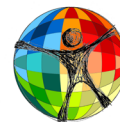


Tourism as a Tool of Human Development: A Double-Edged Sword for The Gambia

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ABSTRACT

This paper explores the concept of utilizing tourism as a tool for human development by delving into the issue of child sex tourism (CST) in The Gambia. Throughout the paper, the author equates tourism to a 'double-edged sword' that can bring about both positive and negative human rights consequences, and argues that for this industry to be considered a champion of human development, certain preconditionsto 'positive' tourism must be met.

In fact, The Gambia's current development initiatives are strongly focused on tourism which, coupled with the state's inability to provide sufficient conditions for human development, creates a breeding ground for CST. Taking on a capabilities approach, Part I investigates the development issues facing The Gambia and their implications for human rights. Part II explores the concept of 'positive' tourism, which refers to the potential of the tourism industry to bring about significant human development while recognizing that, in certain conditions, promoting tourism can backfire and bring about negative human rights impacts. Part III refers to these unintended undesirable consequences as 'negative' tourism and uses the study of CST to exemplify this phenomenon. After delving into the human rights consequences of CST in The Gambia in Part IV, Part V elaborates on the main drivers of CST in the country and relates them to lacunas in the preconditions of 'positive' tourism. Part VI concludes with proposed solutions to CST, highlighting that the issue must not be dealt with in isolation, but rather by promoting conditions for 'positive' tourism overall.

CONTENTS

INTRODUCTION	6
PAINTING THE GAMBIAN PICTURE: CONTEXTUALIZING HUMAN DEVELOPMENT	7
THE PROMISE OF TOURISM: A TOOL FOR HUMAN DEVELOPMENT	10
WHEN THE TOURISM SCHEME BACKFIRES — CST IN THE GAMBIA AS A CASE STUDY	15
THE HUMAN RIGHTS IMPLICATIONS OF CST IN THE GAMBIA	20
ANALYZING THE DRIVERS OF CST AND THE PRECONDITIONS OF 'POSITIVE' TOURISM	25
WHERE DO WE GO FROM HERE? — THINKING UP SOLUTIONS FOR FURTHERING CAPABILITIES	29
CONCLUSION	34
BIBLIOGRAPHY	35

Introduction

"The Smiling Coast of Africa", "80 km of sweeping stretches of sand", "A Bird Lovers' Delight" ... Upon arriving in The Gambia, I was immediately met by a plethora of slogans advertising the country as a serene tourist destination. Yet, during my three-month internship with the *Institute for Human Rights and Development in Africa*, an inter-African NGO operating in the country's capital, it was made apparent that the state was not all "sunny and nice". I quickly became aware of the human rights and development issues facing the country and realized that many of them were related to tourism.

In fact, in its quest to improve living conditions, The Gambia has turned to tourism as a tool for development. At the same time, however, a prominent child sex tourism (CST) industry has flourished in the country. Using CST in The Gambia as a case study, I aim to showcase in this essay that when it comes to human development, tourism is a double-edged sword that can bring about both positive and negative human rights consequences. For this industry to be considered a champion of human development, certain preconditions to 'positive' tourism must be met.

Part I demonstrates that the Gambian state fails to provide its people with sufficient opportunities for human development. From a capabilities approach, this has serious human rights implications. Part II explores the concept of 'positive' tourism by explaining how this industry has the potential to bring about significant human development. Part III warns us that in certain scenarios, promoting tourism can backfire and bring about significant human rights violations. It refers to these unintended undesirable consequences as 'negative' tourism and uses CST to exemplify this phenomenon. Part IV delves into the human rights consequences of CST in The Gambia. Part V pinpoints the main causes of CST in the country, and relates them to lacunas in the preconditions of 'positive' tourism. Finally, Part VI proposes solutions to CST, highlighting that the issue cannot be solved in isolation and must instead be dealt with by promoting 'positive' tourism overall.

Painting the Gambian Picture: Contextualizing Human Development

A. A State Not Enabling Sufficient Conditions for Human Development

The Gambia is one of the smallest countries on the African continent and harbours more than two million people. Islam is the country's most practiced religion, with around 95% of Gambians identifying as Muslim. Due to a high fertility rate of more than three children per women, The Gambia's population is young, with 60% of Gambians being younger than 25 years old.¹ Agriculture is the leading economic sector and encompasses around one third of the country's GDP; however, agricultural productivity remains low.² Tourism is the second largest source of income for the country, amounting to around 20% of the GDP. Finally, remittances from emigrants and foreign aid heavily contribute to the state's earnings.³

According to the United Nation's Development Index, The Gambia is one of the world's least developed countries (LDC).⁴ In fact, important human development issues plague the country. Although social services aimed at procuring development exist, in practice they are not accessible to a large portion of Gambians. Around 60% of the population can be qualified as working poor, earning less than \$3.10 a day, and more than half of Gambians live in multidimensional poverty.⁵ A significant proportion of the population lives below the extreme poverty line, the majority being children.⁶ Moreover, unemployment, vulnerable employment and underemployment rates remain high.⁷ Although the state makes education mandatory, a quarter of the population

¹ Central Intelligence Agency, "The World Factbook - The Gambia" (13 November 2019), online: [cia.gov <https://www.cia.gov/library/publications/the-world-factbook/geos/ga.html>](https://www.cia.gov/library/publications/the-world-factbook/geos/ga.html).

² *Ibid.*

³ *Ibid.*

⁴ United Nations, "UN List of Least Developed Countries", online: [unctad.org <https://unctad.org/en/Pages/ALDC/Least%20Developed%20Countries/UN-list-of-Least-Developed-Countries.aspx>](https://unctad.org/en/Pages/ALDC/Least%20Developed%20Countries/UN-list-of-Least-Developed-Countries.aspx).

⁵ United Nations, "Human Development Indicators - The Gambia", online: [hdr.undp.org <http://hdr.undp.org/en/countries/profiles/GMB>](http://hdr.undp.org/en/countries/profiles/GMB) [United Nations, "Human Development Indicators"].

⁶ Central Intelligence Agency, *supra* note 1.

⁷ United Nations, "Human Development Indicators", *supra* note 5.

drops out in primary school to help support their families. The overall literacy rate is low, hovering at around 55%, with rate much lower for women. Other basic necessities are not fulfilled: half of the population does not have electricity and less than 20% can access the internet at home.⁸

The country presents some of the world's highest rates of infant and maternal mortality, which can be linked to the fact that pregnancies tend to occur early in young women's lives.⁹ In fact, child marriages are still fairly prevalent, as about 30% of girls get married before they turn 18.¹⁰ Gender inequality is further evidenced as, on top of facing worse odds in education and employment, women are more likely to see their security be put in danger by domestic violence and human trafficking. In fact, both women and children are forced into labour and sex trafficking in The Gambia, as the country is a source and destination country for these types of illicit activities.¹¹ Commercial sexual exploitation is an important human rights issue facing the country and is strongly linked to the tourism industry. Few anti-trafficking prosecutions occur and in the rare occasions that they do, victims are not provided with adequate health and protective services.

Overall, the state is not providing enough opportunities for human development: most Gambians are on the brink of poverty and suffering from a lack of decent jobs, a lack of access to education, and a poor healthcare system, among other things. This, in turn, implies serious human rights ramifications.

B. How Development Failures Impact Human Rights

As demonstrated above, the Gambian state is not procuring enough opportunities for development to its population. These human development needs can be conceptualized through Sen's capabilities approach, a framework that has long been used in the field of human development.¹² This approach establishes that "development consists of the expansion of individuals'

⁸ Central Intelligence Agency, *supra* note 1.

⁹ *Ibid.*

¹⁰ United Nations, "Human Development Indicators", *supra* note 5.

¹¹ United States Department of State, "2018 Trafficking in Persons Report - The Gambia" (June 2018), online: [refworld.org <https://www.refworld.org/docid/5b3e0a5c4.html>](https://www.refworld.org/docid/5b3e0a5c4.html).

