

January 2016

CSR Best Practice for Asbolishing Child Labor in the Travel and Tourism Industry

Jeremy S. Goldstein

Follow this and additional works at: <https://digitalcommons.du.edu/djilp>

Recommended Citation

Jeremy S. Goldstein, CSR Best Practice for Asbolishing Child Labor in the Travel and Tourism Industry, 44 Denv. J. Int'l L. & Pol'y 475 (2016).

This Article is brought to you for free and open access by the University of Denver Sturm College of Law at Digital Commons @ DU. It has been accepted for inclusion in Denver Journal of International Law & Policy by an authorized editor of Digital Commons @ DU. For more information, please contact jennifer.cox@du.edu, dig-commons@du.edu.

CSR Best Practice for Asbolishing Child Labor in the Travel and Tourism Industry

Keywords

Child Labor, Industry, Labor, Tourism, Agriculture Law, Juveniles

CSR BEST PRACTICE FOR ABOLISHING CHILD LABOR IN THE TRAVEL AND TOURISM INDUSTRY

*Jeremy S Goldstein**

I. INTRODUCTION

[Who has not met someone like them – the little boys who try to sell souvenirs to tourists on the beach, the young girls who sell postcards and trinkets, the bell-boys and porters, the shoeshine boys, street vendors, and self-styled guides] – “all eager to offer their services to foreigners? Children and young people all over the world contribute greatly to the success of millions of holidaymakers’ ‘most precious days of the year.’”¹

Any tourist who has travelled outside of the developed world has likely seen, interacted with, or purchased a good or service from a child like the ones that Christine Plüss describes. However, “this may be merely the tip of the iceberg[.]” she explains, as “[m]uch less visible are the girls and boys who work behind the scenes. Often in hiding because they are working illegally, they wash dishes, prepare vegetables, fetch water, and stack laundry, toiling from dawn to dusk.”² As a result of their participation in the workforce, many of these children face impediments to their education and personal development, experience unanticipated health problems, and find drastically fewer opportunities for career advancement when they reach adult age.³ Businesses across the world have adopted self-regulating corporate social responsibility (“CSR”) policies designed to reduce the negative impact their operations have on people and the environment, often with highly defined child labor prohibitions.⁴ CSR can be an effective tool for reducing the incidence of child labor in the Travel and Tourism (“T&T”)

* *J.D. Candidate* at the University of Denver - Sturm College of Law, expected December 2016; B.B.A Baruch College; 2016 Leonard v.B. Sutton International Writing Award winner. This paper was prepared for the course Multinational Corporations: Corporate Social Responsibility in Autumn 2015. I present a special thank you to Professor Ved P. Nanda for research direction and review, and for his invaluable tutelage, indescribable optimism, and unwavering encouragement. Thank you to Emily Boheme, Ariana Busby, Sandra McCarthy, Anne Aguirre, and Karina Condra. Ever-grateful to Dr. Helene Levenfus Goldstein and Bernard Goldstein.

1. CHRISTINE PLÜSS, QUICK MONEY - EASY MONEY? A REPORT ON CHILD LABOUR IN TOURISM 6, 13 (Anne B. Zimmermann & Theodore Wachs trans. 1999) (Quote is adapted from the Executive Summary and section 1.1 of this article).

2. *Id.* at 13.

3. *See infra* Section III.

4. *See* RACHEL DODDS & MARION JOPPE, CSR IN THE TOURISM INDUSTRY? THE STATUS OF AND POTENTIAL FOR CERTIFICATION, CODES OF CONDUCT AND GUIDELINES 8, 11 (2005).

industry as well, but most T&T businesses have been slow to adopt policies in line with international standards.⁵ As the WTO explains, “[a]lthough it is widely recognised that tourism is not the [sole] cause of child exploitation, it can aggravate the problem when parts of its infrastructure, such as transport networks and accommodation facilities, are exploited by child abusers for nefarious ends.”⁶ However, “while tourism infrastructure can be misused for illicit ends, it can also be reclaimed as a force to fight this same exploitation.”⁷

This analysis argues that due to the nature and size of the T&T industry, businesses operating therein have a unique ability, and specific duty, to adopt robust CSR policies with a pre-eminent focus on people that aim to reduce the incidence of child labor and effectively abolish the worst forms of child labor throughout the tourism value chain. This article will discuss a sampling of the tools available as guidance to T&T businesses in developing their CSR policies in order to effectively satisfy this duty, and highlight industry leaders who exemplify corporate best practice. In support of this aim this article will discuss: the international standards on child rights and child labor; the current status of child labor worldwide and in the T&T industry; the fundamental principles of CSR; CSR as it relates to child labor; and CSR in the T&T industry.

Calls for the effective abolition of child labor are timely.⁸ In response to the global child labor crisis, the U.N. has followed up on its millennium commitment to “ensure that globalization becomes a positive force for all the world’s people[,]”⁹ by calling for a prohibition on child labor in the 2030 Agenda for

5. See *id.* at 4, 6-7. Also, while some MNE’s in the hotel and transportation industry have voluntarily enacted self-regulating CSR policies, no airlines, transport companies, or tour companies are ranked in the CSR REPTRAK 100 rankings. Marriott, Starwoods, Wyndham, Hilton, and Intercontinental hotels are listed in the 2015 ‘top 100’ in the bottom 50, and only Marriott made the top 100 prior to 2014. While no airlines are ranked, airplane makers Boeing and Airbus are listed. See REPUTATION INSTITUTE, 2015 GLOBAL CSR REPTRAK 100: THE GLOBAL CSR REPUTATION RANKING OF THE 100 MOST REPUTABLE FIRMS BY THE GENERAL PUBLIC ACROSS 15 COUNTRIES, <https://www.reputationinstitute.com/CMSPages/GetAzureFile.aspx?path=~/5Cmedia/5Cmedia/5Cd ocuments/5C2015-global-csr-reptrak-results.pdf&hash=f375854351576541ae88db1e043e7417e9f057f83955bb3768454dd8e0417353&ext=.pdf>.

