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Abstract	<p>Since the enforcement of 2008 Constitution in Myanmar, Myanmar has seen an extremely rapid and intense development of its tourism industry. The tourism industry relies on the cultural and natural heritages in Myanmar. It is recognized that cultural tourism is one of the largest and fastest-growing of the State's tourism markets. Myanmar has diverse cultures that is both intangible and tangible. In parallel with the tourism development in the country's tourist sites, there are working children in those tourist sites. Children are economically abused by exploiting their intelligence and cultural diversities. It leads to the gross violation of child's cultural rights such as the rights to rest and leisure, to travel and to enjoy the holidays. This is contrary to the International Covenant of the Economic, Social and Cultural Rights 1966, the UN Convention on Rights of the Child 1992, and the Manila Declaration of World Tourism 1995 which are applicable to Myanmar. Myanmar children work behind the scenes of the tourism industry whether in the hotels, around the temples, near the lakes and public square areas. This paper focuses on Myanmar's cultural heritage and tourism policy. Then, it explores how children are affected by the tourism industry such as through sexual exploitation, child begging and child trafficking. This paper presents its main findings and recommendations that are established from the facts and data of desk research and semi-structured interviews with respondent children.</p>
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THE IMPACT OF TOURISM ON CHILD'S CULTURAL RIGHTS IN MYANMAR

Su Yin Htun

Introduction

Since the enforcement of 2008 Constitution in Myanmar, Myanmar has seen an extremely rapid and intense development of its tourism industry. The tourism industry relies on the cultural and natural heritages in Myanmar. It is recognized that cultural tourism is one of the largest and fastest-growing of the State's tourism markets. Myanmar has diverse cultures that is both intangible and tangible. In parallel with the tourism development in the country's tourist sites, there are working children in those tourist sites. Children are economically abused by exploiting their intelligence and cultural diversities. It leads to the gross violation of child's cultural rights such as the rights to rest and leisure, to travel and to enjoy the holidays. This is contrary to the International Covenant of the Economic, Social and Cultural Rights 1966, the UN Convention on Rights of the Child 1992, and the Manila Declaration of World Tourism 1995 which are applicable to Myanmar. Myanmar children work behind the scenes of the tourism industry whether in the hotels, around the temples, near the lakes and public square areas. This paper focuses on Myanmar's cultural heritage and tourism policy. Then, it explores how children are affected by the tourism industry such as through sexual exploitation, child begging and child trafficking. This paper presents its main findings and recommendations that are established from the facts and data of desk research and semi-structured interviews with respondent children.

1. Tourism Policy on Cultural Rights in Myanmar

Myanmar is rich in a cultural heritage that is dating back many centuries. The Myanmar economy relies on cultural tourism that is the country's culture, specifically the lifestyle of the people in the tourist sites, the history of the peoples, their arts, architecture, religion(s), performing arts, visual arts, festivals, heritage sites, fashion, theatres and other

elements that helped shape their way of life; includes tourism in urban areas, particularly historic or large cities and their cultural facilities (e.g., museums and theatres; also includes rural areas, showcasing the traditions of indigenous cultural communities (e.g., festivals, rituals) and their values and lifestyle³⁰⁶. Myanmar responsible tourism policy is set up in 2012: “We intend to use tourism to make Myanmar a better place to live in, to provide more employment and greater business opportunities for all our people, to contribute to the conservation of our natural and cultural heritage and to share with us our rich cultural diversity”³⁰⁷.

The Myanmar Tourism Policy aims to encourage local entrepreneurship and civil society engagement to secure the livelihoods of women and youth, to maintain cultural diversity and authenticity, to apply the ethical standards through the tourism development to minimize the economic and social harm. 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 from child begging, child work, missing school and any other forms of exploitation; and to support the implementation of awareness raising on sexual exploitation of children in the tourism industry³⁰⁸.

In 2012, Myanmar became a member of UNWTO and then the Government of the Republic of the Union of Myanmar passed the responsible tourism policy, “Responsible Tourism is an approach to managing tourism, aimed at maximizing economic, social and environmental benefits and minimizing costs to destinations. It creates better places for people to live in, and better places to visit and aims to achieve the three principal outcomes of sustainable development - economic growth, environmental sustainability and social justice. It is tourism where people take an active responsibility in the tourism sector - in public and private sector, and in communities where tourism occurs. Responsible tourism is a multi-stakeholder process involving partnerships within and between the public and private sectors to take effective action to address challenges or maximize the yield from tourism”.