¹² Amartya Sen, "Human Rights and Capabilities" (2005) 6:2 *Journal of Human Development* 151 [Sen, "Capabilities"].

capabilities”¹³ by understanding that “human development is a process of enlarging people’s choices”.¹⁴ If individuals’ capabilities remain limited, they are denied the freedom to do what they would like to do. In fact, poor capability, in which opportunities are severely limited, implies that for many people, “what [they are] being obliged to do is not something [they] would choose to do, if [they] had any plausible alternative”,¹⁵ as they are not being granted “the means or instruments or permissions to pursue what [they] would like to do”.¹⁶ This restriction of freedom hinders the realization of human rights, as these rights can be understood as “entitlements to certain basic capabilities”.¹⁷ Practically, a lack of capability means that human rights are not safeguarded. The capability perspective therefore complements the human rights approach. Taking this approach, and conceptualizing poverty as a lack of freedom,¹⁸ we can establish that freedom of opportunity, hence capability, is needed to ensure development. Martha Nussbaum adds that human dignity, at times recognized as a human right,¹⁹ is a central capability: in fact, socio-economic human rights could be construed as “concerned with ensuring minimum subsistence requirements and standards of basic dignity”.²⁰

With these theoretical underpinnings in mind, development is closely tied to the realization of human rights, and it is up to the state to ensure a sufficient level of development. Indeed, “all rights [...] have material and social preconditions, and all require government action [and] material and institutional support”.²¹ As such, although society as a whole must “play a critical role in

¹³ S. R. Osmani, “The Capability Approach and Human Development: Some Reflections” (2016) at 1, online (pdf): *UNDP Human Development Report – Think Piece* <http://hdr.undp.org/sites/default/files/osmani_template.pdf>.

¹⁴ *Ibid.*

¹⁵ Sen, “Capabilities”, *supra* note 12 at 153.

¹⁶ *Ibid.*

¹⁷ *Ibid* at 152.

¹⁸ *Ibid* 154.

¹⁹ For an in-depth discussion on the concept of dignity, notably on if it can be construed as a human right, see for instance: Christopher McCrudden, “Human Dignity and Judicial Interpretation of Human Rights” (2008) 19:4 *EJIL* 655.

²⁰ Margot E. Salomon, “Why should it matter that others have more? Poverty, inequality, and the potential of international human rights law” (2011) 37:5 *Review of International Studies* 2137 at 2138.

²¹ Martha Nussbaum, “Human Rights and Human Capabilities” (2007) 20 *HHRJ* 21 at 21.

advancing capabilities,”²² the state’s focus on the alleviation of poverty and the procurement of social services is central to the realization of human rights. This implies that, to fully ensure development and address poverty, culturalism must be left aside and the focus must be put on the structural causes of poverty, which require governmental action and appropriate policymaking.²³ If development is to be effectively achieved, the state – and not the individual – must be held accountable when there is a breach of international human rights obligations.²⁴

Using this framework, the current lack of opportunities for personal and collective development in The Gambia can be understood as a violation of human rights. In fact, by not providing basic services enabling the population to achieve a decent standard of living, individuals’ capabilities are restrained, which effectively restrains the population from exercising their human rights. This human-rights based approach to development illustrates that human development initiatives promote the achievement of required capabilities such that human rights can be fulfilled. In this sense, they are tools to protect human rights.

The Promise of Tourism: A Tool for Human Development

A. Situating Tourism Globally

Globally, tourism is central to the world’s economy. It is the fourth largest industry,²⁵ accounting for 10% of all economic activity, and international tourism alone generates around 1 trillion dollars per year.²⁶ It is estimated that there are 235 million tourism-related jobs, amounting to around one in every 12 jobs worldwide. Moreover, these numbers keep increasing – in the past decades, tourism has quickly grown to play an important role

²² Frances Stewart, “Capabilities and Human Development: Beyond the individual—the critical role of social institutions and social competencies” (March 2013), online: [hdr.undp.org <http://hdr.undp.org/sites/default/files/hdro_1303_stewart.pdf>](http://hdr.undp.org/sites/default/files/hdro_1303_stewart.pdf).

²³ Jaime Alison Lee, “Poverty, Dignity, and Public Housing” (2016) 47:2:1 ColumHumRtsLR 97 at 99.

²⁴ Salomon, *supra* note 20.

²⁵ Martha Honey & Raymond Gilpin, “Tourism in the Developing World: Promoting Peace and Reducing Poverty” (October 2009) at 1, online (pdf): [United States Institute of Peace <https://www.usip.org/sites/default/files/tourism_developing_world_sr233.pdf>](https://www.usip.org/sites/default/files/tourism_developing_world_sr233.pdf).

²⁶ *Ibid* at 2.

in the global economy with “the number of international travellers [...] expected to reach 1.8 billion by 2030”.²⁷ With this thriving sector being a major driver of economic growth and job creation, the power and influence of tourism cannot be understated.

On top of that, tourism has expanded beyond traditional locations by diversifying destinations. The sector has rapidly evolved to include developing countries over the past 70 years. Today, close to half of tourist destinations are situated in the global south, making developing countries the sector’s biggest growth area.²⁸ In many developing economies, tourism is increasingly central to economic development. In fact, “for the world’s forty poorest countries, tourism is the second-most important source of foreign exchange after oil”.²⁹ For some developing countries, specifically small island states, tourism amounts to more than 25% of GDP.³⁰

B. The Theory of Tourism as a Human Development Tool

As tourism is increasingly taking over the developing world, it is not surprising that many states have attempted to harvest this sector to promote human development.³¹ In fact, the “wealth creating power of tourism”³² cannot be underestimated: the industry can provide direct and indirect employment, generate income and promote cultural exchanges for developing economies. By contributing to poverty alleviation, it is believed that a healthy tourism industry can generate peace and stability benefits.³³ For the purposes of this essay, tourism tactics that reinforce such positive human development will be referred to as ‘positive’ tourism.

There are many characteristics that heighten the potential of tourism to transform societies, compared to other industries. Firstly, tourism is a good that must be consumed at the production point. Due to this simple fact, it directly affects the communities

²⁷ International Association for Medical Assistance to Travellers, “Implications of Sexual Tourism”, October 27 2017, *Travel Health Journal*, online: <<https://www.iamat.org/blog/implications-of-sexual-tourism/>>.

²⁸ Honey & Gilpin, *supra* note 25 at 2.

²⁹ *Ibid.*

³⁰ World Tourism Organization, “Tourism and Poverty Alleviation”, online: [unwto.org](https://step.unwto.org/content/tourism-and-poverty-alleviation-1) <<https://step.unwto.org/content/tourism-and-poverty-alleviation-1>>.

³¹ *Ibid.*

³² *Ibid.*

³³ Honey & Gilpin, *supra* note 25 at 1.

that provide this good, and it has the potential to be highly beneficial to them.³⁴

Secondly, the tourism sector requires a diverse set of operations to meet different needs, ranging from accommodation and food to transportation and cultural and outdoor activities. This, in turn, implies that various jobs are needed, assisting in the creation of a “versatile labor market”³⁵ (for instance, cooks, tour guides, servers, translators, hotel managers, cleaners, drivers, etc.). Hence, tourism reaches various fields and levels of society, providing job opportunities for different types of workers with diverse skillsets.³⁶ Moreover, tourism tends to be a labour-intensive industry, necessitating many positions that can be fulfilled by individuals coming from marginalized groups and lower socio-economic backgrounds, as they tend to require low skill, training and investment. Employment also tends to be flexible, enabling certain people to pursue these jobs part-time as an extra source of income.³⁷

Thirdly, where the tourism sector becomes important to a country’s economy, infrastructure will often be built to facilitate the tourists’ experiences. Tourism also tends to trigger the improvement of existing infrastructure, ranging from roads, ports, and airports to health centers and natural reserves. The benefit of this type of infrastructure work is that, although it might be precipitated by tourism, it can also be of great use to the local population. These infrastructure projects are often pro-poor, as they tend to employ local workers. For instance, the construction of transport infrastructure can increase the mobility of the local population, while the presence of public health centers can improve their access to healthcare.³⁸

Additionally, tourism can bring employment to communities that lack it. In fact, the tourism industry is not limited by particular resources: regions “poor in material wealth but rich in culture, history, and heritage [can] use their unique characteristics as an income-generating comparative advantage”.³⁹ If managed effectively, tourism can also serve as a

³⁴ *Ibid* at 2.