6. U.N. WORLD TOURISM ORG., 15 YEARS OF THE UNWTO WORLD TOURISM NETWORK ON CHILD PROTECTION: A COMPILATION OF GOOD PRACTICES, 4 (2014) [hereinafter UNWTO, COMPILATION OF GOOD PRACTICES].

7. *Id.*

8. The results of crowdsourced studies by scientists show that the public sees child labor as one of the top fifteen emerging issues in sustainable development on which decision-makers should consider taking immediate action. UNITED NATIONS ET AL., GLOBAL SUSTAINABLE DEVELOPMENT REPORT 132 (2015 ed., advance unedited version), <https://sustainabledevelopment.un.org/content/documents/1758GSDR%202015%20Advance%20Unedited%20Version.pdf> (crowdsourcing was conducted in 2014 by the United Nations for the Prototype Global Sustainable Development Report). Crowdsourcing is “the practice of obtaining needed services, ideas, or content by soliciting contributions from a large group of people and especially from the online community rather than from traditional employees or suppliers.” *Crowdsourcing*, Merriam-Webster Dictionary (last visited Apr. 4, 2016).

9. G.A. Res. A/55/L.2, I(5), United Nations Millennium Declaration (Sept. 6-8, 2000).

Sustainable Development (2030 Agenda).¹⁰ The 2030 Agenda was adopted by the UN in September of 2015 and includes 17 goals and 169 targets for sustainable development – the Sustainable Development Goals (“SDGs”).¹¹ Therein, the UN Secretary General wrote that the SDGs aim to “[t]ake immediate and effective measures to . . . secure the prohibition and elimination of the worst forms of child labour . . . and by 2025 end child labour in all its forms.”¹² Prohibiting child labor, however, does not entail stopping all work performed by children; complete elimination is not entirely realistic. “International labour standards allow the distinction to be made between what constitutes acceptable and unacceptable forms of work for children at different ages and stages of development[,]”¹³ or more simply put, there is a distinction between ‘child work’ and ‘child labor’.

There are no reliable figures estimating the total number of children employed in the T&T industry, but over one-quarter of the world’s child laborers are employed in the services sector,¹⁴ which includes hotel employees and tour operators, transportation workers and porters, and a host of other service providers, many of whom directly or indirectly work for tourists.¹⁵ In developing nations where T&T accounts for a large percentage of GDP, the incidence of child labor in the services sector within the tourism value chain is even higher.¹⁶ T&T also contributes to child labor through product supply chain. The T&T industry accounts for a large percentage of consumer goods purchased in tourism dependent developing nations, some of which may be manufactured or sold with the use of child labor.¹⁷

On the other hand, the T&T industry is a major driver of economic development, specifically in developing nations and small-island developing states (“SIDS”).¹⁸ In many nations tourism and related development directly and

10. G.A. Res. A/Res/70/1, ¶¶ 27, 8.7, Transforming Our World: The 2030 Agenda for Sustainable Development (Sept. 25, 2015) [hereinafter 2030 Agenda]. The SDGs make up a portion of this document.

11. *Id.* ¶ 18.

12. *Id.* ¶ 8.7.

13. ILO, INFOCUS PROGRAMME ON PROMOTING THE DECLARATION ON FUNDAMENTAL PRINCIPLES AND RIGHTS AT WORK: EFFECTIVE ABOLITION OF CHILD LABOUR, http://www.ilo.org/wcmsp5/groups/public/@ed_norm/@declaration/documents/publication/wcms_095898.pdf.

14. YACOUBA DIALLO, ALEX ETIENNE, & FARHAD MEHRAN, INT’L LABOUR OFFICE, GLOBAL CHILD LABOUR TRENDS 2008 TO 2012, xi (2013).

15. See ILO, MARKING PROGRESS AGAINST CHILD LABOUR: GLOBAL ESTIMATES AND TRENDS 2000-2012, 7 n.12 (2013) [hereinafter GLOBAL ESTIMATES].

16. The value chain is similar to the supply chain from the perspective of the consumer and includes goods and services purchased from a range of businesses, including international airline carriers, cruise lines, global tour operators, and multinational hotel brands, who are often the lead types of firms in the global tourism value chain. MICHELLE CHRISTIAN, KARINA FERNANDEZ-STARK, GHADA AHMED, & GARY GEREFFI, DUKE CENTER ON GLOBALIZATION, GOVERNANCE & COMPETITIVENESS, THE TOURISM GLOBAL VALUE CHAIN, ECONOMIC UPGRADING AND WORKFORCE DEVELOPMENT 7 (Nov. 2011), http://www.cggc.duke.edu/pdfs/2011-11-11_CGGC_Tourism-Global-Value-Chain.pdf.

17. See *id.* at 10 n.10.

18. Sustainable Development Knowledge Platform, *Small Island Development States*,

substantially contributes to the alleviation of poverty, provides educational opportunities, encourages stability in foreign current markets, enables cross-cultural exchange, and carries numerous other benefits for host countries and their citizens.¹⁹ The T&T industry is inherently driven by businesses; both multinational enterprises (“MNE’s”) and small and medium enterprises (“SME’s”) are active in the industry.²⁰ Historically, businesses have defined their success only in terms of profit, positing that shareholders are amoral and only concerned with economic performance.²¹ The purely profit-driven model, however, is fading into history, primarily as a result of investors, corporate management, and consumers coming to recognize the unrealized positive effect that business can have on the communities in which they operate, and the enormous toll that business activities currently place on people and the planet.²²

The United Nations Guiding Principles on Business and Human Rights (“UNGP”) states that “business enterprises should respect human rights[,]” and that “[t]he responsibility to respect human rights is a global standard of expected conduct for all business enterprises wherever they operate.”²³ An effective CSR program which ensures that corporate activities respect human rights can have a significant positive impact on the way a corporation interacts with its customers, the communities in which it operates, its investors, and other stakeholders.²⁴ CSR requires that corporations adopt policies, plan initiatives, and regulate their corporate environment in a manner which utilizes a triple bottom-line approach that considers the impact its business activities have on people and planet, not just profit.²⁵ It requires that corporate policy be drafted in adherence to available codes of conduct, and include reliable certification and transparent reporting.²⁶ It also requires that corporations take action to remedy violations of their internal policy.²⁷ CSR policies which enumerate prohibitions on child labor throughout the supply chain, consistent, at minimum, with international standards, can be “invaluable weaponry in the battle against the exploitation of children.”²⁸

<https://sustainabledevelopment.un.org/topics/sids> (last visited June 26, 2016).