³⁰⁶ ASEAN Tourism Strategic Plan 2011-2015 Glossary of Different Forms of Tourism Activity and UNWTO definitions.

³⁰⁷ Responsible Tourism Policy, Ministry of Hotels and Tourism, 2012.

³⁰⁸ Responsible Tourism Policy, Ministry of Hotels and Tourism, 2012

There are nine aims in implementing the tourism policy:

- Tourism as a national priority sector;
- Broad based local social-economic development;
- Maintain cultural diversity and authenticity;
- Conservation and enhancement of the environment;
- Compete on product richness, diversity and quality - not just price;
- Ensure health safety and security of our visitors;
- Institutional strengthening to manage tourism;
- A well trained and rewarded workforce; and
- Minimizing unethical practices.

Among the above, some are related to cultural rights such as benefits in the community, encourage local entrepreneurship and civil society engagement to secure livelihoods for women and youth and to alleviate poverty and preservation of national identity and encourage the development of cultural heritage and living cultures.

As Myanmar is a member of the UN and UNESCO, Myanmar follows the universal nature of human rights that is provided for in international law in the UN Charter “for all without distinction”. *“No one may invoke cultural diversity to infringe upon human rights guaranteed by international law, nor limit their scope”*. The approach of UNESCO, through all of its cultural conventions, is firmly grounded on this principle. The emphasis is on acknowledgment, understanding and tolerance of other cultures on the basis of a binding global ethic founded on universal values and mutual respect across cultural boundaries. Human rights include many very important cultural rights, which should be given equal attention, such as the right to participate in cultural life and to enjoy one’s culture. In accordance with international law, the right to culture is limited at the point at which it infringes on another human right³⁰⁹.

Children in Myanmar are used to obeying the socio-cultural values and norms that are traditional customs. Children in Myanmar are expected to study hard and/or work hard (including domestic chores). Attitudes towards children make little allowance for the need to play and to take recreation. There is widespread acceptance of working children and little evidence

³⁰⁹ UNESCO 2001 Universal Declaration on Cultural Diversity

of children's participation in decisions affecting them in service provision (eg, in schools). Myanmar society is generally patriarchal: men are the main bread-earners and the main decision-makers. Attitudes to women are strongly underpinned by religious beliefs; moreover, personal affairs such as marriage, divorce and inheritance tend to be governed by Customary Law³¹⁰.

In summary, the Myanmar Responsible Tourism Policy proposes the cultural rights for people even though there is no highlighted provision for child cultural rights. As Myanmar is a Buddhist country and almost all the tourist sites are cultural heritage sites, Myanmar's children enjoy the cultural beliefs and are used to taking part in heritage tourism.

2. Cultural Beliefs and Heritage Tourism

Myanmar is rich in natural assets with beautiful landscapes, including rivers, lakes, beaches, islands and forests. Myanmar relies upon the hotels and tourism sector for an economy based on cultural and natural heritage. Heritage tourism is a subset of cultural tourism oriented towards understanding and appreciating the heritage of a destination; focuses on visiting historical³¹¹. Tourism resources belong to the common heritage of mankind; the communities in whose territories they are situated have particular rights and obligations to them. Cultural heritage also contributes as a driving force for economic development of peripheral or rural regions since management and restoration projects also impact on displays of intangible cultural heritage such as traditional manifestations and cultural events. This is particularly true of festivals and other artistic events summoning the general public - taking place within cultural heritage sites - that represent an important source of income for local businesses and positively impact economic activities in all sectors in the area.

Stefano Facchinetti³¹² stated in his research on cultural heritage management in Myanmar that the dynamics generated by heritage-related activities and events would be greatly beneficial for Myanmar, and particularly for the Upper Burma region where the Bagan archaeological site and the Pyu

³¹⁰ Situation Analysis of Children in Myanmar, Ministry of National Planning and Economic Development, July 2012, P- Section 3 (xiv)

³¹¹ ASEAN Tourism Strategic Plan 2011-2015 Glossary of Different Forms of Tourism Activity and UNWTO definitions

³¹² Stefano Facchinetti, Cultural Heritage Management in Myanmar; A Gateway to Sustainable Development, 2014

Ancient Cities are located, a traditionally rural and economically backward area which is among the country's poorest³¹³. That is a real link between cultural heritage management and tourism development. The more that tourism develops, the higher the income that the local people will generate. As a result of sweeping political and economic reforms, the Republic of the Union of Myanmar is enjoying unprecedented tourism growth. Although Myanmar possesses diverse and extensive cultural, natural, and historic assets, it has only begun to develop its enormous tourism potential. Both local travelers and foreigners enjoy going to Myanmar heritage sites.