³⁵ *Ibid*.

³⁶ *Ibid*.

³⁷ World Tourism Organization, *supra* note 30.

³⁸ Honey & Gilpin, *supra* note 25 at 2.

³⁹ *Ibid*.

way to promote and protect particularly desirable natural and social heritages and monuments. To conclude, as it seeks to create positive cultural and ideological communication, a number of scholars, such as Wangari Maathai, have determined that tourism can be an instrument to bring about peace.⁴⁰ As it is often an expression of the “international appreciation of a country and its culture”,⁴¹ tourism has the potential to generate a sense of unity within a nation and elevate one’s sense of dignity.

C. International Successes of the Tourism-as-Development Strategy

The idea that tourism can improve development and help protect human rights is not new. Developing states have put forward tourism as a human development strategy at the municipal, regional and national levels, and a few have achieved a certain degree of success. Post-apartheid South Africa, for instance, promoted ecotourism in certain communities to jumpstart its economy, coining tourism as the “new gold”.⁴² It has proven to be beneficial to local populations to some extent, especially when profit sharing, environmental conservation, and black economic empowerment were put at the center of the tourism initiatives.⁴³ In similar fashion, some local Kenyan communities have directly benefited from the lucrative tourism industry they have managed to build, leading to social and economic development of these regions. However, Kenya has also shown that to ensure development, corruption must be kept in check or the ‘positive’ growth of the sector will remain limited.⁴⁴

Costa Rica is one of the developing nations that has strongly benefited from tourism at the national level by pioneering ecotourism. The state has been able to reap the economic and development benefits associated with the sector while reducing the environmental impacts of the industry.⁴⁵ On top of reducing poverty and continuously supporting the economic development

⁴⁰ *Ibid* at 2-3.

⁴¹ Raymond Saner et al., “Tourism Development in Least Developed Countries: Challenges and Opportunities” in Angelo A. Camillo, ed, *Handbook of Research on Global Hospitality and Tourism Management* (Hershey: IGI Global Publication, 2015) 234 at 235.

⁴² Martha Honey, *Ecotourism and Sustainable Development: Who Owns Paradise?*, 2nd ed. (Washington DC: Island Press, 2008) at 353.

⁴³ *Ibid* at 350-356.

⁴⁴ Honey & Gilpin, *supra* note 25 at 6.

⁴⁵ *Ibid* at 3.

of the country, Costa Rican tourism initiatives have effectively tackled gender inequality by providing women with jobs, which translates to “both independent incomes and improved self-esteem”.⁴⁶ Moreover, the rise of tourism has strengthened national ties amongst locals. In fact, as Condon observes, “ecotourism has helped create the self-image of Costa Ricans. It’s now their self-identity”.⁴⁷ Today, Costa Rica enjoys a large middle class, high literacy rates, universal public education, good health care system, improved road infrastructure, numerous natural parks, and a decent public transport system. It can be argued that tourism has positively contributed to this improved standard of living. Nonetheless, it must be noted that factors such as a “well-functioning democracy, political stability, the abolition of its army, respect for human rights, and a (generally) welcoming attitude to foreigners”⁴⁸ meant that the country harboured the proper building blocks to attract this ‘positive’ tourism.⁴⁹

With these potential merits in mind, it is not surprising that the United Nations perceives tourism as “a leading industry in the fight against poverty”.⁵⁰ In that sense, tourism is a potential tool for human development, which, using the capabilities approach explored above, can be understood as a tool to promote human rights. Although this rapid expansion has generated economic growth, created more resilient economies and increased capability for many regions of the world, it cannot be forgotten that tourism can also put vulnerable populations working along the tourism sector, such as the poor, women and children, at risk. Ultimately, developing countries must attempt to maximize ‘positive’ tourism and “some countries have proved more adept than others at doing so”.⁵¹

⁴⁶ Honey & Gilpin, *supra* note 25 at 3.

⁴⁷ Honey, *supra* note 42 at 161.

⁴⁸ *Ibid.*

⁴⁹ *Ibid.*

⁵⁰ Honey & Gilpin, *supra* note 25 at 2.

⁵¹ *Ibid* at 9.

When the Tourism Scheme Backfires – CST in The Gambia as a Case Study

A. *Tourism in the Gambian Development Plan*

Overall, the African continent has experienced significant growth in tourism.⁵² Sub-Saharan Africa is one of the regions in the world experiencing the highest tourism growth.⁵³ Travel has been rendered easy with the proliferation of new flights to the continent.⁵⁴ In The Gambia, after agriculture, tourism is the country's largest industry, and represents around 20% of its GDP. The Gambia is one of the most popular destinations in West Africa.⁵⁵ The country's advantageous location attracts tourists from Western and Northern Europe, and although their arrival has sparked economic growth and created employment, an "informal economic activity that takes place around tourists"⁵⁶ quickly developed to include illicit sexual services.

Although the sector is somewhat unstable and unpredictable, as the number of expected tourists fluctuates from year to year,⁵⁷ tourism remains a central part of the macroeconomic development plan of the state. The government recognizes in its reports that the tourism industry has declined in quality, has contributed to environmental degradation, and has

⁵² ECPAT International, "The Commercial Sexual Exploitation of Children in Africa: Developments, progress, challenges and recommended strategies" (November 2014) at 21, online (pdf): [ecpat.org <https://www.ecpat.org/wp-content/uploads/2016/04/Regional%20CSEC%20Overview_Africa.pdf>](https://www.ecpat.org/wp-content/uploads/2016/04/Regional%20CSEC%20Overview_Africa.pdf) [ECPAT, "Developments"].

⁵³ ECPAT International, "Regional Report: Sub-Saharan Africa – Global Study on Sexual Exploitation of Children in Travel and Tourism" (June 2016) at 14, online (pdf): [ecpat.org <https://www.ecpat.org/wp-content/uploads/2016/10/SECTT_Region-SUB-SAHARAN-AFRICA.pdf>](https://www.ecpat.org/wp-content/uploads/2016/10/SECTT_Region-SUB-SAHARAN-AFRICA.pdf) [ECPAT, "Regional Report"].

⁵⁴ ECPAT, "Developments", *supra* note 52.

⁵⁵ Harriet Sherwood, "Happy hour and drinks are still flowing in the Gambia, the newest Islamic state", *theguardian.com* (29 January 2016) online: [theguardian.com <https://www.theguardian.com/world/2016/jan/29/happy-hour-and-drinks-are-still-flowing-in-the-gambia-the-newest-islamic-state>](https://www.theguardian.com/world/2016/jan/29/happy-hour-and-drinks-are-still-flowing-in-the-gambia-the-newest-islamic-state).

⁵⁶ Jaqueline Sánchez Taylor, "Sex tourism and inequalities" in Stroma Cole & Nigel Morgan, eds., *Tourism and Inequality: Problems and Prospects* (London: MPG Books Group, 2011) 49 at 50.

⁵⁷ The World Bank, "The World Bank in The Gambia" (13 October 2019), online: [worldbank.org <https://www.worldbank.org/en/country/gambia/overview>](https://www.worldbank.org/en/country/gambia/overview).

suffered from bad publicity.⁵⁸ Still, The Gambia's national development plan, revised in 2018, puts tourism at center stage: the promotion of "an inclusive [...] tourism for sustainable growth"⁵⁹ is listed as one of the eight priorities of the state.