19. See generally CHRISTIAN, *supra* note 16, at 22-42.

20. See CHRISTIAN, *supra* note 16, at 7, 10.

21. Milton Friedman, *The Social Responsibility of Business is to Increase its Profits*, N.Y. TIMES, Sept. 13, 1970, available at <http://www.colorado.edu/studentgroups/libertarians/issues/friedman-soc-resp-business.html>.

22. See *id.*

23. Guiding Principles on Bus. & Human Rights, HR/PUB/11/04, princ. 11 (2011) [hereinafter UNGP] (Authored by Special Representative to the Secretary General on the Issue of Human Rights and Transnational Corporations and Other Business Enterprises John Ruggie (SRSG), this is the fundamental international document which asserts that corporations have a responsibility beyond profits).

24. See CSR Blog, *Six Reasons Companies Should Embrace CSR*, FORBES.COM, Feb. 21, 2012, available at <http://www.forbes.com/sites/csr/2012/02/21/six-reasons-companies-should-embrace-csr/#53cf71f54c03>.

25. See generally *infra* Section IV.

26. See *supra* text accompanying note 23.

27. See *supra* text accompanying note 23.

28. UNWTO, COMPILATION OF GOOD PRACTICES, *supra* note 6.

Following this introduction, section II discusses the fundamental rights of children and the international standards for child labor rights, and presents relevant statistics on child labor worldwide, paying particular attention to developing nations with a significant tourism sector. It highlights the fundamental consequences associated with child labor, including the short-term and long-term effects on child laborers' health, wellbeing, and livelihoods. Section III discusses the T&T industry, highlighting its contribution to development, international co-operation, and education, and the negative impact it has on people and planet. It discusses the impact of T&T on child labor rights and presents available statistics on child labor in the industry, the types of jobs performed by child laborers in the industry, and the economic, cultural, and environmental impacts of tourism which affect children. Section IV discusses CSR in detail, including its definitions and international founding documents, focusing on guidelines with child labor protections and documents with specific guidance for the T&T industry. Section V presents examples of best practice CSR initiatives and policies in the T&T industry, paying specific attention to policies and initiatives directly addressing child labor, including the CSR policies of industry leaders Accor hotels, Marriott hotels, and Intrepid Travel. Section VI concludes with the authors' opinion and a call for awareness and action.

II. CHILD RIGHTS AND CHILD LABOR

A. *Rights of the Child and International Child Labor Standards*

Children enjoy the same human rights accorded to all people. But, lacking the knowledge, experience or physical development of adults and the power to defend their own interests in an adult world, children also have distinct rights to protection by virtue of their age. One of these is protection from economic exploitation and from work that is dangerous to the health and morals of children or which hampers the child's development.²⁹

The UNSG, in the 2030 Agenda document, expresses as a discrete goal ending "child labour in all its forms."³⁰ SDG Target 8.7 recommends that we "[t]ake immediate and effective measures to . . . secure the prohibition and elimination of the worst forms of child labour . . . and by 2025 end child labour in all its forms."³¹ The United Nations Convention on the Rights of the Child ("CRC") is the foundational document in the international bill of rights that addresses the rights of children.³² The CRC defines a child as any person "below

29. ILO, *Effective Abolition of Child Labour*, ILO.ORG, <http://www.ilo.org/declaration/principles/abolitionofchildlabour/lang-en/index.htm> (last visited Apr. 7, 2016).

30. 2030 Agenda, *supra* note 10, ¶ 27.

31. *Id.* ¶ 8.7.

32. G.A. Res. A/Res/44/25, U.N. Convention on the Rights of the Child (Nov. 20, 1989) [hereinafter CRC]. Nearly every nation in the world is a party to the CRC, which entered into force in September of 1990, and is open for signature by all states at the Headquarters of the United Nations in

the age of eighteen years unless, under the law applicable to the child, majority is attained earlier[.]”³³ and requires that the “best interests of the child” be a primary consideration in all actions concerning children.³⁴ Article 32 of the CRC states that 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 development.”³⁵ It also requires that states domestically legislate a minimum work age, appropriately regulate work hours and conditions, and effectively penalize those who offend child labor laws.³⁶

Prior the introduction of the CRC, the ILO had been regulating child labor, and developed sector-specific conventions relating to child labor, beginning with the Minimum Age (industry) Convention in 1919.³⁷ The 1998 ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up (“ILO Declaration”) requires that all members of the ILO “respect, [] promote, and [] realize in good faith . . . the principles concerning . . . the effective abolition of child labour.”³⁸ The ILO describes the effective abolition of child labor as a “core labour principle[] endorsed by the international community[.]” and considers it one of four main areas a “social floor” should be created in international labor law.³⁹ In 1976, ILO Convention No. 138, the Minimum Age Convention (MAC), entered into force and combined ten previous sector-specific conventions.⁴⁰ This convention, along with ILO Convention No. 182, the Convention Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (“ILO 182”),⁴¹ define international law on child labor. The conventions are well-recognized and the obligations are generally accepted,⁴² and as such, some portions of the CRC, MAC, and ILO 182 are likely now considered customary international law (CIL).⁴³

The MAC places structural obligations on states, namely that they must

New York. The United States has not ratified.

33. *Id.* art. 1.

34. *Id.* art. 3.1.

35. *Id.* art. 32.1.

36. *Id.* art. 32.2.

37. ILO, Convention no. 5, Minimum Age (Industry) Convention (1919).

38. ILO, Declaration on Fundamental Principles and Rights at Work and its Follow-up, art. 2 (1998) [hereinafter ILO Declaration].

39. ILO, THE INTERNATIONAL LABOUR ORGANIZATION’S FUNDAMENTAL CONVENTIONS 7 (2002), http://www.ilo.org/wcmsp5/groups/public/—ed_norm/—declaration/documents/publication/wcms_095895.pdf.

