



# **Children's Rights in the Tourism Industry in Vietnam and Myanmar**

**By Liang Giang**

June 2019

Working Paper  
SHAPE SEA Research Project

## **Abstract**

The recent development of tourism in developing countries has caused negative impacts on children's rights. Children may be exploited and forced to drop out of school to join tourism and services<sup>1</sup>, and they are also subject to sexual exploitation and trafficking associated with tourism. The research, which was conducted in well-known tourist hubs in Vietnam and Myanmar, finds that children living in tourist areas are more likely to drop out of school to work than those who do not live in the tourist areas; the business sector lacks awareness on children's rights in tourism; child sexual exploitation continues to occur; and children are at risk of losing their culture identity when participating in tourist activities. Vietnam and Myanmar are parties to the UN Convention on the Rights of the Child (CRC); therefore, both countries have a duty to ensure children's rights in the tourism context. Based on both a desk review and qualitative field research, this paper aims to shed further light on the extent to which tourism impacts children's rights in Vietnam and Myanmar. The outcome of this research shows that the legal framework of children's rights protection needs to be further amended, the monitoring mechanism needs to be strengthened, and awareness programs on children's rights in tourism need to be created in both countries.

Key words: children's rights; tourism; Myanmar; Vietnam

## **Introduction**

While making a great contribution to the national economy, tourism development also has a real potential to impact the lives of communities and millions of children in both a positive and negative way. Social impacts from tourism on children's rights include many types, such as child labor, sexual exploitation, right to education, and right to culture.

The exploitation of children working in tourism is a significant issue in developing countries. In one way, tourism attracts children to participate in tourism activities or related services for earnings,

---

<sup>1</sup> Bliss, S. (2006) Child Labor in Tourism in Developing Countries. Paper presented at Social Educators' Association of Australia Biennial National Conference. Brisbane; Sánchez Taylor, J. (2010) Tourism and Inequality. In Coles, S. và Morgan, N. (Eds) (2016) Tourism and Inequality: Problems and Prospects. Oxon, CABI. Brittan; UNICEF. 2018. Vietnam Out - of - school Children Report.

either in informal and formal ways<sup>2</sup>. Children become more vulnerable and may be forced to drop out of school when they join tourism and its related services<sup>3</sup>. In another way, tourism impacts children's behavior, including their cultural habits and their thinking about culture and ethics. They are also subject to the sexual exploitation and trafficking associated with tourism.

Whilst tourism is booming in Southeast Asia, its impacts on children have yet to be fully researched and countered by governments. In acknowledging the intrinsic vulnerability of children and the indivisibility of their rights, there is a pressing need for state and non-state actors to work more effectively with tourist businesses to ensure child safe tourism. A challenge in countries like Vietnam and Myanmar, where tourism has become an important part of the economy, is how to avoid tourism negatively affecting human rights, especially children's rights. Vietnam and Myanmar are parties to the UN Convention on the Rights of the Child (CRC); therefore, both countries have a duty to ensure children's rights in the tourism context.

This paper aims to shed further light on the extent to which tourism impacts on children's rights in Vietnam and Myanmar. The papers are based on research by authors based in those countries. Project funding by SHAPE-SEA enabled academics in Vietnam and Myanmar to undertake research and to provide evidence-based policy advice grounded in that research. The objectives of this research project are: (i) to assess the extent to which tourism, as a booming industry in emerging economies in Vietnam and Myanmar, can impact children's rights; (ii) to identify the risks of child rights abuses; and (iii) to critique the policy and regulatory frameworks that are designed, directly and indirectly, to manage the violation of children's rights in tourism industry.

The outcome of this research shows that the legal framework of children's rights protection in the tourism industry needs to be further amended, the monitoring mechanism needs to be strengthened, and awareness programs on children rights in tourism need to be created in both countries.

---

<sup>2</sup> Bliss, S. (2006). Child Labor in Tourism in Developing Countries. Paper presented at the Social Educators' Association of Australia Biennial National Conference, Brisbane.

<sup>3</sup> Bliss, S. (2006) Child Labor in Tourism in Developing Countries. Paper presented at Social Educators' Association of Australia Biennial National Conference. Brisbane; Sánchez Taylor, J. (2010) Tourism and Inequality. In Coles, S. và Morgan, N. (Eds) (2016) Tourism and Inequality: Problems and Prospects. Oxon, CABI. Brittan; UNICEF. 2018. Vietnam Out - of - school Children Report.

## **Research methods**

This research is structured with a country summary. To varying degrees, international and domestic conventions, laws and policies bearing on the question of children working in tourism-related jobs are described and critiqued. Similarly, international and domestic literature bearing on the subject is identified. Some arguments are based on primary research commissioned for the study. The research was qualitative in nature and involved interviews with child workers, their parents and employers in selected tourist destinations in Vietnam and Myanmar. The information obtained in these interviews is consistent with existing knowledge and, importantly, adds a contemporary and humanistic perspective that cannot be obtained simply by reading the literature.

Researchers conducted a comprehensive literature review prior to deciding to conduct fieldwork. The literature reviews suggest that there is much to be done to evaluate the effectiveness of policy implementation and implementation failures. The conditions for policy failure are well-known and include: lack of clarity/specificity in objectives; lack of resources to disseminate information to children, parents, employers and relevant officials; and lack of enforcement resources (primarily paid government inspectors). It might also be imagined that many countries have developed laws, policies and programs around the issue of children working in tourism.