The Gambia's current development initiatives are therefore strongly focused on tourism. Is this effective, or even desirable? I would argue that tourism is not the magical solution to the state's development issues. Martha Honey, founder of the *Center for Responsible Travel*, remarks that although tourism can be substantially beneficial for the human development of a region, "good does not necessarily follow".⁶⁰ The industry can also be "a delivery mechanism for some of the darker effects of globalization".⁶¹ Poorly-planned conventional mass tourism can cause significant damage to communities and exacerbate problematic conditions.⁶² A lack of proper monitoring of the sector "can do harm, developmentally, socially, culturally, and politically".⁶³ As such, for our purposes, tourism that brings about negative human rights and development effects will be referred to as 'negative' tourism. On top of not living up to its human development promise (as seen in Part I), the current state of the tourism sector in The Gambia brings with it evils of its own. A key example of the drawbacks of 'pushing' tourism at all costs can be seen in The Gambia through the development of a prevalent, undesirable, sex tourism industry.

B. *What is Child Sex Tourism : An Unintended Consequence of Tourism*

Generally, sex tourism is defined as travelling for the purpose of (often commercial) sexual activity.⁶⁴ In most cases, the sex tourists emerge from wealthier developed countries and head towards the developing world: certain destinations are widely

⁵⁸ The Gambia Times, "The Gambia National Development Plan 2018-2021 (An abridged version)" *The Gambia Times* (17 January 2019) online: <<https://www.thegambiatimes.com/gambia-national-development-plan-2018-2021-abridged-version/>>.

⁵⁹ *Ibid.*

⁶⁰ Honey & Gilpin, *supra* note 25 at 3.

⁶¹ *Ibid.*

⁶² *Ibid.*

⁶³ *Ibid.* at 5.

⁶⁴ J. S. Eades, "Moving bodies: the intersections of sex, work, and tourism" in Donald C. Wood, ed, *Economic Development, Integration, and Morality in Asia and the Americas*, 29 (Emerald Group Publishing Limited, 2009) 225 at 225.

recognized as sex tourism 'hotspots' and in Africa, The Gambia, amongst a few others, tops the list. Most sex tourists are men, but "women do account for a small proportion of offenders".⁶⁵ Often taking on an illegal or informal form,⁶⁶ sex tourism remains a difficult topic to research, notably due to the lack of clear empirical data.

In The Gambia, sex tourism mostly takes place in an area known as the Senegambia strip, "a dusty street lined with bars"⁶⁷ located in proximity to popular beach hotels and resorts. The Gambia's sex industry differs from 'traditional' sex tourism hotspots, as many of the infamous global sex tourism destinations are in locations where prostitution was commonplace. However, The Gambia has emerged as a sex tourist destination although "no sex industry existed before".⁶⁸ This strengthens the case that this illegal sector was brought on by tourism. Regrettably, child sex tourism has emerged alongside this 'regular' sex tourism.

Child sex tourism (CST) can be defined as 'travel to engage in sexual activities with children'.⁶⁹ It is understood as "a specific form of commercial sexual exploitation of children",⁷⁰ which can foster and include "child prostitution, child trafficking, sale for the purpose of sexual exploitation, and child pornography".⁷¹ Although criminal in most countries, CST is a multibillion dollar and fast-growing industry.⁷² The sexual exploitation of children in tourism has been increasing, and overall, global trafficking for sexual exploitation is one of the

⁶⁵ International Association for Medical Assistance to Travellers, *supra* note 27.

⁶⁶ Simon Carter & Stephen Clift, *Tourism and Sex: Culture, Commerce and Coercion*, Illustrated edition (London: Pinter, 1999) at 8.

⁶⁷ Gavin Haines, "How Gambia plans to shed its sleazy reputation", *telegraph.co.uk* (24 May 2017) online: <<https://www.telegraph.co.uk/travel/destinations/africa/the-gambia/articles/how-gambia-plans-to-shed-its-sleazy-reputation/>>.

⁶⁸ Kamala Kempadoo, *Sun, Sex, and Gold: Tourism and Sex Work in the Caribbean* (Lanham: Rowman & Littlefield Publishers, 1999) at 42.

⁶⁹ United Nations General Assembly, "Najat Maalla M'jid, Report of the Special Rapporteur on the sale of children, child prostitution and child pornography" (UN Doc A/HRC/22/54) in the *Human Rights Council* twenty-second session (New York: UN, December 2012) at 5, online: <https://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session22/A.HRC.22.54_en.pdf> [M'jid].

⁷⁰ *Ibid.*

⁷¹ *Ibid.*

⁷² *Ibid.*

fastest growing criminal activities in the world.⁷³ The fact that this problem is often considered taboo and that many stakeholders want to distance themselves from this issue makes it harder to obtain accurate figures, but more children are victimized than ever before.⁷⁴ ECPAT International estimates that there are at least 250,000 active child sex travellers, and that, overall, 2 million children are sexually exploited each year, bringing in over \$20 billion in revenue to the child sexual exploitation industry.⁷⁵

CST is a mobile issue. If efforts to address this phenomenon are strengthened and intensified in a location, neighbouring states and areas often become alternative destinations for child abusers. For this reason, the problem persists as it is simply relocated.⁷⁶ As such, CST 'hotspots' "are not static or exhaustive".⁷⁷ The issue is complex, rampant across the globe,⁷⁸ and cannot be separated from the general practice of sex tourism.⁷⁹ It must also be noted that a few experts and researchers of this subject are trying to discourage the use of the term 'child sex tourism'. Their reasoning is that by referring to this issue as tourism instead of abuse, children could be harmed and their rights delegitimized.⁸⁰ Keeping in mind this caveat, this term will still be used throughout this essay as it best describes the particular subset of sex tourism in which children are exploited.

⁷³ Ewelina U. Ochab, "The World's Fastest Growing Crime", *Forbes* (29 June 2017) online: <<https://www.forbes.com/sites/ewelinaochab/2017/07/29/the-worlds-fastest-growing-crime>>.

⁷⁴ Mechtild Maurer & Jana Schrempf, "Target 16.2: End abuse, exploitation, trafficking and all forms of violence against and torture of children" online: *transforming-tourism.org* <<http://www.transforming-tourism.org/goal-16c-violence-against-children.html>>.

⁷⁵ International Association for Medical Assistance to Travellers, *supra* note 27.

⁷⁶ M'jid, *supra* note 69 at 6.

⁷⁷ *Ibid.*

⁷⁸ *Ibid* at 7.

⁷⁹ Julia O'Connell Davidson, "Sex tourism and child prostitution" in Simon Carter & Stephen Clift, eds, *Tourism and Sex: Culture, Commerce and Coercion*, Illustrated edition (London: Pinter, 1999) 54 at 54.

⁸⁰ Interagency Working Group on Sexual Exploitation of Children, "Terminology Guidelines for the Protection of Children from Sexual Exploitation and Sexual Abuse" (28 January 2016) at 56, online (pdf): *ohchr.org* <https://www.ohchr.org/Documents/Issues/Children/SR/TerminologyGuidelines_en.pdf>.

C. How CST Operates in The Gambia

Although no thorough study on CST has been conducted at the national level,⁸¹ ECPAT International's African network members show that The Gambia is one of the countries most affected by CST,⁸² and that along with Senegal, it attracts a large number of child sex offenders to the region.⁸³ In The Gambia specifically, criminal organized networks of European and Gambian agencies promote CST, and due to the corruption of law enforcement officials, most offenders are able to commit these crimes with impunity.⁸⁴

According to UNICEF, many of the 'prostitutes' operating in tourist areas are underage, with some as young as 12.⁸⁵ On top of having local children turn to the sex trade for monetary reasons, it has also been reported that there exists organized sex trafficking networks.⁸⁶ As per the Trafficking Victims Protection Act, The Gambia is a Tier 2 Watchlist country for human trafficking, and is therefore also a destination country for trafficked children from various West African countries to be abused by sex tourists.⁸⁷

The sexual offences often take place around the Senegambia area, where 'bumsters' arrange minors for sex tourists. Other individuals that can be tied to this industry and act as facilitators are taxi drivers, tour guides and hotel employees.⁸⁸ The crimes are committed in both 'traditional tourist spots [and] in non-traditional establishments'.⁸⁹ Although girls are generally more vulnerable to this type of exploitation, specific cases in The Gambia have also shown the sexual exploitation of boys by tourists, although little is known.⁹⁰ Most of the boys abused by tourists are teenagers who have reached puberty. Very often, due

⁸¹ M'jid, *supra* note 69 at 6.