40. ILO, Convention no. 138, Minimum Age Convention (1973) [hereinafter MAC].

41. ILO, Worst Forms of Child Labour Convention (No. 182) (1999) [hereinafter ILO 182].

42. 168 states have ratified the MAC and 180 states have ratified ILO 182. ILO list of Ratifications of the MAC, available at http://www.ilo.org/dyn/normlex/en/f?p=1000:11300:0::NO:11300:P11300_INSTRUMENT_ID:312283; ILO list of Ratifications of ILO 182, http://www.ilo.org/dyn/normlex/en/f?p=1000:11300:0::NO:11300:P11300_INSTRUMENT_ID:312327.

43. ADAM MCBETH, INTERNATIONAL ECONOMIC ACTORS AND HUMAN RIGHTS 35 (2009).

“undertake[] to pursue a national policy designed to ensure the effective abolition of child labour[,]”⁴⁴ and specify a minimum age of employment under which no child may work in any occupation which “shall not be less than the age of completion of compulsory schooling and . . . shall not be less than 15 years.”⁴⁵ It also defines what types of child work are not considered to be child labor, including work done in schools or in approved places of business for general, vocational, or technical education or training.⁴⁶ The purpose of a distinction between ‘child work’ and child labor is to encourage children to participate in beneficial work which may not carry the same consequences as child labor. Otherwise defined, permissible ‘child work’ is that which “does not prevent the child from attending school or having time to play[,]” and “does not stand in the way of the child’s developmental needs and abilities.”⁴⁷ Alternatively, ‘child labor’ is work which is hour intensive, exposes the child to danger, creates severe pressure, includes significant responsibility, does not pay a fair wage, precludes time for education, undermines self-esteem, and stands in the way of development.⁴⁸ The MAC states that, at minimum, it is applicable to work performed in mining and quarrying, manufacturing, construction, transport, storage and communication, plantations, and sanitary services industries, in addition to any illegal or sexual work.⁴⁹

The MAC defines three categories of child work, which require different minimum age requirements. The ‘basic minimum age’ is fifteen years old, or at the end of compulsory schooling, applicable to the most common jobs.⁵⁰ The convention does, however, permit children ages thirteen and older to participate in a second category, “light work which is . . . not likely to be harmful to their health or development” and in a manner which does not “prejudice their attendance at school[,]” as defined in national legislation.⁵¹ It also restricts work of a third category, ‘hazardous work’, which “by its nature or the circumstances in which it is carried out is likely to jeopardise the health, safety or morals of young persons[,]” to persons over the age of eighteen, or conditionally those sixteen and over, if specially approved.⁵² In recognizing that different states are at different levels of development, the convention allows exceptions for developing nations to adjust the minimum age requirements applicable to two of the enumerated categories in order to satisfy developmental needs.⁵³

44. MAC, *supra* note 40, art. 1.

45. *Id.* art. 2(3).

46. *Id.* art. 6.

47. Emilie Hagedoorn, *Child Labour and Tourism: How travel companies can reduce child labour in tourism destinations*, THE INTERNATIONAL CENTRE FOR RESPONSIBLE TOURISM 7 (2013), <http://www.icrtourism.org/wp-content/uploads/2012/03/OP26.pdf>.

48. *Id.*

49. MAC, *supra* note 40, art. 5(3).

50. *Id.* art. 2(3).

51. *Id.* art. 7(1).

52. *Id.* art. 3(1).

53. *Id.* art. 7 (The basic minimum age drops from 15 years to 14 years, and the minimum age for light work drops from 13 years to 12 years. There is, however, no reduction in the age allowed for

States are generally free to define the types of jobs which comprise each category, with few exceptions.⁵⁴ ILO Recommendation No. 146, a document implementing the MAC, explains that when states are determining which types of jobs would fall into the hazardous work category "full account should be taken of relevant international labour standards, such as those concerning dangerous substances, agents or processes (including ionising radiations), the lifting of heavy weights and underground work."⁵⁵ When determining which types of jobs are 'light work' available to those under fifteen years, states should give special attention to: fair remuneration practices; strict limits on hours of work in a day and a week; allowances for holidays, leisure time, weekly off-days, and twelve hours of rest per night; coverage by social security and workers insurance schemes; and the maintenance of safety standards.⁵⁶ Notably, the recommendation also presents suggestions for domestication and enforcement of the MAC.⁵⁷

ILO 182 identifies a fourth category of child labor; the 'worst forms of child labor'.⁵⁸ ILO 182 encourages states to "take immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour as a matter of urgency[.]" and has four distinguishable features that clarify previous declarations.⁵⁹ First, it applies to any person under the age of eighteen,⁶⁰ and implicitly states that there are no circumstances where jobs referenced in the convention would be acceptable for a person under eighteen.⁶¹ Second, it defines the 'worst forms of child labour' as comprising: "all forms of slavery . . . trafficking of children, debt bondage and serfdom and forced or compulsory labour, including . . . recruitment of children for use in armed conflict"; child prostitution or pornography; use of children for illicit activities, such as the sale or manufacturing of drugs; and work which "by its nature or the circumstances . . . is likely to harm the health, safety or morals of children."⁶² Third, it lays out procedures with which States must comply in order to ensure effective implementation, monitoring, and enforcement.⁶³ Fourth, it highlights the intrinsic connection between education and child labor, recognizing that not only does child labor reduce opportunities for children to participate in school, but that the relationship is mutually re-enforcing in that a lack of opportunities for education can lead children into the workforce.⁶⁴ As a result, Article 7 requires states to

hazardous work in developing nations).

54. See, e.g., *id.* art. 3(2) ("The types of employment or work to which paragraph 1 of this Article applies shall be determined by national laws or regulations or by the competent authority, after consultation with the organisations of employers and workers concerned, where such exist.").

55. ILO, Recommendation no. 146, ¶ 10 (1973).

56. *Id.* ¶ 13.

57. *Id. passim.*

58. See ILO 182, *supra* note 41.

59. *Id.* art. 1.

60. *Id.* art. 2.