This research includes both a literature review and qualitative fieldwork in Hanoi, Hue, and Sa Pa (in Vietnam), and in Mandalay, Yangon, Bagan, Sangaing and Innlay Lake (in Myanmar). The limitation with qualitative work is that it is not possible to generalize the results from a few interviews to the broader situation of children working in tourism in Vietnam and Myanmar, although it is true that the findings are consistent with many reports in the international literature. The potential for large-scale social surveys of children working in tourism should be investigated. So, too, should longitudinal research that tracks the fate of working children over time.

### **1. Vietnam: Regulatory, context and evidences of children right in tourism**

#### ***1.1. Children's rights in Vietnam's tourist industry: The legal framework for***

## *protection*

Vietnam was the first country in Asia, and the second in the world, to ratify the United Nations Convention on the Rights of the Child in February 20, 1990. Child rights in Vietnam are codified in the 2013 Constitution and are specified in other laws, notably the 2016 Law on Children, the 2012 Labor Code, the 2014 Law on Marriage and Family, the Law on Human Trafficking, the 2015 Penal Code and the Law on Tourism in 2017.

- The 2016 Law on Children: This Law defined a 'child' as a person under 16 years of age (Article 1). The Law also recognizes children rights in accordance with UN Convention on the Rights of Child and further prohibits child rights violations. The Law establishes a national mechanism for protection and education of children. There is a particular focus on child labor.

- The 2012 Labor Code: Vietnam ratified ILO Conventions 138 in 2003 and 182 in 2000. Since then, Vietnam has worked to improve the legal system relating to minimum working age, and to eliminate the worst forms of child labor; to disseminate, explain and educate through national level programs; to strengthen state management and labor inspection; to integrate concerns about child labor into socio-economic development programs and projects; and to strengthen international cooperation to eliminate child labor.

The Code has had beneficial impacts on the recognition of and support for children's rights in the field of labor. The Code established a legal framework to prevent early childhood labor and abuse of juvenile workers. It has a separate section on juvenile workers and specific provisions on the employment of juveniles and child workers. Under Vietnamese law, violations may be subject to administrative or criminal sanctions.

- The 2017 Law on Tourism: Compared to the 2005 Law on Tourism, the new law aims to better assure tourists' interests. The Law also lists banned activities, including bringing people from abroad to Vietnam or from Vietnam to abroad illegally. This regulation may prevent human trafficking especially of women and children.

The legal framework is generally quite good; law enforcement is, however, weak.

### *1.2. Respect for children's rights in Vietnam's tourism industry: Business responsibilities*

The issue of child rights is explored in the context of the social, cultural and economic impacts of the high growing tourism sector. The author finds that there is the risk of children's rights violation, such as sexual exploitation, due to the tourism activities conducted by businesses. Legislation prohibits the employment of those under 18 in many specified areas of work within travel and tourism, but enforcement of this law across the range of businesses in the sector may not be possible. Furthermore, child labor has not been eliminated in many smaller, family-owned businesses in the sector and some of these are likely to be part of the value chain of participating companies.

Evidence of child labor can be seen in some lower standard value chain establishments and tourist areas such as in guesthouses, popular areas for souvenir sales and horse racing sites, or performance of traditional folk songs for tourists. The case study research undertaken in Sa Pa highlights the present inadequacies in enforcement. In Sa Pa, where the field research was conducted with tourism companies, not much information about child rights and protection of children in tourism has been received by business managers. The observation is that the number of children begging and selling on the streets in Sa Pa is on the increase. Traditional lands of ethnic communities are being sold for tourism development, and families are being forced to live further and further from Sa Pa and have little opportunity for involvement in the new tourism businesses. The local tourism promotion center in Sa Pa provides some pamphlets to tour companies which include information to discourage giving street children money. However, other important information about child protection including labor and sexual abuse are not mentioned. In addition, there is lack of an effective policy or guiding documents from local authority for the tour company and tourist people in Hue about the children selling and begging in the street.

Awareness about children's rights and protection of children in tourism by business managers is limited. Among the 10 business managers and owners who were interviewed, only one of them in Sa Pa has a policy on the protection of children in their company code of conduct. This company has its own code of conduct to recommend their customers not to give money to children or to take their photos without asking for permission.

Tour companies often warn their clients about child street selling and advise not to give money or buy souvenirs. Domestic tourists are more likely to give money to children but tour companies feel powerless to prevent this. As a result, the number of children begging and selling on the streets in Sa Pa is on the increase. At the same time, traditional lands of ethnic communities are being sold for tourism development, while families are being forced to live further and further from Sa Pa and have little opportunity for involvement in the new tourism businesses.

The literature review finds that there is a gap current legal framework on business with responsibilities in the tourism sector. Since the revision of the Penal Code in 2015, corporations are considered to be legal persons, responsible for bearing criminal liability with respect to some criminal offences. However, the list of crimes that under the scope of criminal responsibility of a corporate legal entity in Article 75 does not directly apply for corporate abuses on children's rights in the tourism context<sup>4</sup>. The role of corporations with respect to child rights is somewhat ambiguous in most Vietnamese laws. Most laws only contain provisions that indirectly acknowledge corporations' duty to protect particular rights, rather than taking a comprehensive approach to all human rights.