a. Tangible Heritage

Cultural Heritage is an expression of the ways of living developed by a community and passed on from generation to generation, including customs, practices, places, objects, artistic expressions and values. Cultural Heritage is often expressed as either Intangible or Tangible Cultural Heritage (ICOMOS, 2002). Tangible culture heritage can be divided into three groups which are the built environment such as buildings, townscapes and archaeological remains, the natural environment such as rural landscapes, coasts and shorelines and agricultural heritage and, lastly, artefacts which include books and documents, objects and pictures. Heritage, tangible and intangible, provides the basis of humanity's rich cultural diversity.

There are numerous captivating attractions for visitors from all over the world to discover. In Myanmar, most travelers visit places of cultural diversity and heritage sites such as Shwedagon pagoda, Kuthodaw pagoda, Bagan ancient city, Mrauk Oo, Kyeikhtiyoe Pagoda and natural heritage sites such as Ngapali beach, Pyin Oo Lwin, Mt Poppa, Karen state, Inle lake, Putao, Ayeyarwady River Corridor, Hukaung Valley Wildlife Sanctuary in Sagaing Region and Kachin State, Indawgyi Lake Wildlife Sanctuary, Myeik Archipelago in Tanintharyi Region, Natma Taung National Park in Chin State, Northern Mountain Forest Complex comprising Hkakabo Razi and Hponkan Razi National Parks and proposed extension in Kachin State and Taninthayi Forest Corridor in Tanintharyi Region³¹⁴. Although

³¹³ Stefano Facchinetti, Cultural Heritage Management in Myanmar; A Gateway to Sustainable Development, 2014, p.14

³¹⁴ See: Beyond Boundaries Myanmar, available at: <http://beyondboundariesmyanmar.com/blogs-news/blogs/107-natural-heritage-sites-in-myanmar.html>

the tourism sector is rapidly expanding in Myanmar, this paper focuses on only five areas, *vis.* Yangon, Mandalay, Bagan, Innle Lake and the Sagaing-Mingun area which reflect diverse culture and where many children can be seen to be working in tourism.

Yangon is the capital of the Yangon Region of Myanmar, also known as Burma. Yangon served as the capital of Myanmar until 2006. In 2010, the Ministry of Culture further announced that 16 ancient pagodas in Yangon Region are recognized as cultural heritage sites. The importance of the town grew with that of the Shwedagon pagoda that is recognized as both an Ancient Monument Zone and Protected and Preserved Zone. The Shwedagon pagoda is 326 feet high with a square plinth the perimeter of which being 1420 feet and the base is surrounded by 64 small pagodas. Local and foreign travelers think that Shwedagon Golden Pagoda is a must-visit place if they have the opportunity to travel to Yangon. Among the ancient pagodas at Yangon are the Sule and the Botataung. The original structure of Botataung goes back to over two thousand years and it enshrines the two corporeal relics of the Buddha and sacred hair. Those temples are covered with gold leaves which create a very charming mixture of colors especially at sunrise or sunset and are decorated by thousands of diamonds and rubies³¹⁵.

Mandalay city took its name from the Mandalay Hill which is situated at the north -east corner of the present town. The monuments of Mandalay belong to the royal palace, moat and its gateway, Atumashi monastery, Kuthodaw pagoda, Thudhamma and Pahtan zayats (congregation halls), Mahamuni Image and so on. Among those, Kuthodaw pagoda is UNESCO recognized as the "World Largest Book". It was built in 1875 by King Mindon on the model of the Shwezigon Pagoda at Bagan. Its distinctive feature is the collection of 729 stone slabs on which are inscribed the whole of Buddhist scriptures. This collection is unique in the Buddhist world and is highly prized by all oriental scholars. Mandalay remains the pride of the country of being the fountain-head of Myanmar's spiritual life and the heart-center of Myanmar culture³¹⁶.