61. *Id.*

62. *Id.* art. 3.

63. *Id.* art. 4-8.

64. See *id.* art. 7.

“ensure access to free basic education . . . for all children removed from the worst forms of child labour[.]” to reduce recidivism rates of children rescued from child labor.⁶⁵ This article also recognizes the special situation of girls who come out of the most horrific child labor conditions.⁶⁶

ILO Recommendation No. 190, suggesting strategy for implementation of ILO 182, directs parties to develop programs identifying and preventing the worst forms of child labor, giving special attention to younger children, girls, hidden work situations, and children with special needs or vulnerabilities.⁶⁷ The recommendation provides that when states are determining which jobs qualify as the worst forms of child labor, special consideration should be given to: work which exposes children to abuse; “work underground, under water, at dangerous heights or in confined spaces”; work with dangerous machinery, equipment or tools; work in an unhealthy environment, including hazardous substances, temperatures, noise, or strong vibrations; and work under difficult conditions, long hours, at night, or unreasonably confined to a particular location.⁶⁸ It also highlights a dozen potential measures which can be implemented by states in order to fulfill obligations under ILO 182.⁶⁹

Another ILO document, the Roadmap for Achieving the Elimination of the Worst Forms of Child Labour (“ILO Roadmap”), calls for the “international community to substantially increase its efforts” to meet the goal of “*eliminating* the worst forms of child labour by 2016[.]” and highlights specific steps that State and non-state actors can take to implement the ILO conventions.⁷⁰ The ILO Roadmap is effectively inapplicable to this discussion as it distinctly eliminates business entities and individuals from its target audience, stating that “[g]overnments have the primary responsibility for enforcing the . . . elimination of the worst forms of child labour[.]” and that “social partners and other civil society organizations, and international organizations have important roles in [merely] promoting and supporting such action.”⁷¹ There are, however, indirectly applicable provisions such as 8.4.4, which recommends “[c]reating an environment, together with social partners, that aims to combat child labour in supply chains.”⁷² This environment

65. *Id.*

66. *Id.*

67. ILO, Recommendation no. 190, ¶ 2 (1999).

68. *Id.* ¶ 3.

69. These include involving and training employers’ and workers’ organizations and civic organizations, monitoring and giving publicity to best practices on the elimination of child labor, and “providing for the prosecution in their own country of the Member’s nationals who commit offences under its national provisions for the prohibition and immediate elimination of the worst forms of child labour even when these offences are committed in another country.” *Id.* ¶ 15.

70. Hague Global Child Labour Conference 2010: Towards a World without Child Labour – Mapping the Road to 2016, *Roadmap for Achieving the Elimination of the Worst Forms of Child Labour* by 2016, pmb. xi (May 11, 2010), available at <http://www.ilo.org/ipecinfo/product/viewProduct.do?productId=13453> (emphasis added) [hereinafter ILO Roadmap].

71. *Id.* princ. 1.

72. *Id.* ¶ 8.4.4.

could materialize as a multi-stakeholder non-profit entity comprised of business, government, and civil society leaders, which assists businesses in developing comprehensive CSR policies, and most crucially, highlights the need for additional focus on child labor within supply chains.

Other sources of international law which enumerate prohibitions on child labor include, most notably, two CRC optional protocols, one on armed conflict⁷³ and another on the sale of children, child prostitution and child pornography,⁷⁴ and the Palermo Protocol on Trafficking in Persons.⁷⁵ In the United States, as in most other nations, domestic laws implement these fundamental principles.⁷⁶ The U.S. President can affect child labor laws in other nations through negotiation of child labor guarantees in trade agreements, as was seen in the Trans Pacific Partnership.⁷⁷ Congress has also created incentives for other nations to take action on child labor; The Trade Act of 1974 prohibits the president from designating as a special beneficiary of a trade tariff reduction, a state that “has not implemented its commitments to eliminate the worst forms of child labor.”⁷⁸ In the Trade and Development Act of 2000⁷⁹ Congress amended the 1974 Act to include the ILO enumerated definition for worst forms of child labor, and to require an annual report “including the findings of the Secretary of Labor with respect to the beneficiary country’s implementation of its international commitments to eliminate the worst forms of child labor.”⁸⁰

73. G.A. Res. A/Res/54/263, Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict (Feb. 12, 2002).

74. G.A. Res. A/Res/54/263, Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography (Jan. 18, 2002).

75. U.N. Convention against Transnational Organized Crime and the Protocols thereto (2004) (including G.A. Res. A/Res/55/25 (Nov. 15, 2000) and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime).

76. U.S. DEP’T OF LABOR, <https://www.dol.gov/general/topic/youthlabor> (last visited Apr. 9, 2016).

77. Trans-Pacific Partnership Agreement, Feb. 4, 2016, ch. 19.3, *available at* UNITED STATES TRADE REPRESENTATIVE, *Trans-Pacific Partnership*, <https://ustr.gov/tpp/#text>. For example, chapter 19 requires that each party enact laws which enumerate internationally recognized labor rights, including “the effective abolition of child labour and, for the purposes of this agreement, a prohibition on the worst forms of child labour[.]” *Id.* The United States representatives have also engaged in separate agreements, called ‘consistency plans’, with Malaysia, Brunei, and Vietnam which expressly define the specific steps that each nation needs to take to bring their labor rights laws in line with international standards. *See, e.g.,* MY-US Labour Consistency Plan, <https://ustr.gov/sites/default/files/TPP-Final-Text-Labour-US-MY-Labor-Consistency-Plan.pdf>.

78. 19 U.S.C. § 2462(b)(2)(H) (2012).

79. Trade and Development Act of 2000, 106 enacted H.R. 434, 106 Pub. L. No. 106-200, 114 Stat. 251 (codified as amended in scattered sections of 19 U.S.C.) [hereinafter Trade and Development Act].