While children's rights have been addressed in a number of key legal documents, there is still a gap in addressing the responsibility of businesses within the tourism legal framework. The legal framework does not make much specific reference to tourism in the context of child rights. The Law on Tourism 2017 contains some provisions on the responsibility of businesses that can be apply to those working in travel and tourism, such as respect of cultural identity, customs of Vietnam, and the protection of the environment. However, it does not yet specifically address the responsibility to protect children in the context of tourism.

In summary, the Vietnamese legal framework is quite comprehensive and advanced in its coverage of emerging problems such as international business and foreign investment. However, provisions

---

<sup>4</sup> See the list of crimes bearing criminal offence applicable to corporation in article 75, 2015 Penal Code.

on corporate responsibility and human rights, as well as child rights in domestic legislation and soft laws, are still limited, especially in laws relating to trade, companies and investment. Even though existing laws, such as the law on children, contain some regulations relevant to human rights that are applicable to corporations, the Vietnamese legal framework is missing broad human rights provisions and fails to adequately compel corporations doing business in the tourism sector to respect children rights. These legal gaps make enforcing corporate human rights obligations, as well as providing remedy to victims of corporate violations of these rights, more challenging.

There is a lack of a guidance on business accountability when there is a violation of children's rights in Vietnam. It is also found that although local authority and government agencies have taken some steps to address the impact of tourism on children in Sa Pa and Hue, it is appeared that they are not effective. There is lack of an effective policy or guiding documents from the local authority for the tour companies and tourist people in Hue about the children selling and begging in the street. The local tourism promotion organisation based in Sa Pa has provided some pamphlets to tour companies which include information to discourage giving street children money. However, other important information about child protection including labor and sexual abuse are not mentioned.

### *1.3. Tourism and child labor in Vietnam: Between the law and reality*

A 2012 survey<sup>5</sup> estimated that some 2.83 million Vietnamese children were working, of which 1.75 million were children and of these, one-third were working over 42 hours a week. Another source, the MISC 2014 survey, showed that 12.1% of 5-17 years-old engaged in economic activities, many working hours longer than allowed; furthermore, 15% of children in the 5-11 years age group engaged in economic activities<sup>6</sup>.

In order to implement laws and policies in the field of children's care, Vietnam has developed and implemented many social programs that directly or indirectly act to prevent child labor, such as: the National Action Program for Children of Viet Nam (1991-2000, 2001-2010, 2011-2015, 2012-2020);

---

<sup>5</sup> MOLISA, ILO, GSO. National Survey on Child Labor 2012, available at: [http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-hanoi/documents/publication/wcms\\_237841.pdf](http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-hanoi/documents/publication/wcms_237841.pdf)

<sup>6</sup> Ibid. P. 39



the Program to prevent the incidence of street children, included in the National Program of Action for children covering the period 2012-2020; the Child Protection Program covering the period 2016-2020 which seeks to reduce the incidence of child labor<sup>7</sup>; and Technical Support for Enhancing the National Capacity to Prevent and Reduce Child Labor in Viet Nam (ENHANCE)<sup>8</sup>.

In order to protect children from predation by business operators, Vietnamese law stipulates that children are to be protected by law and that the use of juvenile workers is prohibited<sup>9</sup>. There are specific regulations applying to juvenile workers<sup>10</sup>. Laws stipulate civil, administrative and criminal sanctions for violations of human rights in general, and child rights in particular, in the fields of the environment and the provision of goods and services<sup>11</sup>. In Vietnam, UNICEF, the UN Global Compact and Save the Children, have developed the Code of Conduct on Children's Rights and Business Principles, to guide businesses as to what they can do in the workplace, in the market and in the community at large to show respect and support for children's rights. A series of seminars and workshops called ZERO Talks have been organized or co-organized by UNICEF with the participation of business leaders to discuss and identify ways that public and private sectors can work together to ensure that no child is abandoned.

However, there are gaps in policies and protection mechanisms for child workers with a focus on the informal sector, including street children. The research identifies the vulnerabilities of children and assesses the extent to which protection measures have been undertaken. The paper contests whether there are effective means to prevent child labor in tourism-related activities and, if not, what other measures could be formulated. The paper draws on survey data obtained from child workers in Sa Pa, Hanoi and Hue. Sixty case stories of working street children engaged in (voluntary or non-voluntary) tourism-related activities were assembled.

Children who work in tourism may migrate from rural areas to urban and rural tourism hubs and many become street children. In informal sectors, voluntary and forced participation by children in tourism jobs

---

<sup>7</sup> Decision no. 1023/QĐ-TTg ngày 07/6/2016

<sup>8</sup> The project support by ILO from 2016-2019

<sup>9</sup> Labor Code 2012, Article 8, clause 7

<sup>10</sup> Labor Code 2012, Paper XI, Article 161-165

<sup>11</sup> Law on handling administrative violations 2012, Civil Code 2015, Penal Code 2015

operate outside of formal labor contractual setups. There are gaps in understanding the driving forces and problems of such children. Children who work outside family environment are especially vulnerable.