⁸² ECPAT, "Regional Report", *supra* note 53 at 14.

⁸³ ECPAT, "Developments", *supra* note 52 at 21.

⁸⁴ *Ibid.*

⁸⁵ Rose Skelton, "Gambia retrains 'bumsters' to shake sex tourism tag", *The Namibian* (22 May 2006) online: <<https://www.namibian.com.na/index.php?id=25343&page=archive-read>>.

⁸⁶ United States Department of State, "2018 Trafficking in Persons Report - The Gambia" (June 2018), online: [refworld.org](https://www.refworld.org/docid/5b3e0a5c4.html) <<https://www.refworld.org/docid/5b3e0a5c4.html>>.

⁸⁷ *Ibid.*

⁸⁸ ECPAT, "Developments", *supra* note 52 at 22.

⁸⁹ *Ibid.*

⁹⁰ ECPAT, "Regional Report", *supra* note 53 at 21.

to the gender norms at play, they do not consider themselves to be victims and might even try to proactively engage in these types of sexual arrangements to obtain a source of income.⁹¹ Female sex travellers have also been shown to engage in commercial sex with young men in The Gambia, disproving the conception that abusers are always men.⁹²

The Human Rights Implications of CST in The Gambia

A. CST's Impact on Vulnerable Populations: A Trample of Children's Rights

The goal of this paper is not to analyse in detail the horrifying impact that sexual assault induces on children. However, it is important to understand the basic consequences of CST on victims if we wish to comprehend to what extent 'negative' tourism can hinder capabilities and human development.

CST is first and foremost commercially facilitated child sexual abuse and an "assault on the dignity of children"⁹³ that casts a wide array of devastating personal impacts. The victims suffer "serious emotional, psychological and physical consequences, including physical injury, pain and fear, and psychological distress resulting in guilt, low self-esteem, depression and, in some cases, suicide".⁹⁴ Often linked to sexual slavery, this type of exploitation of children can lead to "long-lasting physical and psychological trauma, disease (including HIV/AIDS), drug addiction, unwanted pregnancy, malnutrition, social ostracism, and possibly death".⁹⁵ CST brings with it important health risks such as the spread of STIs.⁹⁶ Furthermore, child sexual exploitation is a clear assault on the victims' dignity. In fact, if we are to adopt a Kantian perspective of the concept, "human dignity [requires] that individuals should be treated as ends and not simply as means to an end".⁹⁷ Child sex offenders are harming the victim's dignity by totally disregarding their rights

⁹¹ *Ibid* at 28.

⁹² *Ibid* at 32.

⁹³ U.S. Department of State, "The Facts About Child Sex Tourism" (2005) at 1, online (pdf): <https://2001-2009.state.gov/documents/organization/51459.pdf>.

⁹⁴ M'jid, *supra* note 69 at 14-15.

⁹⁵ U.S. Department of State, *supra* note 93.

⁹⁶ Carter & Clift, *supra* note 66 at 15.

⁹⁷ McCrudden, *supra* note 19 at 659.

and needs, by conceiving of these children as a means to achieve personal pleasure, and by purposefully taking advantage of the children's lack of autonomy.⁹⁸

On top of these direct physical and psychological harms, CST relates to deeper systemic issues. CST disproportionately impacts disadvantaged and marginalized groups, and perpetuates the vicious cycle of poverty and abuse by furthering disempowerment, inequality and insecurity. The victims of CST are often children who have already been victims of abuse, orphans, street children, children from minority groups, or working children. In fact, poor families, migrant families, and families depending on the children to bring in a source of income are often the most at risk.⁹⁹

Sex tourism also substantially hinders the victims economically. Although some substantial short-term income can be received, the tourist's involvement in the children's lives is never permanent. Many children who are forced into these activities stop school and do not attempt to obtain other employable skills, leaving them with low future earning potential.¹⁰⁰ Moreover, the income resulting from these illicit activities is seasonal and leaves the victims in economic disarray for the rest of the year.¹⁰¹ Having spent time in The Gambia during the off-season, I have seen firsthand how young Gambians are struggling to find employment. Locals have articulated the negative impact that the seasonality of the tourism industry creates time and time again, claiming that: "at the end of the day, the tourists they go and we stay here. What do they leave with us? Nothing".¹⁰² The impact is even worse for the victims of CST who are increasingly dependent on the temporary income stemming from their involvement with tourists. As such, this industry leaves them unable to obtain a "sufficient year-round source of livelihood".¹⁰³

Finally, by directly violating human rights, CST has a hoard of legal implications. Adults engaging in sexual activities with

⁹⁸ For more on Kant's equation of dignity as autonomy, see *Ibid* at 659-660.

⁹⁹ M'jid, *supra* note 69 at 9.

¹⁰⁰ World Tourism Organization, *supra* note 30.

¹⁰¹ *Ibid*.

¹⁰² Edith Kimani, "Sex tourism in The Gambia | What Gambians think about sex tourism in their country?", *DW Africa* (15 August 2019) online video interview: <<https://www.youtube.com/watch?v=J0EZpDmkSog>>.

¹⁰³ World Tourism Organization, *supra* note 30.

children are committing child abuse and, depending on the age of consent prescribed by the state, might be committing statutory rape, a form of sexual assault. The Gambia has ratified many international treaties that relate to CST, such as the Convention on the Rights of the Child,¹⁰⁴ the African Charter on the Rights and Welfare of the Child,¹⁰⁵ the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography,¹⁰⁶ and the Palermo Protocol on the trafficking of persons,¹⁰⁷ amongst many others.¹⁰⁸ These international agreements contain important provisions that CST violates, such as rights relating to the protection of children from sexual exploitation, sexual abuse, trafficking, abduction, torture, economic exploitation and dangerous work, as well as provisions affirming their right to health. On top of violating a multitude of international laws, CST is against national laws, which will be further explored in Part VI.

B. CST's Impact on Locals: Smearing Dignity and International Perceptions

The prevalence of sex tourism does not go unnoticed by the local population and has a negative impact for all. In fact, "up to 70 per cent of Gambians in the holiday industry believed sex was one of the main reasons Europeans go there".¹⁰⁹ Moreover, on top of being one of the places where sex tourism occurs the most, the Senegambia area is also a gathering spot for young Gambians overall, as it is one of the only areas for entertainment.¹¹⁰ Having spent time in Senegambia, I know that

¹⁰⁴ See Convention on the Rights of the Child, UN General Assembly, 20 November 1989, UNTS 1577 at arts 19, 24, 32, 34, 35, 37 (entered into force 2 September 1990) [CRC].

¹⁰⁵ See African Charter on the Rights and Welfare of the Child, Organization of African Unity (OAU), 11 July 1990, CAB/LEG/24.9/49 at arts 14 - 16, 27, 29 (entered into force 29 November 1999) [ACRWC];

¹⁰⁶ Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography, UN General Assembly, 16 March 2001, UNTS 2171 (entered into force 18 January 2002).

¹⁰⁷ Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime, UN General Assembly, 15 November 2000, UNTS 2237 (ratified in 2003).

¹⁰⁸ Worst Forms of Child Labour Convention, International Labour Organization (ILO), 17 June 1999, C182 (entered into force 19 November 2000).

¹⁰⁹ Alex Duval Smith, "European paedophiles flock to Gambian 'Smiling Coast'", *theguardian.com* (4 July 2014) online: <<https://www.theguardian.com/world/2004/jul/04/childprotection.uk>>.

¹¹⁰ Kimani, *supra* note 102.

sex tourists are easily recognizable for locals: an older, white person hanging with a young Gambian will tend to be commonly referred to as a 'Dirty Harry' or 'Dirty Sara'.¹¹¹ For this reason, sex tourism is highly visible, even for the local youth. In interviews, some locals have affirmed that, in the Senegambia area, "you see paedophilia on a rampant basis, children as young as nine are being preyed on by tourists"¹¹². By being such a strong part of everyday life, CST informs the way Gambians perceive their own country.