80. *Id.* § 412(c). This statute has been interpreted to require a highly-detailed statistical and analytical annual report on the worst forms of child labor worldwide. The most recent version published by the Bureau of International Labor Affairs, the “2014 Findings on the Worst Forms of Child Labor”, was over 1,000 pages with an index covering 141 countries. *See* BUREAU OF INT’L LABOR AFFAIRS, FINDINGS ON THE WORST FORMS OF CHILD LABOR, xii-xiv (2014),

B. *The Global Child Labor Problem*

[D]espite important progress there are still 168 million children worldwide trapped in child labour, accounting for almost 11 per cent of the overall child population. Children in hazardous work that directly harms their health, safety or moral development make up more than half of all child labourers, numbering 85 million in absolute terms.⁸¹

168 million children ages five to seventeen are engaged in all forms of child labor globally.⁸² Of these, 85.3 million children, 5.4% of all children globally, are engaged in various types of harmful, dangerous, or hazardous work, “including some who dig and drill for 24-hour shifts in gold mines, spray toxic pesticides on crops, or pick up trash on the streets.”⁸³ Regionally, Sub-Saharan Africa has the highest incidence of child labor as a percentage of population, where nearly 21.4% of children ages five to seventeen are victims.⁸⁴ The ‘Asia and the Pacific’ region shows a 9.3% incidence rate with an estimated 77.7 million child labor victims in 2012.⁸⁵

The ILO Roadmap notes that “over the past decade action against the worst forms of child labour has been implemented in all parts of the world and that this has led to significant progress.”⁸⁶ The Roadmap further presumes “that this demonstrates that the fight against child labour can be won with sound policy choices and substantial national and international resource commitments, and when capitalizing on new opportunities[.]”⁸⁷ Even though many state and non-state actors have taken the first step in the fight against the worst forms of child labor in alignment with ILO 182,⁸⁸ the ultimate goal of the ILO Roadmap as discussed above is highly unlikely to be met in the near future,⁸⁹ without drastic change.

Of the 168 million children engaged in child labor, 73 million ‘young children’ ages five to eleven are child laborers, accounting for 8.5% of all children those ages globally.⁹⁰ These young children comprise 44% of all child laborers.⁹¹

<http://www.dol.gov/ilab/reports/child-labor/findings/2014TDA/2014TDA.pdf> [hereinafter TDA Report].

81. ILO, WORLD REPORT ON CHILD LABOUR 2015: PAVING THE WAY TO DECENT WORK FOR YOUNG PEOPLE 1 (2015), <http://www.ilo.org/ipecinfo/product/download.do?type=document&id=26977>.

82. *Id.* In regards to terminology, these children comprise the ‘all forms of child labor’ category.

83. TDA Report, *supra* note 80, at xxi. These jobs, among others, are those which comprise the ‘hazardous work’ category, as covered in the MAC. See Recommendation no. 146, *supra* note 55, ¶ 10 (referring to types of work in Article 3 of MAC).

84. GLOBAL ESTIMATES, *supra* note 15, at 17.

85. *Id.*

86. ILO Roadmap, *supra* note 70, pmbi. vi.

87. *Id.*

88. See ILO 182 *supra* note 41.

89. The total number of children engaged in the worst forms of child labor is not publicly agreed under the ILO 182 standard, however it is estimated that 6 million children are engaged in forced labor or child slavery alone, statistics which do not include the full range children in this category. TDA Report, *supra* note 80, at viii.

90. GLOBAL ESTIMATES, *supra* note 15, at 6, 21.

Of these young children, approximately 18.5 million are engaged in hazardous work.⁹² In general, boys are more likely to be victims of child labor than girls, and much more likely to be engaged in hazardous work.⁹³ Girls, while less likely to be victims in adolescence, are statistically more common among the 'young child' laborer age group.⁹⁴

'Adolescent children' ages fifteen to seventeen engaged in hazardous work make up the largest percentage of child laborers.⁹⁵ On global and national levels, "adolescents in hazardous work constitute a substantial share of the overall child labour population in many contexts[;]"⁹⁶ Globally they make up 28% of the total child labor population, and a larger share of child laborers outside of Sub-Saharan Africa.⁹⁷ This category has been growing as a percentage of total child labor, indicating that the reductions in incidences of *other* forms of child labor seen in *other* age groups has not translated to adolescents in hazardous working conditions.⁹⁸ In some countries, adolescent child laborers employed in hazardous jobs comprise a majority of the total employed population in the age group,⁹⁹ indicating that for many adolescents a dangerous job is the only available option. In relation to the T&T industry, available data shows that, in almost every country studied, between 20% and 80% of adolescents in hazardous work are employed in the services sector,¹⁰⁰ a portion of whom directly and indirectly provide services to tourists.¹⁰¹

On the other hand, as the ILO has stated, progress has been made,¹⁰² great success in reducing all forms child labor over the past ten years is evident. In 2000, 245.5 million children, 16% of children worldwide, were trapped in child labor.¹⁰³ This number is down to 168 million today.¹⁰⁴ There has been a substantial decline in the incidence of hazardous work.¹⁰⁵ This is true for non-adolescent children ages five to fourteen, starting from 9.3% in 2000 down to 3.1%

91. *Id.* at 6.

92. *Id.* at 6, 21.

93. *Id.* at 15, 18.

94. *Id.* at 18-19, Young girls, 5-11 years of age, are some of the most vulnerable, and the most targeted, children for child labor, particularly forced labor. It should be noted, delicately, that in some regions of the world this statistic is a result of adolescent girls ages 15-17 being married and beginning lives as young mothers, removing them from the work force statistical review, but this should not be taken as an indication that these girls have migrated back into the educational system.

95. WORLD REPORT ON CHILD LABOUR 2015, *supra* note 81, at 48.

96. *Id.*

97. *Id.* at xx.