³¹⁵ Aung Thaw, Director of Archaeology, Historical Sites in Myanmar, Ministry of Religious Affairs and Culture, Ps. 112 - 115

³¹⁶ Aung Thaw, Director of Archaeology, Historical Sites in Myanmar, Ministry of Religious Affairs and Culture, Ps. 140 - 150

Bagan is situated on the left bank of the Ayeyarwady River in Central Myanmar and is the most well-known tourist site in the country. It is famous with its architectural buildings that were built by the Myanmar historic dynasty of fifty-five kings dating back to the 2nd century. Incredible Bagan has many monuments, solid pagodas and hollow temples, octagonal and pentagonal pagodas, stone inscriptions that are set up with bilingual, trilingual and quadrilingual languages, cave temples, vishnuite sculptures, *jataka* stories paintings in the walls of the temples and 4 venerated pagodas that enshrined sacred relics of the Buddha. Buddhists believe that their wishes come true if they pray those 4 of the pagodas in one day. So, the Shwezigon, Lokanandar, Tuyin-taung and Tant-kyi-taung pagodas are the most popularized tourist sites in Bagan³¹⁷.

Inle Lake is situated in the Southern Shan State in Myanmar. It is famous for its floating villages and gardens and the unique way of life of the local Intha people, with their living communities based entirely on the water. The lake, which measures 22 km long by 10 km wide, and sits in a valley between two mountain ranges, feels like a different world to the rest of Myanmar: in villages and towns across the lake, wooden houses are built on stilts and fishermen steer their one-man boats with a characteristic rowing style, wrapping one leg around their oar. The local and foreign visitors not only discover the life of Intha, craft villages, but also have the opportunity to visit colorful floating markets or admire the famous Nga Phe Kyaung Monastery as well as to explore the life of many other ethnic groups such as Shan, Pa-O, Danu and Taung-yo. The holiest site is Phaungtaw Oo pagoda that is built in the middle of Inle Lake. The Phaung Daw Oo Pagoda festival takes place in October and features the passage of four revered Buddha images around the villages of Inle Lake on the barge, taking 18 days to complete their journey. There are also rowing competitions between the villages, using the renowned local leg rowing style³¹⁸.

Sagaing lies on the right bank of the Ayeyarwady River and is one of the most picturesque sites in Myanmar with numerous pagodas crowning the tops of the hills at the back. The noteworthy cultural heritages are Htupayon

³¹⁷ Aung Thaw, Director of Archaeology, Historical Sites in Myanmar, Ministry of Religious Affairs and Culture, Ps. 41 - 90

³¹⁸ https://www.go-myanmar.com/inle_lake/

pagoda, Kaunghmudaw pagoda, Ponnyashin zedi, Padamyia zedi, Onhmin Thonze (thirty caves) and Tilawkgaguru cave temples. Mingun area is on an island in the Ayeyarwady River. It is famous in tourism with its Mingun Bell that is 12 feet high, a diameter of 16 feet 3 inches at the lip and weighs 90 tons. No won it hangs as the largest ringing bell in the world. Nearby the Mingun Bell, there are Mingun Pagoda that was the largest one in the whole country, Hsinbyme pagoda, Settawya pagoda and Myatheindan pagoda. The local and foreign travelers enjoy the architectures and scenario of Ayeyarwady River³¹⁹.

The above-mentioned areas are well known tourist sites and the residents in those tourism hotspots benefit economically and in terms of the jobs the industry creates. But ,for the poor people who have large families, there is a need to create livelihoods to earn sufficient money and they make their children help in the family business. Myanmar children have the right to take part in the cultural lives and cultural events. According to Myanmar Child Law, “Child” means a person who has not attained the age of 16 years and “Youth” means a person who has attained the age of 16 years but has not attained the age of 18 years³²⁰. Although, Myanmar children enjoy the international child rights and traditional customs, the respondent children in those areas are now working for their family and themselves whether they want to do or not.

b. Intangible Heritage

The “intangible” cultural heritage is most commonly defined as in the 2003 Convention on the Safeguarding of Intangible Cultural Heritage, embracing “the practices, representations, expressions, knowledge, skills [even cuisine] - as well as instruments, objects, artefacts, and cultural spaces associated therewith - that communities, groups and in some cases individuals, recognize as part of their cultural heritage”. Intangible cultural heritage is a form of heritage in constant evolution and also comprises realities that, until recently, were not properly valued in the eyes of the international community³²¹.

³¹⁹ Aung Thaw, Director of Archaeology, Historical Sites in Myanmar, Ministry of Religious Affairs and Culture, Ps. 129 - 132

³²⁰ S.2 (a & b) of the Child Law 1993.

³²¹ *Convention for the Safeguarding of Intangible Cultural Heritage*, adopted by the General Conference of UNESCO on 17 October 2003.

Although tangible and intangible cultural heritage may be very different, they represent two sides of the same coin: both are indeed directly involved in the construction of a nation's or a community's identity, as expressions of a common history, cultural background, value system and collective imagination and memory. Monuments, buildings and artefacts are the tangible proof of - and the catalyst for - underlying, intangible beliefs, traditions and values. There exists therefore a "symbiotic relationship" between the tangible and intangible heritage, and the latter should be seen as a "larger framework within which tangible heritage takes on shape and significance"³²².