On top of being directly exposed to this industry, The Gambia is increasingly being labeled and perceived as a sex tourist destination internationally. Keeping in mind that tourism, as an export of culture, is generally supposed to be a source of pride, it appears that it is quite the opposite in this context. It must be noted that Gambian values are in great opposition with a sex tourist industry. Being predominantly Muslim, most Gambians harbour conservative views about sex, and disapprove of prostitution and pre-marital sex. CST is far away from what they would want to project as a people and is seen by many as embarrassing: some locals go as far as to claim that "tourism promotion is pimping in this context".¹¹³

By having such negative and visible consequences, CST has the potential to greatly impact the way Gambians view themselves as well as the way they are seen by others.¹¹⁴ Nevertheless, current dependency on tourist dollars forces many to turn a blind eye and tacitly accept behaviour that conflicts with their values. In our case, instead of helping create a positive sense of self-identity, as it did for Costa Ricans,¹¹⁵ tourism somewhat harms the locals' sense of honour and reputation by promoting a moral viewpoint they do not approve of. The industry can therefore be understood as an affront to the community's general sense of pride and dignity.¹¹⁶ Tourism has always produced "specific environments and peoples for the consumption of travellers"¹¹⁷ – in The Gambia, it is producing the opposite of what the population seeks to put forward.

¹¹¹ *Ibid.*

¹¹² *Ibid.*

¹¹³ *Ibid.*

¹¹⁴ *Ibid.*

¹¹⁵ Honey, *supra* note 42 at 161.

¹¹⁶ McCrudden, *supra* note 19 at 674.

¹¹⁷ Carter & Clift, *supra* note 66 at 15.

C. CST's Impact on Economic Development and Capacity Building

We have previously discussed how CST reduces the future earning potential of the victims. On top of this, the activity results in other economic setbacks. By being an informal and illegal activity, sex tourism and CST alike are part of the black market and do not contribute to the public purse. As such, this type of tourism does not promote the establishment of social programs that could contribute to human development to enhance locals' capabilities.

By casting the Gambian tourism industry in a negative light, CST can also impact the potential of economic development through tourism overall. In fact, a surge of sex tourism leads to other types of tourists fleeing: the location is no longer perceived as a desirable destination for tourists that do not engage in sex tourism. This can reduce the number of tourists that visit The Gambia overall, as well as lower the proportion of tourists that contribute to the local economy by engaging in cultural and eco-tourism. Once more, the poor are more vulnerable to the fluctuation in tourist demand and are hence further impacted by the effects of CST.¹¹⁸

In sum, CST contributes to both direct and indirect human rights violations and exacerbates the development issues seen in Part I. Instead of promoting human development, this segment of the tourism sector does the complete opposite: it deeply violates the human rights of the impacted youth, harms the locals' sense of dignity, and reduces the economic development potential of the country. As such, it is primordial to limit the negative unintended consequences of tourism. Examining the causes of CST, and of 'negative' tourism overall, will provide insight on how to put in place a tourism industry that delivers increased human development and capability.

¹¹⁸ World Tourism Organization, *supra* note 30.

Analyzing the Drivers of CST and the Preconditions of 'Positive' Tourism

Why is it that the “worst of tourism is outstripping the best”¹¹⁹ in the Gambian context? It has been advanced that without “some of the necessary preconditions for developing a responsible tourist industry, [...] tourism can cause immense damage to communities”.¹²⁰ In fact, many international studies have theorized about what is required to produce an environment for tourism to “deliver optimal benefits”.¹²¹ This section aims to examine some of the main drivers of CST in The Gambia and relate them to the preconditions of ‘positive’ tourism that have been tabulated in the existing literature. Various economic, racial and cultural factors play a part in fueling the CST industry in The Gambia. However, for our purposes, we will focus on three main drivers: globalization and local poverty, poor law enforcement coupled with corruption, and a general disregard for children’s rights, which all relate to lacunae in preconditions of ‘positive’ tourism.

A. Globalization and Local Poverty as a Driver of CST

The expansion of the tourism industry, in addition to the high rates of unemployment and youth poverty, all contribute to the prevalence of CST in The Gambia. At its core, the cause of the increasingly profitable industry of CST is linked to the fact that tourist development brings together locals and tourists in an exceedingly unequal way and the economic disparity between these two groups increases risks for vulnerable local populations.¹²² Overall, the demand for CST is driven by offenders from richer countries, for whom it is easier and cheaper to purchase sex in The Gambia than in their home country.

The general motivation for local youth to enter into sexual-economic exchanges with tourists is caused by the fact that they are put at a disadvantage in the labour market and turn to the sex industry for work due to an absence of alternative means of income. In fact, 41.5% of young people are unemployed in The

¹¹⁹ Honey & Gilpin, *supra* note 25 at 5.

¹²⁰ *Ibid* at 3.

¹²¹ See for instance *Ibid* at 1; Taylor, *supra* note 56 at 64. See broadly Honey, *supra* note 42; J. S. Eades, *supra* note 64; Carter & Clift, *supra* note 66.

¹²² Taylor, *supra* note 56 at 64.

Gambia, which is a driver for diverse types of labour exploitation.¹²³ Moreover, families tend to be large, and poor families often depend on the children to bring in a source of income. These conditions contribute to poor, unemployed children falling prey to sexual exploitation,¹²⁴ and some parents even go as far as to take part in allowing the sale of sexual services from their children to paedophiles.¹²⁵ Generally, parents are aware of the crimes being committed, or choose to remain wilfully blind as to why their children are coming home with big sums of money. For many, a tourist being involved in their homes is seen as an opportunity for a better life.¹²⁶ Another way CST offences have been committed is through 'child sponsorship'. In these types of arrangements, the abusers offer to pay for the child's school fees in exchange for a relationship with them.¹²⁷ Some child sexual abuse by foreigners also takes the form of child marriages and illegal adoptions in exchange for offering the children's family money.¹²⁸ Overall, these drivers of local involvement in sex tourism are not unique to The Gambia, but are strongly linked to the development issues the country faces.

As such, the lack of opportunity provided to poor children clearly promotes the CST industry. In fact, there is a general consensus that economic development is a precondition for 'positive tourism': studies informed by the tourism sector in Nigeria, India, and Kenya (to name a few) have all come up with this similar conclusion.¹²⁹ If a certain level of economic development is not met, tourism is likely to only bring about "low-paying and exploitative jobs".¹³⁰ As such, it appears that The Gambia is faced with the same catch-22 as many other jurisdictions: "whereby tourism has the potential to promote peace

¹²³ Kimani, *supra* note 102.

¹²⁴ *Ibid.*

¹²⁵ M'jid, *supra* note 69 at 10.

¹²⁶ Haines, *supra* note 67.

¹²⁷ Simon Akam, "Independent Appeal: Breaking the silence of Gambia's sex tourism", *independent.co.uk* (20 December 2010) online: <<https://www.independent.co.uk/news/world/africa/independent-appeal-breaking-the-silence-of-gambias-sex-tourism-2164853.html>>.

¹²⁸ M'jid, *supra* note 69 at 9.

¹²⁹ Honey & Gilpin, *supra* note 25 at 5. See also broadly Taylor, *supra* note 55; Honey, *supra* note 41; J. S. Eades, *supra* note 54 & Carter & Clift, *supra* note 65.

¹³⁰ Honey & Gilpin, *supra* note 25 at 7.

and development, it can only take root in areas where peace and development are already present".¹³¹

B. Poor Law Enforcement and Corruption as a Driver of CST

Although CST violates national laws (as will be explored in Part VI) corruption and a lack of resources for effective law enforcement strongly contribute to the proliferation of CST, as they enable the formation of a general climate of impunity.¹³² In fact, child sex offenders mostly travel to states "where their activities will go unnoticed and their motives unsuspected",¹³³ such as countries with poor or complicit law enforcement, where the legal risk is minute. As such, the lack of monitoring and enforcement of CST, due to poor policing, strongly contributes to making The Gambia a favourable CST destination.