98. *Id.*

99. TDA Report, *supra* note 80.

100. See ILO, WORLD REPORT ON CHILD LABOUR 2015, *supra* note 81, at 53; TDA Report, *supra* note 80, *passim*.

101. ILO, WORLD REPORT ON CHILD LABOUR 2015, *supra* note 81.

102. ILO Roadmap, *supra* note 70, at 1.

103. GLOBAL ESTIMATES, *supra* note 15, at 3.

104. *Id.*

105. *Id.* at 3, 6.

in 2012, and for all children, from 11.1% in 2000 down to 5.4% in 2012.¹⁰⁶ Of the 140 nations studied by the Bureau of International Labor Affairs, more than 70% made moderate or significant advancement in eradicating the worst forms of child labor each year from 2013 to 2015.¹⁰⁷ Expected patterns emerge from this data; there is a higher incidence of child labor in developing nations with underdeveloped legal frameworks or weak enforcement of laws and lower opportunities for education.¹⁰⁸ In some form or another, incidence of child labor occurs in more than half of the nations in the world, and there are enormous social costs and significant long-term consequences on children.

C. *The Consequences of Child Labor*

A wealth of evidence has been accumulated showing how child labour can seriously endanger children's immediate and long-term health and safety, as well as their ability to enroll in and benefit from schooling . . . Children whose education is denied or impeded by child labour enter adolescence much less likely to have the competencies and skills needed for securing decent work, and much more likely to be vulnerable to joblessness or to low paid, or insecure work in hazardous conditions.¹⁰⁹

The consequences of child labor, while now well-defined, are highly alarming and difficult to quantify.¹¹⁰ For many children child labor means hard work, long hours, and low wages.¹¹¹ The greatest short-term harms to child laborers are: fatigue from working long hours; physical harm from environmental, human, and other harms exposed to at work; illness related to work, particularly in the sex trade; and impaired physical, mental and emotional growth.¹¹² Additionally, concerns arise that through child labor children may be exposed to drugs, alcohol, sex, violence, and other adult behavior.¹¹³ Child laborers also have a higher risk of developing low self-esteem when they fail to advance intellectually alongside their peers, and consequently may become marginalized from society.¹¹⁴ These consequences arise as a result of the conditions placed on children, and are often cited as factors which define a particular type of work as exploitive child labor. This includes work which binds a child to one place of work for many hours,

106. *Id.*

107. TDA Report, *supra* note 80. As an example, the TDA Report highlights meaningful efforts made by nations in Asia and the Pacific in strengthening punishments for crimes involving the worst forms of child labor, increasing the number of enforcement personnel, and increasing funding for educational programs targeting rescued children. TDA Report, *supra* note 80, at xxvii.

108. *See id.* at xxii.

109. ILO, WORLD REPORT ON CHILD LABOUR 2015, *supra* note 81, at 1, 6.

110. *Id.* at 1-2.

111. Christine Plüss identifies examples of underage Thai and Pilipino waitresses working 14 or more hours per day, Turkish 'apprentices' who work seven days per week, young Vietnamese postcard vendors working past midnight, and Nepalese and Malaysian children working in dangerous restaurant conditions for little or no money. PLÜSS, *supra* note 1, at 58.

112. Emilie Hagedoorn, *supra* note 47, at 12.

113. *See id.*

114. *Id.*

exposes the child to dangerous situations, burdens a child with too much responsibility, does not pay a fair wage, undermines self-esteem, and/or stands in the way of social, educational, physical, or psychological development.¹¹⁵

The consequences on children who engage in hazardous labor stem from a number of sources, primarily that “[c]hildren are not simply smaller adults [but] . . . are physically and mentally different.”¹¹⁶ The negative effects of hazardous work are exponentially multiplied in young people. Children, in comparison to adults, have thinner skin which absorbs toxins faster, breathe faster which increases inhalation of airborne toxins and dust, dehydrate faster, absorb and retain heavy metals in the brain faster, use more energy when growing, require more sleep, and have more sensitive thermoregulatory systems which make them more susceptible to heat and cold.¹¹⁷ Hazardous work environments have a particularly distinct negative effect on children’s immediate health and wellbeing.¹¹⁸

In addition to health and safety risks all forms of child labor hinder children’s ability to obtain education. “The long working hours . . . alone often make it impossible for children to continue attending school, even when their hope is to use their earnings to buy books and clothes for school.”¹¹⁹ This problem extends beyond the fact that when child laborers are working they are not at school or engaged in other productive educational activities. Child laborers, especially those who are engaged in hazardous work, are also more likely to make the transition from school to full-time work earlier, which “appears to constrain the ability of adolescents to acquire the education necessary to eventually escape from hazardous work.”¹²⁰ These effects extend into the long-term; the ILO found that “prior involvement in child labour is associated with lower educational attainment and with jobs that fail to meet basic decent work criteria.”¹²¹ The correlation between child labor and the attainment of jobs which fail to provide a living source of income is expected, since there is also a negative correlation between leaving school early and upward mobility.¹²²

The negative impacts of child labor must be addressed by focusing on the root causes of child labor. The availability of jobs, some of which become occupied by child laborers, often results from economic development, and in the T&T industry not all of the consequences of development are detrimental.

115. *Id.*

116. ILO, WORLD REPORT ON CHILD LABOUR 2015, *supra* note 81, at 50.

117. *Id.*

118. This is primarily evidenced by an across the board higher rate of work-related injury or illness among employed adolescents in hazardous work as compared to ordinary types of work performed by the same age groups, in the 12 country’s studied by the ILO. *Id.* at 55.

119. PLÜSS, *supra* note 1, at 64.

120. ILO, WORLD REPORT ON CHILD LABOUR 2015, *supra* note 81, at 55-56.

121. *Id.* at xiv.

122. *Id.* at 28.

III. TRAVEL & TOURISM

A. *A Stable Industry and Driver of Growth*

With over 1.1 billion tourists taking an international trip every year, tourism continues to be an unstoppable force and a key driver of the global economic recovery. Yet tourism's record growth is not merely absolute numbers. Tourism's continued progress and expansion represents an effective solution for many of the world's greatest challenges. Indeed, few sectors are as strategically positioned as tourism to contribute decisively to job creation, poverty alleviation, environmental protection and multicultural peace and understanding.¹²³

SDG 8.9 is to, "[b]y 2030, devise and implement policies to promote sustainable tourism that creates jobs and promotes local culture and products."¹²⁴ The 1.135 billion tourists who took an international trip in 2014 spent a combined total of US \$1.245 trillion.¹²⁵ Revenues in the T&T industry represent 9% of global GDP,¹²⁶ and the industry is generally seen as the largest in the world.¹²⁷ Exponentially greater growth is expected over the next few years in both total T&T expenditures and total international arrivals, particularly due to increases in international travel by citizens of emerging economies.¹²⁸ According to the World Economic Forum, "a family trip is the second-highest priority for the booming [global] middle classes, after buying a car."¹²⁹ Businesses in the T&T industry are as diverse as the tourists themselves. There is no universal mold for the industry,

123. *UNWTO Annual Report 2014*, WORLD TOURISM ORGANIZATION 2 (2014), http://cf.cdn.unwto.org/sites/all/files/pdf/unwto_annual_report_2014.pdf [hereinafter *UNWTO Annual Report 2014*].