Research reinforces existing knowledge that poverty is the main reason for children working at the early age. Most are forced to work for their living and to support sibling. Parents are a strong driver of children working; the expectation is that working in a tourist town means that money can be more easily earned than doing farm work. Parents therefore support and encourage children to work as much as possible, even if this means dropping out school early. One of the reasons for child labor is a lack of awareness of the importance of education on the part of parents. Children are also not aware of their rights to education and the effect of working vis-a-vis their rights, so they are dragged into work and run a high risk of drop-out from school. Other factor is local child welfare services have yet to reach children working in the informal sector, especially vendor children.

*Table 1: Reasons for children going to work (based on research findings)*

<b>Immediate</b>	<b>Direct</b>	<b>Policy</b>
Family lack of money to buy food and education	Parents' lack of awareness of the importance of children's education	Lack of child care and other support mechanisms
Family accidents leave parents without ability to work and/or single parent households	Family prejudice against girls based on belief that boys deserve to carry on education more so than girls (especially in ethnic groups)	Attraction of free market and other opportunities to children to support earnings
Children invited to work	Children tempted by idea of earning money from an early age	Enforce education policies, provide social safety nets for the poorest by local authorities and communities to prevent children dropping-out of school and being unable to afford schooling
Children in difficulties (orphan or left without family environment and	Children drop-out from school	Communities do not see child labor as harmful and illegal

any social child care)		
------------------------	--	--

#### *1.4. Child sexual exploitation in tourism: Legal and policy framework in Vietnam*

The sexual exploitation of children in tourism areas has expanded across the globe and out-paced every attempt to respond at the international and national level. The results of the first comprehensive global study of the phenomenon confirm that no region is untouched by this crime and no country is "immune"<sup>12</sup>. In an increasingly interconnected world, more people are on the move and even the most remote parts of the planet are now within reach. The countries of Southeast Asia have become major tourist destinations; many have seen sharp increases in tourism arrivals in recent years (e.g. Cambodia, Myanmar and Vietnam). According to UNWTO, Asia and the Pacific recorded the fastest growth across all regions in 2013, with a 6% increase in international arrivals. Among Asian sub-regions, Southeast Asia registered the highest increase, with 11% more arrivals, largely due to continued strong intraregional demand<sup>13</sup>. As a result, the risks of child sexual exploitation are increasing<sup>14</sup>.

In Vietnam, the domestic legal framework provides a range of criminal offences relating to the sexual exploitation of children, which could be used to prosecute child sex offences. The Law on Children prescribes a number of specific contents on the protection of children and the prevention of child sexual abuse. In Vietnam, child sexual exploitation has been closely linked to the ever-growing tourism industry, which has also generated a high demand for entertainment, and in some instances, sexual services. Children exploited by foreign nationals are both girls and boys and include those already gravitating around the sex industry as well as children living in especially difficult circumstances, such as street children, orphans and migrants. As a result, the risks of child sexual exploitation are increasing. Although sexual exploitation of children in tourism was commonly reported in large cities, the study found evidence that these crimes were emerging in new locations,

---

<sup>12</sup> Angela Hawke and Alison Raphael, *Global Study on Sexual Exploitation of Children in Travel and Tourism 2016*, ECPAT International jointly with Defence for Children-ECPAT Netherlands, 2016.

<sup>13</sup> See: UNWTO (2014). *Tourism Highlights*, available at: [http://dtxqtq4w60xqpw.cloudfront.net/sites/all/files/pdf/unwto\\_highlights14\\_en.pdf](http://dtxqtq4w60xqpw.cloudfront.net/sites/all/files/pdf/unwto_highlights14_en.pdf), accessed on 12 Oct 2018.

<sup>14</sup> Angela Hawke and Alison Raphael, *Global Study on Sexual Exploitation of Children in Travel and Tourism 2016*, ECPAT International jointly with Defence for Children-ECPAT Netherlands, 2016.

including remote and mountainous areas<sup>15</sup>. The findings from field research in Hue city and Sapa of Lao Cai province is that the most likely risks to child abuse through travel are those from the participation in children's tourism activities in the form of homestay services, tour guides, sales, support of free tourists, and beggars. In Sapa, it is vendors stalking tourists. At any place, when they have just stepped down from the bus, visitors are immediately surrounded by a crowd of Mong, Dao, Giay women and children wearing colorful clothes and offered souvenirs. They follow tourists to every place. Son concludes that despite the illegality of the practice and efforts by the Vietnamese government to curb the practice, child sexual exploitation continues to occur throughout Vietnam as a destination country for victims. The development of child protection measures for victims and witnesses in the criminal justice process therefore becomes important. Also, it needs a more comprehensive approach in combating child sexual exploitation in tourism.

### *1.5. Children's right of indigenous culture under tourism growth*

Tourism contributes to maintaining and developing traditional craft villages in the area and become one source of income for local people. Tourism is a decisive factor in the economic growth of a country. It means tourism development also contributes to the development of other industrial sectors such as transport, finance, banking, telecommunications, industry, and agriculture, which raises the revenue of the locality. Economic growth has led to increased local revenues through corporate taxes. On the contrary, these revenues can be reinvested in social security activities and into poverty alleviation, in which children are also be beneficiaries of these achievements.

In the tourism industry, children are the beneficiaries of indigenous cultural values that are "commodities" to attract visitors. Children have become agents of deformation and hybrid indigenous culture. This conflict has been occurring in all of Vietnam's tourist destinations; its consequences not only lead to the loss of the diversity of Vietnamese indigenous culture, but also directly harm the rights of the local people in general and of children specifically.