As corruption in the police and judiciary system is rampant in The Gambia, bribery also enables foreign offenders to circumvent legal repercussions.¹³⁴ The link between corruption and human rights have long been established. However, in our context, corruption has a direct impact on human rights.¹³⁵ A key example of this is the case of a Norwegian paedophile that, while on holiday, sexually abused a young Gambian girl.¹³⁶ Yet, after being detained by the police and imprisoned, the Gambian judicial system pardoned him from prison, under the watch of the executive branch.¹³⁷ Other similar instances of such clear impunity due to bribery have been reported by the media. In fact, although most reports show that CST is rampant, "not one tourist has been prosecuted for paedophilia in The Gambia".¹³⁸ This sends the message that there are no repercussions to committing these

¹³¹ *Ibid* at 5.

¹³² Julio Bacio-Terracino, "Linking Corruption and Human Rights" (24-27 March 2010) 104 Proceedings of the Annual Meeting (American Society of International Law) 243 at 246.

¹³³ *M'jid*, *supra* note 69 at 6.

¹³⁴ *Ibid* at 14.

¹³⁵ For an attempt to categorize the different impacts that corruption can have on human rights, see Bacio-Terracino, *supra* note 131.

¹³⁶ Freedom Newspaper, "Gambia: breaking news: pardoned Norwegian pedophile remanded in jail; as Gambian immigration officials handed Svein Agesandakar to prison authorities!", *freedomnewspaper.com* (27 August 2019) online: <<https://www.freedomnewspaper.com/2018/08/27/gambia-breaking-news-pardoned-norwegian-pedophile-remanded-in-jail-as-gambian-immigration-officials-handed-svein-agesandakar-to-prison-authorities/>>.

¹³⁷ Kimani, *supra* note 102.

¹³⁸ Haines, *supra* note 66.

violent assaults against children; hence, The Gambia appears friendly to child abusers.

This cause of CST is inconsistent with the precondition of 'positive' tourism dictating that low corruption and strong governance are required. In fact, industry studies such as the one conducted in Nigeria led researchers to believe that "lax regulations are largely to blame for the problems facing tourism in [their] case study".¹³⁹ Without good governance, a robust enforcement of laws cannot be achieved, and this leads *tourist development actors to disregard the impacts that the industry has on local communities. As such, the presence of corruption and poor governance exacerbates the effects of 'negative' tourism.*

C. Poor Respect for Human Rights as a Driver of CST

Thirdly, the general vulnerability of children in Gambian society also contributes to their exploitation by sex tourists. For instance, child marriage is rampant in The Gambia, as 30% of girls get married while they are still minors.¹⁴⁰ This implies a certain generalized acceptance for early sexual relations. Child labour is also prevalent and it is not uncommon to see young children forsaking elementary school to work odd jobs. In general, there is a low level of respect for children's rights in The Gambia; this social tolerance for the violation of their rights leaves children vulnerable and could normalize their exploitation.¹⁴¹ Moreover, cultural norms make it difficult for child victims to speak out, as they are taught not to complain about adults and that sex is a taboo. For this reason, child abuse is seldom reported and "a culture of silence – known as 'maslaha' – prevails".¹⁴² *An adequate respect for basic human rights is another registered precondition for 'positive' tourism to flourish. Many international case studies have highlighted that marginalized people are the ones most affected by the negative impacts that tourism brings about. As such, if their human rights are already put in peril, the advent of tourism risks propagating the issue.*

¹³⁹ Honey & Gilpin, *supra* note 25 at 8.

¹⁴⁰ United Nations, "Human Development Indicators", *supra* note 5.

¹⁴¹ M'jid, *supra* note 69 at 9.

¹⁴² Akam, *supra* note 127.

Where do we go from here? – Thinking up Solutions for Furthering Capabilities

As explored above, the main causes of CST in The Gambia all relate back to a lack of the necessary conditions of ‘positive’ tourism. An enabling environment for ‘positive’ tourism must be set in place if The Gambia is to eradicate CST and provide opportunities for human development through tourism. We will now briefly look at proposed solutions. This section explores the current tactics used to directly pushback against CST both at the national level and through the international legal space. Thereafter, it addresses potential ways to combat ‘negative’ tourism overall by promoting an environment in which the preconditions for ‘positive’ tourism can flourish.

A. A. The Current Tactics to Resolve CST – and Their Failures

The Tourism Offences Act, in force since 2003, is the national law that addresses CST most directly. It prohibits commercial sex tourism in general, but also sets out provisions regarding CST that include child sexual abuse, prostitution, pornography, trafficking, and conspiracy attempts as well as aiding and abetting. For these penalties, the child sex tourists and facilitators face terms of imprisonment which vary from five to fourteen years.¹⁴³ Other national laws, such as the Criminal Code,¹⁴⁴ The Sexual Offences Act Criminalizing Sexual Violence,¹⁴⁵ and the Trafficking in Persons Act,¹⁴⁶ also ban the assault of minors and provide for penalties.

Moreover, The Gambia has many national legal instruments that aim to protect children’s rights. For instance, legal documents such as the Constitution and The Children’s Act protect the rights to personal liberty and the freedoms from forced labour

¹⁴³ Tourism Offences Act, 2003, No 7 of 2003, adopted on 2003-03-18, online : <<http://unwto.org/sites/all/files/docpdf/gambia.pdf>>.

¹⁴⁴ Criminal Code, 31 July 1996, No 86, at arts 121, 122, 129, 135, 136.

¹⁴⁵ Sexual Offences Act, 30 December 2013, No 15, at arts 3-6, 10, 13-18, online (pdf): <<https://static1.squarespace.com/static/5a7c2ca18a02c7a46149331c/t/5d1d654749d9a70001826156/1562207562046/Sexual+Offences+Act+2013.pdf>>.

¹⁴⁶ Trafficking in Persons Act, 5 October 2007, No 11, online (pdf): <<http://www.ilo.org/dyn/natlex/docs/ELECTRONIC/90622/114255/F-347615750/GMB90622.pdf>>.

and inhuman treatment.¹⁴⁷ Specifically, Article 29 of the Gambian Constitution provides that “children under the age of sixteen years are entitled to be protected from economic exploitation and shall not be employed in or required to perform work that is likely to be hazardous or to interfere with their education or be harmful to their health of physical, mental, spiritual, moral or social development”.¹⁴⁸ This Article is in direct opposition to CST.

In addition to legislation, many policies seek to address CST. For instance, during my time in The Gambia, a big billboard denouncing CST was present in the Senegambia area. It was a product of the *Gambia Tourism Board*, which is involved in campaigns to denounce sexual exploitation in tourism by producing media sensitization campaigns that are then put out in hotels and touristic areas.¹⁴⁹ Moreover, the board also cooperates with the private sector to implement *The Code of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism*, a multi-stakeholder initiative aimed at protecting children in tourism through implementing various international industry practices.¹⁵⁰

As sex tourists generally come from wealthier countries across the global north, CST is a transnational issue, and must therefore be addressed beyond the domestic level.¹⁵¹ As explored in Part IV, a series of international legal agreements have been ratified and many of their provisions could help prevent CST.¹⁵² Although these treaties can be helpful as they bring light to the

¹⁴⁷ Constitution of The Gambia, 7 August 1996, GMB-1996-C-48490, at arts 19-21, [online](http://www.ilo.org/dyn/natlex/docs/ELECTRONIC/48490/90454/F1377208294/GMB48490.pdf) (pdf): <<http://www.ilo.org/dyn/natlex/docs/ELECTRONIC/48490/90454/F1377208294/GMB48490.pdf>>.

¹⁴⁸ *Ibid* at art 29(2).