Myanmar is a multi-ethnic, multilingual, and multicultural society with strong family ties and usually thinks in terms of the community rather than the individual. Both local and foreign travelers are wonderful to see the intangible heritage sites and traditional values such as Kyauk-se elephant dance, hair style san-yit-wine at Sat-sat-yo village nearby Bagan, Puppet show in Bagan ancient site and Orchestra Myanmar-sine-wine at Mandalay. Myanmar dances can be divided into dramatic, folk and village and nat dances, each having distinct characteristics and features. Myanmar is an ethnically diverse nation of various ethnic races, therefore all are duty-bound to preserve their own language, literature, culture and customs³²³.

Myanmar children are trained to believe the Buddha's teachings as teachers and parents are honored as part of the Five Infinite Venerable, along with the Three Jewels, namely the Buddha, the Dhamma and the Sangha. Moreover, the Mangala Sutta, the source of the 38 Buddhist Beatitudes, describes the importance of "honoring those worthy of honor", puja- ca puja-neyyana-nam) and lists respect, humbleness, gratitude and as among the highest blessings. Children used to pay respect and listen to the words of parents, teachers and even the elders. Some people take this point to exploit the children and they seduce the children for their profits. Traditionally, children are taught to love and take care of their parents when they are old. So, some children have burden to help their families as much as they can. Some children around the tourist sites are now still

³²² Bouchenaki, M. (2003). *The Interdependency of the Tangible and Intangible Cultural Heritage*, Paper presented at the 14th ICOMOS General Assembly and Scientific Symposium in Victoria Falls, available at: http://openarchive.icomos.org/468/1/2_-_Allocution_Bouchenaki.pdf.

³²³ Min Than Naing (Mudon), Ethnic Nationalities and Cultural Heritage of Myanmar, *The Global New Light of Myanmar*, 25th March, 2018, P-8

attending the schools and some are dropped out the school. The former group helps their families by doing different types of businesses in the holidays. The latter group take all of their times in businesses around the tourist sites. It can be said that the affected issues on child depend on the family background and economic status.

3. Issues that affect Children

Myanmar ratified the United Nations Convention on the Rights of the Child (UNCRC) on 16th July 1991 and its Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography on 28th September 2015. Myanmar, as a member of UNCRC respects and promotes the right of the child to participate fully in cultural and artistic life and encourages the provision of appropriate and equal opportunities for cultural, artistic, recreational and leisure activity. Myanmar society considers the Children's right to play as a luxury just for rich families. So, children's right to play has become side-lined because of budget cuts which impede children's access to recreational facilities; surging urban growth which swallows up green spaces; adults' fear of safety - both of predators and traffic; and the ever-increasing demands of work and study.

The States Parties of UNCRC recognize the rights of the child to rest and leisure, to engage in play and recreational activities appropriate to the age of the child and to participate freely in cultural life and the arts. States Parties shall respect and promote the right of the child to participate fully in cultural and artistic life and shall encourage the provision of appropriate and equal opportunities for cultural, artistic, recreational and leisure activity³²⁴. States Parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development³²⁵. Article 3 of UNCRC provides that the best interests of the child shall be a primary consideration. The States Parties recognize the important function performed by the mass media and shall ensure that the child has access to information and material from a diversity of national and international sources, especially those aimed

³²⁴ Article. 31 of United Nations Convention on the Rights of the Child 1989

³²⁵ Article. 32 of UNCRC

at the promotion of his or her social, spiritual and moral well-being and physical and mental health³²⁶.

The desk study in this research is focused on the current situation of the affected issues relating to the child in the context of the tourism sector at national and international levels. The paper used qualitative research methods, semi-structured interviews were undertaken in the research study areas: Taungthaman Inn (U-Bein Bridge) and tourist sites in Mandalay city, Bagan ancient city, Mingun area in Sagaing Region, Inle lake in Shan State and tourist sites in Yangon city as mentioned in Section 2 of this paper. The interview questions were derived from the themes such as meaning and importance of child's rights, benefits and harms of tourism, rights associated with social and cultural rights, impacts faced in their surroundings, influence of the authorities, and code of conduct and cultural norms.

a. Sexual Exploitation

Commercial sexual exploitation of children (CSEC) is a term that describes the sexual abuse of a minor in exchange for cash or other compensation, given either directly to the child or to a third party. Child victims are treated as sexual and commercial objects to facilitate the generation of profit. A sensitive issue, CSEC is often ignored or under reported. However, the commercial sexual exploitation of children remains a serious crime, perpetrated against victims who are under 18 years old. Specifically, Sexual Exploitation of Children in Travel and Tourism (SECTT) refers to acts perpetrated by those who are traveling or using their status as tourists in order to sexually exploit children³²⁷. Although UNCRC does not define "sexual violence", "sexual abuse" includes in its definition of "violence" in Article 19 and specifically addresses protection from sexual exploitation and sexual abuse in Article 34.