There are conflicts between cultural and indigenous rights of children and the growth of tourism.

---

<sup>15</sup>UNICEF Vietnam (2011). An analysis of the commercial sexual exploitation of children in selected provinces and cities of Vietnam, available at: [http://www.unicef.org/vietnam/bao\\_cao\\_CSEC\\_tiang\\_anh\\_04-12.pdf](http://www.unicef.org/vietnam/bao_cao_CSEC_tiang_anh_04-12.pdf)

Vietnam has significant cultural tourism resources deriving from its diverse ethnic and indigenous culture. In areas where tourism is growing, children may benefit from the provision of better education, hospitals and social services. On the other hand, children will be exposed as the fundamental 'commodities' attraction. Moreover, children are important for the preservation and development of indigenous culture. Notwithstanding, children are also the victim of deformation and hybridisation of native culture. The author finds that the 'commercialization' factor of tourism has 'destroyed' indigenous cultural values, affecting the formation of indigenous cultural knowledge of children. Growth of tourism has moreover raised the risk of ruining the indigenous cultural background of children; children are consequently indifferent to indigenous cultural values. The author concludes that governments at all levels should encourage the community in identifying and determining indigenous cultural heritage that motivates children to participate in the creation and preservation of culture in both roles: creators and beneficiaries.

#### *1.6. Children's rights to education and cultural identity: Impact of tourism in Vietnam*

The right to education as well as the right to cultural identity of children are recognized in international human rights law and Vietnam's legal system. The State is obligated to guarantee these rights both in law and practice. However, how to best guarantee children's rights is complex and debatable. To secure these rights in the context of tourism development, especially in less developed economic areas, can be especially challenging.

##### - Children right to education

Tourism has a strong negative impact on children's participation in education. Higher incomes naturally bring more opportunities for people but are a double-edged sword because they attract children to drop out of school and go to work early. Income from serving the customers is quite attractive, which can lead to children dropping out from school and/or reduce their attendance rates.

A survey by the Chamber of Commerce and Tourism in Sapa in October 2005 showed that children in H'Mong tourism villages are more likely to drop out of school than are those are not in the tourist

areas. In Seo Mi Ti village, for example, which is located on the mountain side of Phanxipang, the rate of children dropping out from school is 17.8%. In Lao Chai commune, according to this survey, 46.9% of children aged 6-14 were not going to school<sup>16</sup>.

According to a report from the Department of Labor, Invalids and Social Affairs of Thua Thien Hue province, the number of migrant children who leave school early in this province is increasing. According to this report, in 2012, 569 children were living away from home and went to work early. By 2013, this number had increased to 666 and by 2014 to 832<sup>17</sup>.

The field trip to Sa Pa and Hue found that although the number of children absent from school on weekdays to go to work is limited, it still exists. Most of them go to work in the evenings and weekends. Working time is out of school time, so the local government and the school do not interfere, but it greatly affects the results that children achieve at school. Many children go to work on the weekend and are usually absent in class on Monday for reasons of tiredness or sleepiness. Many children go to work in the evening and the following day, they are tired and sleepy in class and cannot study. All teachers who participated in the in-depth interview said that the working at night time and weekends have affected to pupils' academic records; they often have bad scores and teachers have to spend a lot of time to tutor them.

#### - Right to cultural identities

Tourism impacts the cultural identities of children in both a positive and negative way. Visitors meeting and interacting with local people in general and with children in particular create cultural interactions and may make local people proud of their special cultural traditions. This may encourage traditional values to be upheld and preserved.

In-depth interviews with a number of teachers in primary and secondary schools in both Sa Pa and Hue indicated that, through contact with tourists, children should be able to learn many new things,

---

<sup>16</sup> Impact of Tourism on the H'Mong village in Sapa, available at: <http://doc.edu.vn/tai-lieu/de-tai-tac-dong-cua-du-lich-den-cac-lang-nguoi-hmong-o-sapa-73000/>, p.14. Accessed 15 December 2017.

<sup>17</sup> Report of Department of Labor, Invalids and Social Affairs of Thua Thien Hue Province on 29 July 2014.

improve their language skills and become more self-confident. A positive impact of tourism on culture is that tourism may help to restore, and develop traditional festivals and handicrafts. Tourism encourages local communities to restore and organize traditional folk festivals, promote handicraft villages and to produce souvenirs from local materials<sup>18</sup>. Women, children and the elderly are usually involved in the deployment of these traditional crafts. Products include brocades, pottery, lacquerware, statue painting, silk painting, mulberry cultivation, silkworm rearing and weaving.

Sometimes the behavior of foreign visitors can affect the fine habits of local people. Due to different views on ethics, traditions, some visitors have behaved inappropriately with local traditions, influenced and changed the way of life, as well as the way of thinking of the local people. Many teachers have commented that children in contact with tourists form a habit of lying. Moreover, participating in travel, asking for money or selling to tourists influences the concept of life and dignity of children so that they do not feel embarrassed when asking for money or drop out of school to make money. These are the harmful impacts to children.

### *1.7. Recommendations*

Tourism affects the local culture in many countries. However, the main problem is the ineffectiveness of tourism management. In the case of Vietnam, these recommendations should be taken to protection the rights of children in tourism.