¹⁴⁹ The Daily Observer (Banjul), “Gambia: A Call for Eradication of Sex Tourism”, 10 February 2016, [allafrica.com](https://allafrica.com/stories/201602111253.html), online: <<https://allafrica.com/stories/201602111253.html>>; Edith Kimani, *supra* note 102.

¹⁵⁰ ECPAT International, “Code of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism” (April 1998), at arts 3, 6, online (pdf): [ecpat.org](https://www.ecpat.org/wp-content/uploads/2016/04/Code_of_Conduct_ENG.pdf) <https://www.ecpat.org/wp-content/uploads/2016/04/Code_of_Conduct_ENG.pdf>.

¹⁵¹ Duncan McPhee, “Sex Offending and Sex Tourism: Problems, Policy and Challenges”, 2014, in McCartan K. (eds), *Responding to Sexual Offending: Palgrave Studies in Risk, Crime and Society*, Palgrave Macmillan, London, 93 at 93.

¹⁵² See notes 104-108.

issue by producing reports, ultimately, the prevalence of CST has not been reduced by their ratification.

One of the issues with the prosecution of sex tourism crimes is that the destination country often suffers from enforcement problems. For this reason, one of the ways to combat CST is by enabling the application of the laws of the sex tourist's home country abroad. These transnational approaches allow for richer countries to bear some of the prosecution costs. They are, therefore, some of the most potentially effective legal tools and have yielded great results in various jurisdictions such as Thailand and Senegal.¹⁵³ The Gambia does make use of this instrument. For instance, while the country has a bilateral agreement with the Netherlands to create inter-state cooperation and assistance when it comes to the extradition and prosecution of Dutch child sex offenders,¹⁵⁴ the process could still be improved. The Gambia could attempt to mirror the Thai justice ministry's approach, in which clear guidelines have been established to efficiently coordinate with foreign governments, collect evidence, and prevent bail absconding.¹⁵⁵

B. B. Proposals to Promote 'Positive' Tourism Overall

Although necessary, well-intentioned, and well-articulated, the legal restrictions described above have not yielded substantial effects and CST is still growing. In fact, ECPAT Netherlands has stated that, although The Gambia has "progressive laws and policies in place, [they] are considered 'paper tigers' [and] have little impact due to lack of practical implementation".¹⁵⁶ If we wish to achieve actual accountability, paper safeguards will not be sufficient.

Firstly, there must be a poverty alleviation focus to tourism if it is to truly serve as a tool to deliver prosperity and reduce vulnerability for locals. The principle that "tourism should offer a benefit—and not incur a cost—to the host community"¹⁵⁷ should be omnipresent in the government's industry plans. Countries such as

¹⁵³ See for instance U.S. Department of State, *supra* note 93; M'jid, *supra* note 69.

¹⁵⁴ UN World Tourism Organization, "Legislation against child sex tourism" (2003), at 1, online (pdf): [unwto.org <http://unwto.org/sites/all/files/docpdf/gambia.pdf>](http://unwto.org/sites/all/files/docpdf/gambia.pdf).

¹⁵⁵ M'jid, *supra* note 69 at 11.

¹⁵⁶ ECPAT, "Regional Report", *supra* note 53 at 34.

¹⁵⁷ Honey & Gilpin, *supra* note 25 at 3.

Costa Rica have pioneered this effort by promoting pro-poor tourism and ecotourism, and these strategies tend to maximize in-country foreign currency earnings and increase cultural exports, on top of protecting the local environment and culture.¹⁵⁸ A key aspect needed to increase the share of the tourist spending that reaches the poor would be to ensure that opportunities for employment in this sector are accessible to them.¹⁵⁹

This would imply investments in human capacity, such as improving literacy and enforcing compulsory education for children, as well as providing training and opportunities for skill development for lower-income youth.¹⁶⁰ Diversifying the economy by stimulating economic growth in sectors that are not dependent on tourism, such as agriculture, is another way to achieve this goal. Not only would this help diversify the economy, but pro-poor tourism would also be enhanced if local food were served to tourists instead of imported products, creating a better, stronger local supply chain. Overall, there is no single or easy way to achieve local economic empowerment; however, there is no doubt that youth poverty and unemployment must be addressed to stop the glamorization and appeal of sex tourism by Gambian youth.

Secondly, The Gambia has already taken steps to help make local authorities more aware of the presence of CST. For instance, a hotline that visitors can call to provide the police with information on CST has been established.¹⁶¹ Moreover, during the high-season, the Senegambia strip is guarded, making it harder for children to access this high-CST risk area.¹⁶² Yet, more can be done to promote good and unified governance on this issue. For example, Senegal has established a special anti-CST unit within its national police force.¹⁶³ A similar solution could be beneficial to The Gambia, especially if the offices were to be placed in popular tourist destinations like Senegambia. Moreover, the lack of efficient law enforcement could be partially addressed by providing decent pay and proper training on CST to police officers. However, it is police and judiciary corruption that often

¹⁵⁸ *Ibid* at 1.

¹⁵⁹ World Tourism Organization, *supra* note 30.

¹⁶⁰ Honey & Gilpin, *supra* note 25 at 1.

¹⁶¹ U.S. Department of State, *supra* note 93.

¹⁶² Kimani, *supra* note 102.

¹⁶³ U.S. Department of State, *supra* note 93.

allows foreign offenders to escape prosecution.¹⁶⁴ Overall, general good governance efforts to reduce crime and corruption must be pursued if CST laws are to be properly implemented.¹⁶⁵

Thirdly, empowering Gambian youth is critical to counter CST and 'negative' tourism overall. One way to achieve this is by providing pecuniary and institutional support to local NGOs. Not only do these grassroots organizations help in CST data collection, but they also educate Gambians on their rights and provide training for the youth.¹⁶⁶ In their quest to create a movement of young people that are well informed about their rights,¹⁶⁷ they can encourage child victims to speak out and prevent their peers from turning a blind eye to the abuse they are facing.¹⁶⁸ Another way to reduce youth vulnerability would be to put in place services tailored to victims of CST. Currently, "very few organisations provide them with alternative means of livelihood, psychosocial care, counselling and general recovery and reintegration assistance",¹⁶⁹ leaving many survivors disempowered and ostracized. Once more, implementing efforts that have had success in other jurisdictions could be a good starting point, such as mirroring Thailand by providing CST victims with shelter and essential health services.¹⁷⁰

Finally, a more holistic approach is required if we wish to address the root causes of CST. The handful of solutions listed above have the potential to be more impactful as they not only address the effects of CST, but also attempt to dismantle the drivers of 'negative' tourism underlying them. They recognize that poverty alleviation, good governance, and youth empowerment must be placed at the center of CST strategies.

¹⁶⁴ M'jid, *supra* note 69 at 14.

¹⁶⁵ Honey & Gilpin, *supra* note 25 at 1.

¹⁶⁶ Kimani, *supra* note 102.

¹⁶⁷ *Ibid.*

¹⁶⁸ *Ibid.*

¹⁶⁹ ECPAT International, "Linkages between HIV/AIDS and the Commercial Sexual Exploitation of Children in Africa" (July 2007) at 9, online (pdf): [ecpat.org <https://www.ecpat.org/wp-content/uploads/2016/04/hiv_africa_eng_0.pdf>](https://www.ecpat.org/wp-content/uploads/2016/04/hiv_africa_eng_0.pdf).

¹⁷⁰ U.S. Department of State, *supra* note 93.

Conclusion

In The Gambia, tourism seems to have created more harm than good. Looking at the prevalence of 'negative' tourism in the country, manifested in part through child sex tourism, it is evident that this industry has had significant human rights and development ramifications. Still, I believe the human development potential of the sector can flourish if the country can establish the pre-conditions to 'positive' tourism. This can be done by addressing local poverty, poor governance, corruption, and the low level of respect for human rights that enable CST to occur. Tourism will always be a double-edged sword: this essay has attempted to look at ways by which we can utilize tourism as a tool for positive human development instead of the weapon of mass human rights violations it currently is. We can only hope that the Gambian state will continuously work to master the blade, such that, in the end, the sword will swing the right way.

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