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, or tour guides have facilitated contacts between tourists and underage prostitutes. While there are no statistics available, there are reports that both male and female children as young as fifteen years of age are increasingly engaging in sex work in Yangon and foreign tourists are

³²⁶ Article.17 of the CRC

³²⁷ <http://www.thecode.org/csec/background/>

using their services. Tour guides have reported that there is a demand for underage girls by tourists³²⁸.

The local residents around tourist sites in Myanmar such as Yangon, Mandalay, Sagaing, Bagan and Inle Lake earn their living from tourism by doing different kinds of business. Among those, poor children work hard to make money by telling the history of pagodas, flower selling, putting tha-nat-kha on traveller's face, helping in shops, as well as postcards and journal selling. Some are doing their businesses with family members and some are alone. Regarding the impact of sexual exploitation, the interviews were conducted with 80 children as follows:

- 20 children (8 Boys -, 12 Girls) in Yangon
- 20 (6 Boys -, 14 Girls) in Mandalay
- 20 (10 Boys -, 10 Girls) in Bagan
- 10 (2 Boys, 8 Girls) in Sagaing and
- 10 (6 Boys -, 4 Girls) in Innlay Lake.

Out of 80 respondents, 50 children had dropped out of school and the rest are still attending the secondary schools. As the rest of interviewees are still attending the schools, they usually come to pagodas after the school time in week days and they used to spend the whole days in the weekend days. They do not have the leisure time to take rest and to play. For their daily incomes are very important in their families, they could not enjoy the cultural events or festivals or some funfairs.

While the tourism industry has brought great financial benefits to the country, there are also numerous undesirable impacts. The interviewees were both girls and boys who are under 16 years old at Shwedagon, Sule and Botahtaung pagodas in Yangon, at Kuthodaw Pagoda, Mandalay Hill, Innwa Monastery and U Bein Bridges in Mandalay, at Mingun area in Sagaing and at Phaung-taw-oo and Shwe-inn-tain Pagodas in Innlay Lake. They sell postcards, flowers and journals and sometimes they do telling the history of pagoda to the foreigners and travelers who they think that they are outside Yangon. They regularly come to Pagodas at 7am, sometime at 4 am and go back home at 7 pm. In these tourist sites, the children cannot tell the stories to the foreigners as the Trusteeship Council prohibits them to do so without a tourist guide license that is issued to adults. So, those children mostly deal

³²⁸ Myanmar Centre for Responsible Business, Tourism SWIA, 2015, p.163.

with the local people. If they want to deal with foreigners, they will go to outside of pagodas and do the business. But, this is rare business for them.

None of the respondents were aware of sexual exploitation but the girls who are above 12 years of age know about sexual harassments and sexual violence. They frequently hear sexist words and they have been faced the physical, mental and sexual violence. One of the respondent girls, who is about 12 years old, said her experience of sexist words, “Hey, honey, could you spend time with me as my wife for one day”. These words made the girl upset and depressed. The girls feel insecure and they do not know who are responsible persons to complaint these sexual harassment. Although they know about the child rights, they do not have full of educational rights, rights to leisure and rights to play because of their family status. Some of them said that they do not have freedom of expression because parents used to ignore their rights. Some parents force the children to work at tourist sites and drop out from school because of family status.

The UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (the Palermo Protocol) defines the term “exploitation” to include “the exploitation of the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery or practices similar to slavery, servitude or the removal of organs”. In the CRC, State Parties shall protect the child against all other forms of exploitation prejudicial to any aspects of the child’s welfare. The States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. For these purposes, States Parties shall in particular take all appropriate national, bilateral and multilateral measures to prevent the inducement or coercion of a child to engage in any unlawful sexual activity³²⁹. In the study areas, Myanmar children do not yet face sexual exploitation as a direct impact of the tourism industry. However, respondents in Yangon have heard about the sexual exploitation and they do not have knowledge how to overcome it when they face it.

b. Child Beggars

In 2004, International Labor Organization adopted the definition of begging. Begging is defined as “a range of activities whereby an individual asks a stranger for money on the basis of being poor or needing charitable donations

³²⁹ Article 34 of UNCRC 1989

for health or religious reasons". In the Republic of the Union of Myanmar Constitution 2008, there are the provisions to take care for the children³³⁰. The Child Law is enacted in 1993 to protect the rights of the Child. There are certain crimes against children by the special laws such as rape, kidnapping, abduction, buying, selling, exposure, abandonment, infanticide, feticide, child marriage and forced begging. In the tourist sites as well as cultural heritage sites, there are a lot of child beggars which are legally prohibited by the S.66 of the Child Law 1993 and S.40 of the Police Act 1945.

In the study areas, child beggars not older than 10 years old are mostly found in Yangon, Mandalay, Mingun and Bagan. Almost of those are very young and some are disabled children. In one of the interviews, "I have parents and they sent me here since morning and they will call me back at noon for lunch. I usually come here whatever I feel happy or not. Actually I do not know about the history of pagoda but I feel thankful to pagoda for my foods. I want to attend the school but my plan is to sell flowers at this pagoda when I grow old". The pitiful child beggars do not know about the child rights far from the cultural rights which they are entitled to. Then, they do not have awareness for freedom of expression and rights to take part in cultural events because they are still being too young.

In study areas, there is a mentally disabled child about 8 years old who has downs syndrome. Every day, he comes with his mother who is selling the flowers at the heritage site. He said "My mom tells me to beg the money from travelers and to run when the adults shout me". And he said, "I want to play with friends and to watch TV". UNCRC encourages the mentally or physically disabled child to enjoy a full and decent life with special care including his or her cultural and spiritual development³³¹. Then, Myanmar Child Law 1993 prohibits child beggars and provides the punishments to the person who forces children to beg. However, there are a lot of child beggars in tourist sites.

In regarding child beggar issue, the interviewed children are doing so with the consent of parents and guardians. This can be said that the child abuse and neglect are within the family. Child abuse which contravenes cultural norms needs to be understood by reference to the characteristics of the parents of the child. Child abuse within the family is particularly

³³⁰ Ss. 32 and 351 of the Republic of the Union of Myanmar Constitution 2008

³³¹ Article 23 of UNCRC

serious because those charged with protecting him/her are failing to do so. Article 3 of the UNCRC provides the best interests of the child as primary consideration. The parents of those child beggars could not provide the best interests for those. Although primary education is supported as compulsory free education, all the children do not attend the schools. So, the State itself could not provide too.

c. Child Trafficking

‘Trafficking in persons’ shall mean the recruitment, transportation, transfer, harboring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation³³². UNCRC states that the States Parties need to take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of or traffic in children for any purpose or in any form³³³. The CRC in general can be analyzed as comprising four basic principles, namely the best interest of the child, non-discrimination, survival and development and child participation. So many articles in CRC are of high relevance to combat trafficking in children³³⁴.

In Myanmar, the Anti-Trafficking in Person Law entered into force on 13th September, 2005 as the State Peace and Development Council Law No. 5/2005. Generally, criminal offences shall be tried by a court within the local limits of whose jurisdiction it was committed. However, the trafficking crimes are transnational in nature, prepare in one country’s jurisdiction and commit in other’s jurisdiction. Traffickers may be foreigners from another jurisdiction. The Myanmar Trafficking Law has jurisdiction on any person who commits any offence cognizable under this Law in the Union of Myanmar, or on a Myanmar citizen or foreigner residing permanently in the Union of Myanmar who commits the said offence outside the country³³⁵.

³³² Article-3 of UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, Palermo, 2000

³³³ Article 35 of UNCRC

³³⁴ A Handbook on Trafficking in Persons: Myanmar Initiatives, 2002, P-92

³³⁵ Judicial Journal No.7, Vol. 2, 2008

In study areas, all of the respondents are poor and find it hard to live without doing business. Most of the Myanmar child respondents are familiar with the word “child abduction”. As they deal with many different kinds of travelers, they are sometimes called to follow them. Some are deceived to be paid more money or to be adopted officially or to be sent to High Schools. They have been faced recruitment as they were told that they would be have many friends there. They would be happily attending school and playing every evening. However, the parents and trusteeship councils take care of them by telling the stories about child trafficking. The interviewees cannot analyze whether it is trafficking or kidnapping or stealing. Actually, they are scared of being taken by violence. They do not have much knowledge about trafficking in children. So, some respondents think that the tourists in question are not traffickers and those have love, affection and sympathy to children.