- Legal framework needs to be amended:
  - Legal system and policies on child protection and care should be further improved in line with the provisions of the CRC and Conventions 138 and 182. Particular attention should be paid to regulations on the prevention and elimination of child labor. Legislations should clarify differences in regulations on child labor and children's participation in economic activity.
  - Stronger administrative and criminal sanctions against violations of the law on child labor should be established into both administrative and criminal laws.

---

<sup>18</sup> Nguyen Van Luu, "Tourism and community development", Travel magazine online, available at: <http://www.vtr.org.vn/du-lich-va-su-phat-trien-cua-cong-dong.html>, 30 September 2014.

- Amend the Penal Code to define a child as a person below the age of 18 in concordance with the CRC definition. The Criminal Code should remove, in case of sexual exploitation offences, the 'margin of judgement' available to authorities to refuse extradition to a foreign country when a crime is committed. As such, Vietnam should include legal provisions defining 'child prostitution' and 'child pornography' in compliance with the Optional Protocol on Child Prostitution and Child Pornography.

- Build a specific legal text on ethnic minorities living in tourism areas, especially within heritage areas. The rights of ethnic minorities associated with their traditional living areas and practices should be guaranteed. They should have also the rights to participate and right to share benefits from tourism.

- Awareness program

- The role of the family in the prevention and elimination of child labor should be promoted through appropriate legal propaganda, education and dissemination measures. Change the thinking of people about the benefits of children's learning and the harm of the leaving school in order to work.

- It is necessary to raise the awareness of households on the mobilization of children in production and business activities, and to develop packages of conditional education support for households to send their children to school

- Enhance international cooperation that includes efforts to raise awareness on the sexual exploitation of children by designing and implementing public awareness-raising programs among children, families and groups of professionals working with and for children.

- Raising awareness of the heritage and community-specific heritage, building more programs and models that motivate children to participate in the creation and preservation of culture in both roles: creators and beneficiaries.

- Strengthen awareness of the business sector in travel and tourism on their collective and individual responsibilities to respect child rights. Encouraging tourism businesses of all sizes to become champions for the respect of children's rights. Advocating for them to develop a human rights and child rights policy or integrate this into in their code of conduct or business strategy.



- Raise awareness and sensitize police, magistrates, communities and others as to the dangers and illegality of child labor and child sex tourism, and develop their capacity on how to recognize and act when transgressions are discovered.
- Ensure greater awareness among tourists and guides of issues relating to the law and child prostitution, child labor and child protection and encourage action to discourage behavior that may not be illegal but which leads to negative impacts, for example with respect to orphanage tourism and the giving of presents to children begging at tourist sites, even imposing an administrative monetary penalty with visitors who give money or buy goods for children.
- Monitoring mechanism
  - Child labor monitoring mechanisms, including the statistical system, to monitor child labor incidents, especially the worst forms of child labor in both formal and informal sectors should be improved.
  - An independent institution of human rights or child rights should be built to monitor the human rights/children rights issues.

## **2. Children's rights and tourism industry in Myanmar**

### ***2.1. Children's rights in tourism in Myanmar: Responsibilities of businesses***

Myanmar's main obligations when it comes to respecting and protecting children's rights derive from the country having ratified the UN Convention on the Rights of Child in 1991 and the adoption of related national legislation. As a signatory, the Child Law was promulgated on 14 July 1993. The main purpose of the Child Law is to be in line with CRC relating to the rights of the child in Myanmar. Section 8 of the Child Law states that the State recognizes the right of every child to survival, development, protection and care and participation in the community.

The Myanmar Tourism Law was promulgated in 1990 and the Myanmar Hotel and Tourism Law in 1993. A new Myanmar Tourism Business Law is in the process of being drafted. Several provisions of the draft law reflect those of the 1993 law. Other recently updated laws and policies relevant to

tourism include the 2016 Myanmar Investment Law<sup>19</sup> and 2012 Myanmar Responsible Tourism Policy<sup>20</sup>. The Protection and Preservation of Cultural Heritage Regions Law, 1998, the Environment Conservation Law, 2012, and the Environment Conservation Regulations, 2014 are provided to protect and conserve the environment in Myanmar. Myanmar is not a signatory to ILO Convention no. 138 concerning minimum age from 1973.

Two specific questions are addressed. First, what are the legal gaps in terms of measures to protect children and what are the institutional and practical challenges for securing child-safe tourism in Myanmar? Second, what are the responsibilities that fall upon owners and operators of tourism businesses and how can they meet these responsibilities in the face of a weak legal and institutional framework that does not offer much guidance to their operations? The paper is based on a review of existing literature, a study of relevant laws and policies and interviews with respondents from the hotel sector, travel agencies and from one state-level branch of the Myanmar Hoteliers Association, itself a member of the Myanmar Tourism Federation. Interviews were conducted in Yangon and in tourist destinations in Shan State (Kalaw, Pindaya, Inle Lake, Taunggyi)<sup>21</sup>. There are laws related to hotels and tourism, children's rights and business and labor relevant to the development of the tourism industry. Although these laws are intended for their specific purposes, it is necessary to ensure that they include provisions relating to human rights protection. Notably the safeguarding of child rights must be included as a part of tourism development policies. In order for tourism to be sustainable, it needs to incorporate practices of responsible tourism to safeguard natural, cultural and human assets for the future. Among the human assets are children, who need special protection and safeguards in order to express their potential in the future.

