have this type of Skyscape built into their design, creation, and use. For example, Stonehenge of the United Kingdom, is a site that

⁴¹ The Convention on the

⁴² www.starlight2007.com

was initially created for use of observing the stars at night, and the sun in the daylight. Another example is the Sphinx and the Pyramids of Egypt, the Temple of Heaven in China, as well as El Caracol of Chichen Itza.

It is this heritage of Skyscapes that do not fit under the existing categories of the UNESCO Convention Concerning the Protection of the World Cultural and Natural Heritage, nor subsequent international instruments.

As a starting point for our discussion, I have purposed the following as the implementation of an amendment to the existing Heritage Convention, expanded from Operational Guidelines for the Implementation of the World Heritage Convention⁴³:

- a) Cultural Landscapes
- b) Historic Towns and Town Centres
- c) Heritage Canals
- d) Heritage Routes

Since 2007, I had proposed adding the following:

- e) Skyscape Observatories

Skyscape Observatories are cultural properties are cultural properties and represent the "combined works of nature and of man" designated in Article 1 of the Convention. They are illustrative of humankind's reverence of the natural sky by Sun Light, Star Light, Dusk Light and Dawn Light. The Skyscape Observatories were created to learn from, calculate, categorize, predict, and inspire those viewing the natural skies above the Observatories.

They should be selected on the basis of the purposeful construction of Cultural and Scientific and Religious locals that have outstanding universal value and of their representativity in terms of their significant influence on those past, present and future observers.

The term "Skyscape Observatory" embraces a diversity of manifestations of the interaction between humankind and the natural environment of the Sun, Moon, Stars, Light, and Other Celestial Bodies above.

Skyscape Observatories have inspired humankind from the origins of EVERY religion, as well as cultural, artistic endeavors, and scientific investigation. The monuments created to capture and study the skies and

⁴³ Operational Guidelines for the Implementation of the World Heritage Convention pages 83-89

the heavenly bodies are of the utmost importance to humankind's development of civilization as found in both religious and scientific development. These Observatories played a central role in the community of the civilizations of the world, and their function to observe is helpful to learn from past generations and to inspire present and future generations.

In August 2010, this concept became the heritage designation of UNESCO, upon proposal from member state France.

"The UNESCO World Heritage Committee, at its 34th session in Brasilia, Brazil, has for the first time endorsed a study into a field of science heritage. The thematic study on the Heritage Sites of Astronomy and Archaeoastronomy, prepared within the framework of the International Year of Astronomy 2009, presents an overall vision of astronomical heritage and attempts to identify some of the most outstanding examples which are of significance to all humankind.

The study has several objectives. One is to gain a clearer picture of the character and composition of astronomical heritage around the world. Another is to identify just how to define this type of heritage in the context of the World Heritage Convention. The report details the main characteristics we should expect from an astronomical heritage site, and compares this to a representative sample of major heritage sites for astronomy around the world.

The study therefore has important practical implications for the effective implementation of the World Heritage Convention and for helping state parties create credible nomination dossiers, as well as its practical benefits for the management of world heritage.

*Within Chapter 16: 'Windows to the Universe': Starlight, Dark Sky Areas, and Observatory Sites" makes special emphasis on issues of common interest and culminates our part of the work we have been carrying out since the international meetings of Fuerteventura and La Palma (2010)."*⁴⁴

The Thematic study was published by ICOMOS and IAU, and supported by Instituto de Astrofísica de Canarias (IAC) and Starlight Initiative.⁴⁵

⁴⁴ Astronomy & World Heritage Thematic Study released 3 August 2010, Paris www.iau.org/public_press/news/detail/iau1006/ To download publication www.astronomy2009.org/resources/documents/detail/astronomy_world_heritage_thematic_study/

⁴⁵ Thematic study ISBN 978-2-918086-01-7 (e-book)

Tour routes describing the United States of America's African Americans route as navigated by observing the stars. These are being developed with support from UNESCO, by such organizations as The African Diaspora Heritage Trail.⁴⁶ Escaped slaves developed stories built around the stars, weaving blankets describing safe passage, to guide them on the trek to escape the slave owning south for the freedom of the north. Songs were then sung describing these stars to help the freedom seekers travel. In this way, starlight is part of the heritage of the underground railroad.

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.⁴⁷

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.⁴⁸ This concept is further explored in Article 4 of the Moon Treaty, which states that:

⁴⁶ See *Catching the Fire!* 4th International African Diaspora Heritage Trail Conference July 2008, Bermuda.

⁴⁷ Moon Treaty, Article 11

⁴⁸ Moon Treaty, Article

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.⁴⁹

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.⁵⁰

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

⁴⁹ Moon Treaty, Article 1

⁵⁰ Outer Space Treaty, Preamble

state party in a treaty.⁵¹

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."⁵²

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 adapt 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

⁵¹ Outer Space Treaty, Article 1

⁵² Outer Space Treaty, Article 9

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.⁵³ Tourism 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. Their protection and development creates jobs for everyone, and concerns group rights for the living and for future generations. The laws of Egypt, Nigeria, Mexico, Dominican Republic as well as the USA, provide examples that 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.

⁵³ Philosophical Foundations of World Citizenship, Phil Cameron www.spacestravelaw.com/
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