There is no 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. The respondents do not know about resorting to force or any other forms of restraint, through kidnapping, deceit, fraud, as well as the abuse of authority. Offering, accepting payments, or benefits for obtaining the consent of the victim (or person having authority over the victim) are also illicit acts that contribute to child trafficking. Child trafficking has no universal definition, though many legal instruments mention it. One of these is the Convention on the Rights of the Child of 1989, which refers to child trafficking in Article 11 line 1, stipulating that “illicit transfer and non-return of children” is forbidden.

4. Discussion and Conclusion

According to UNESCO statistic 2010, the cultural sector represents seven per cent of global GDP and “Culture and Development” is one of the United Nations funding programmes for Millennium Development Goals. It shows that the cultural sector is a significant driver of economic development. In Myanmar, tourism sector plays a major role in driving forward the economic development. As a major driver for tourism, cultural heritage holds great potential for local growth, tourist revenue, job opportunities and other benefits not only for the local residents but also for the state itself.

UN World Tourism Organization (UNWTO) is working with governments, public and private partners, development banks, international and regional finance institutions, the UN agencies and international organizations to help achieve the SDGs, placing an emphasis on Goals 4 for quality education, 8 for, inclusive and sustainable economic growth and 12 for sustainable Consumption and Production patterns in which tourism is featured³³⁶. Myanmar as a member of UN is proudly to take part in 17 Sustainable Development Goals (SDGs) to end poverty, protect the planet, and ensure prosperity for all. Myanmar believes that tourism sector can generate the state's economy and countries can touch the millennium development goals. If the children are fully protected without any impacts, Child's cultural rights will be well developed.

The key findings of this research are as follows;

The meaning and importance of child rights: The respondents do not know the age at which a child ceases to be classified as such, internationally. They think that the definition of the child around the world is under 16 years of age. They have awareness that they have education rights, health rights and registration rights. However, they are not sure about the cultural rights that are right to leisure and right to take part in cultural events. Myanmar society considers the Children's right to play as a luxury just for rich families.

The benefits and harms of tourism: The local residents in the study areas earn their livings on tourism by doing different kinds of business. Among these, poor children are hard to make money by telling the history of the pagoda, flower selling, putting tha-nat-kha on traveller's face, helping in shops, rowing boats and postcards and journals selling. Although the tourism industry supports the livelihoods of local children, children do not have the right to quality education and cultural rights.

Rights associated with Social and Cultural Rights: Traditionally, children are taught to love and take care of their parents when they are old. So, some children have burden to help their families as much as they can. Some children around the tourist sites are now still attending the schools but they help their families by doing different types of businesses at the

³³⁶ Tourism and SDGs, World Tourism Organization, available at: [www.http://sustainabledevelopment.un.org/content/documents/7891Transforming%20Our%20World.pdf](http://www.un.org/content/documents/7891Transforming%20Our%20World.pdf)

holidays. And some are dropped out the school to take all of their times in businesses around the tourist sites. It can be said that the affected issues on child depend on the family background and economic status.

Impacts what heard or faced in their surroundings: By doing the business in tourist sites, girls face sexual harassments, orally, mentally and physically. Although the interviewees do not face sexual exploitation, they, mostly girls who are above 12 years of age, face sexual harassments, sexual violence, forced labor by parents and guardians, child abduction, and trafficking. Then, children under 8 years old age are forced to beg the money from travelers. Therefore, Child abuse within the family is particularly serious because those charged with protecting him/her are failing to do so.

Influence by the authorities: In the study areas, the children cannot tell the pagoda histories to the foreigners as the Trusteeship Council prohibits them not to tell without tourist guide license that is issued for the adults. So, children usually dealt with the local people. If they want to deal with foreigners, they will go to outside of pagodas and do the business. Then, the respondents could not go from one pagoda to another pagoda because the concerned Trusteeship Council sets the disciplines for the area limitation. So, the respondents lost the freedom of movement and enjoyment of the rights.

Code of conduct and cultural norms: children in Myanmar enjoy international child rights and traditional customs. They are trained to believe the Buddha's teachings as teachers and parents are honored as part of the Five Infinite Venerable, along with the Three Jewels, namely the Buddha, the Dhamma and the Sangha. Children used to pay respect and listen to the words of parents, teachers and even the elders. So, it can be said that Myanmar children not only have the rights but also have the duties within the families. They lost the freedom of expression and rights to rest and leisure.

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