## *2.2. The impact of tourism on children's cultural rights*

The research emphasizes the State's need to promote responsible and sustainable tourism given its impact on children's cultural rights. The research question is how the Myanmar government protects the cultural rights of children in the tourism sector under its commitment to international convention on children's rights.

---

<sup>19</sup> Pyidaungsu Hluttaw Law No. 40/2016.

<sup>20</sup> Government of Myanmar. 2012. Ministry of Hotels and Tourism. Responsible Tourism Policy.

<sup>21</sup> For a list of interviews, see the last section of the paper.

Myanmar is a 'heritage-rich' country in its cultural characteristics and environmental systems. Since the promulgation of the Tourism Law (1994), Myanmar governments have promoted tourism based on this heritage. The Myanmar Tourism Policy aims to encourage local entrepreneurship and civil society engagement to secure livelihoods of women and young people, to maintain cultural diversity and authenticity, and to apply ethical standards to minimize economic and social harms. But when children work, their cultural, educational, bodily and other rights may be violated. Based on case studies and interviews, this paper shows how these connections can be fostered. Exploitation of children in the context of travel and tourism is a global phenomenon. In Myanmar, there have been reports that tour operators, through websites and tour guides, have facilitated contacts between tourists and underage prostitutes.

Distribution and accessing child abuse images are violations of children's rights and a crime under international law. Myanmar has ratified the Optional Protocol to the CRC on the Sale of Children, Child Prostitution and Child Pornography. Myanmar's Child Law and Penal Code regulate child pornography. The law does not, however, have explicit provisions requiring Internet Service Providers (ISPs) to report suspected child sexual abuse images to law enforcement or other agencies upon discovering suspected child sexual abuse images or other types of child abuse and child sexual exploitation circumstances on their network. According to a human rights expert, social media such as Facebook are also used as tool to lure underage Myanmar girls for illegal trafficking. The social media platform is used to establish contacts with young Myanmar girls from poor regions who are taken to China, where they are forced into marriage.

Child prostitution and trafficking in girls for the purpose of prostitution, especially Shan girls who were sent or lured to Thailand, continues to be a major problem. In Rangoon and Mandalay, diplomatic representatives noted widespread employment of female prostitutes who appeared to be in their early teens and for whom there was reportedly a high demand. Concern is also expressed at the programs for the physical and psychological recovery and social re-integration of child victims of such abuse and exploitation which remain insufficient and inadequate.

There are action points to establish the CSR mechanism in all tourism related businesses: to set up the guidelines for overnight stays and visitor activities in rural communities; to ensure that visitors understand the social norms when visiting cultural heritages; to prevent child beggars, child labor, missing school and any exploitation; and to support the implementation of awareness raising on sexual exploitation on children in the tourism industry. Hotels and tour companies, local transportation services, a licentiateship program for tourist guides, and maintenance of tourist sites are gradually being developed. Heritage sites are special opportunities for local residents - including children - to earn a living.

### *2.3. Tourism and child labor issues in Myanmar*

The research explores the involvement of child workers in Myanmar's tourism industry and the implications of working for children. Children undertake formal and informal work in tourism e.g. as tourist guides, coolies, and helpers and waiters in restaurants and hotels. Child workers are commonly exploited by employers through the imposition of long working hours, the payment of low wages and the maintenance of unhealthy and unsafe working conditions. The paper argues that poverty is the major reason why children work and that society has only weak knowledge as to the worst forms of child abuse in workplaces. Qualitative research addressed two questions: (1) What are the factors driving children to work in tourism? (2) In which ways are child workers exploited? Interviews were conducted over a period of two weeks with child workers, their parents and employers in the Inlay region of the Shan State. It was confirmed that child workers face exploitation in their workplaces by their employers, such as long working hours, low wages and unhealthy working conditions. Children thus lose their rights to education, play and health. The Myanmar Government enacted provisions of limited working hours and a minimum age of employment in national labor laws to protect working children. Child workers nevertheless continue to be exploited by employers. It was confirmed that poverty is the push factor for children to work. The research confirms that child workers are a highly vulnerable group in Myanmar and that the government should set up more effective laws, policies and actions to protect them.

### *2.4. Recommendations*

- Legal framework:

- There is a need to review the main provisions and amend the 1993 Child Law to bring it in line with international standards. Equally important, strong efforts are needed to promote the enforcement of laws and policies related to child protection in Myanmar. This is the background for an attempt by the Ministry of Social Welfare, Relief and Resettlement to introduce a new Child Rights Law, which is currently at draft stage. For example: According to the 1993 Child Law, "Child" means a person who has not attained the age of 16 years<sup>22</sup> and "Youth" means a person who has attained the age of 16 years but has not attained the age of 18 years<sup>23</sup>; the minimum age of criminal responsibility is 10 years and of employment is 15 years. Some issues relating to the child, such as the right to protection from child labor, drug abuse, sexual exploitation, sale, trafficking, abduction, torture and deprivation of liberty, are not clearly stipulated in the Child Law. The minimum age of marriage needs to also be added to the law.
- A legal provision against corporal punishment of children needs to be added to law (Myanmar laws now allow for "admonition by a parent, teacher or other person having the right to control the child, which is for the benefit of the child").
- The new Myanmar Tourism Business Law is being drafted to be in line with the needs of global tourism businesses. If the hotel and tourism investment law and a new draft tourism business law are received positively by investors, it is anticipated that foreign investments in this sector will increase and contribute to tourism development in Myanmar.
- Clear legal provisions for the protection of child rights. More broadly, clear legal provisions relating to protection of human rights are also needed in the business laws.
- Labor law needs to be amended. Laws related to young workers are thus somewhat unclear on the definition of a child and the requirements for working conditions for young workers (ages 14-18). Although additional revisions are under way, there is a need for harmonization of laws to ensure consistent interpretation and usage.
- The 1993 Tourism Law needs to be amended while it lacks of provisions related to child protection and the absence of systematic labor inspections weakens efforts to ensure labor laws and other relevant are respected when it comes to children in the tourism industry.

---

<sup>22</sup> Myanmar Child Law 1993, s.2(a).

<sup>23</sup> Myanmar Child Law 1993, s2(b).

- National law also needs to tackle the issue for child labor. Government should implement policy of access to free and quality basic education and appropriate vocational training for all children and the removal of the worst forms of child labor.

- Awareness program

- Children, their parents and business owners generally need to raise public awareness. Children do not know generally realize that they are being exploited. Parents take their children out of school and send them to work. No parents have knowledge of the impacts of child labor and child exploitation. Parents' attitudes need to be changed to encourage children to go back to school.

- An advocacy and awareness raising groups should be established to lead the implementation of child labor awareness. Government needs to join hands with NGOs and international organizations and implement effective awareness programs.

- An awareness raising program about the traffic or trade of children that is characterized by the recruitment, transport, transfer, and housing of any person by different methods needs to be created.

- Monitoring mechanism

- The national committee to monitor children's rights was reconstituted in 2016 and met for the first time in 2017. Among other activities, the committee is engaged in the drafting of Myanmar's fifth and sixth combined report to the CRC committee<sup>24</sup>. However, information about the committee and its work, and whether and how it monitors the business sector, remains limited. A national human rights commission was established in 2011 and has a section dedicated to children's rights, though none of the commissioners are dedicated particularly to children's rights. Over the past few years, the MNHRC has examined complaints in cases that relate to violations of children's rights, though the cases remain few (a total of 18 over three years, including cases related to the recruitment of child soldiers, with 10 cases in 2017<sup>25</sup>). It is not known if any of these cases relate to the tourism sector. It

---

<sup>24</sup> 'Rights of Children: Meeting of National Committee For The Rights Of The Children Held', *Myanmar International TV*, 28 December 2017, available at: [www.myanmarinternationaltv.com/news/rights-children-meeting-national-committee-rights-children-held](http://www.myanmarinternationaltv.com/news/rights-children-meeting-national-committee-rights-children-held), (accessed on 9 September 2018)

<sup>25</sup> Khin Chit Chit, personal email communication with representative of the Myanmar National Human Rights Commission, 2 May 2018.

will take time for the committee to develop the capacity to be an effective body for the protection of human rights in Myanmar. Furthermore, while the MNHRC has autonomous power to investigate complaints, it is also not yet an independent body operating in accordance with the Paris Principles. Therefore, the monitoring of children rights by these Committees need to be enhanced.

- The role of civil society organizations in monitoring human rights and children rights should be enhanced.

### **Conclusion**

Tourism is an important driver of economic development in Southeast Asia. At the same time the sector gives rise to social, cultural and environmental problems. Such problems are amplified in the context of a tourism industry growing rapidly without the necessary planning and oversight by governments and industry bodies. Tourism activities should respect the equality of men and women; they should promote human rights and, more particularly, the individual rights of the most vulnerable groups, notably children, the elderly, persons with disability, ethnic minorities and indigenous peoples. The exploitation of human beings in any form, particularly sexual exploitation, especially in the case of children, conflicts with the fundamental aims of tourism as enunciated in international and national policies. As such, in accordance with international law, exploitation should be energetically combatted with the cooperation of all States concerned. Violations should be penalized without concession under national legislation. One issue that has received increased global attention in research and policy-making, including in Southeast Asia, is the risk of exploitation of children associated with tourism, including sexual and labor market exploitation, and other impacts of children's rights resulting from tourism-related activities<sup>26</sup>.

Tourism development has both positive and negative impacts on children's rights. However, the ineffective management will increase the negative impacts. It is therefore important to minimize the negative impact of tourism on children's rights. Moreover, preventing the negative impacts of tourism in children rights is also a good way to remove negative image of tourism of the country to attract more and

---

<sup>26</sup> Johnson, Afroaz Kaviani (2014), "Protecting Children's Rights in Asian Tourism", in: *International Journal of Children's Rights* 22(2014), pp.581-617.

more visitors.

This research shows that in both countries, the legal frameworks need to be modified; the awareness programs about children rights in tourism, child labor and the role of education need to be created; and the monitoring mechanism also need to be enhanced.

Limitations of the research suggest avenues for future research, which will look into studying the legal and policy settings in other ASEAN states. Thailand and Malaysia, for example, have much higher tourist numbers than do Vietnam and Myanmar, and have had developed tourist economies for much longer. The potential for an ASEAN-based conference on the subject might be investigated. Identifying world-best practices would enable benchmarking against the situations in Myanmar and Vietnam and enable governments in those countries to improve their regulatory and supporting frameworks.