124. 2030 Agenda, *supra* note 10, at 20. (The UN SDG Indicator Framework plans to measure this goal's progress based on tourism direct GDP (as % of total GDP and in growth rate), and number of jobs in tourism industries (as % total jobs and growth rate of jobs, by gender). *Results of the list of indicators reviewed at the second IAEG-SDG meeting*, IAEG-SDG 23 (2015), <http://unstats.un.org/sdgs/files/meetings/iaeg-sdgs-meeting-02/Outcomes/Agenda%20Item%204%20-%20Review%20of%20proposed%20indicators%20-%20Nov%202015.pdf>.

125. *The Travel & Tourism Competitiveness Report 2015: Growth Through Shocks*, WORLD ECONOMIC FORUM 2 - 4 (2015), http://www3.weforum.org/docs/TT15/WEF_Global_Travel&Tourism_Report_2015.pdf [hereinafter *WEF T&T Report*].

126. *WEF T&T Report*, *supra* note 125, at 3.

127. Frederico Neto, *Discussion Paper of the United Nations Department of Economic and Social Affairs, A New Approach to Sustainable Tourism Development: Moving Beyond Environmental Protection 2* (Mar. 2003), <http://www.un.org/esa/esa03dp29.pdf>.

128. *WEF T&T Report*, *supra* note 125, at 25.

129. *Id.* at 27. Arguing that increases in international tourist departures from emerging economies will continue to increase due to the importance of travel to the average member of the 'new' middle-class in these economies. The assumed stability should hold despite expected a projected drop in the annual percent increase in GDP. Emerging and developing Asia is seen as the largest producer of 'new tourists', and although growth in GDP is expected to slow in the region to around 6.5% over the coming years, the region should continue to produce exponentially more tourists each year. *See also World Economic Outlook*, INTERNATIONAL MONETARY FUND 174 (2015), <http://www.imf.org/external/pubs/ft/weo/2015/01/pdf/text.pdf>.

and many travelers purchase portions of their holiday experiences from across more than one of these different types of enterprises. Independent eco-resorts, large hotel chains, transportation companies, family-run restaurants, late night bars, and other legal and illegal business in the formal and informal economy compete to earn tourists' money. The T&T industry reaches through every sector of the economy.¹³⁰

Globally, growth in the T&T industry has been stable and resilient in the face of natural, political, and economic shocks to the sector.¹³¹ Recent shocks include sluggish economic growth in Asia, Europe and the Americas after the 2007-2008 global recession; conflicts across Asia, Europe, and Africa; security threats in developed nations due to terrorist activity; the Ebola outbreak in West Africa; and the 2015 earthquake in Nepal.¹³² While the number of incoming tourists in an affected nation or region may lag due to a shock, many tourists simply shift travel plans to a different region or nation, limiting the impact on the industry globally. Global growth in international tourist arrivals has continuously exceeded the UNWTO's long-term annual projection of 3.5%, recently reaching 4.4% year-to-year growth from 2013 to 2014.¹³³ Since tourists are undeterred by general shocks to the market, and since tourism is a major driver of the global economy, businesses in the T&T industry are well positioned to take full advantage of the economic benefits that follow from low-risk development in sustainable tourism infrastructure and CSR implementation.

B. *The Benefits of Travel & Tourism*

[T]hrough the direct, spontaneous and non-mediatized contacts it engenders between men and women of different cultures and lifestyles, tourism represents a vital force for peace and a factor of friendship and understanding among the peoples of the world.¹³⁴

Beyond merely the intangible benefits of peace and friendship, the World Economic Forum explains that "developing the T&T sector provides growth opportunities for all countries, regardless of their wealth, and offers job opportunities at all skill levels."¹³⁵ The T&T industry is a key driver of development.¹³⁶ It helps to lift people out of extreme poverty; it creates opportunities for families to end the cycle of non-education of children; it provides stable income for food, shelter, and books; and it creates real-world educational experiences through interactions with foreigners.

130. See PLÜSS, *supra* note 1.

131. For example, China's international tourist departures more than doubled in 8 years; from 34.5 million in 2006 to 98.2 Million in 2013. World Bank Data, Economic Indicators; China's growth in International outbound travel spending rose 8.84% annually over this time, more than twice the international average. *WEF T&T Report*, *supra* note 125, at 120.

132. See *UNWTO Annual Report 2014*, *supra* note 123, at 2.

133. *Id.*

134. G.A Res. 406(XIII), Global Code of Ethics for Tourism, at pmb1. (Oct. 1, 1999).

135. *WEF T&T Report*, *supra* note 125, at 27.

136. *Id.*

T&T offers viable development solutions, “being a key driver of world trade” and a “leading employment sector.”¹³⁷ The 2014 UN Conference on SIDS in Samoa highlighted sustainable tourism as an “important driver of sustainable economic growth and decent job creation.”¹³⁸ Tourism is an economically sustainable development solution, creating a source of foreign currency exchange earnings¹³⁹ and generating a significant share of government tax revenues in many SIDSs and T&T dependent developing nations.¹⁴⁰ There are additional spillover benefits to citizens and local businesses in states investing in an expected increase in annual tourist arrivals, including from infrastructure development such as the building of new roads, trains, airports, hospitals, water and sewage facilities, and telecommunications.¹⁴¹

Jobs created by the T&T industry also frequently employ women and unskilled workers, and therefore have the potential to empower the most vulnerable and alleviate extreme poverty.¹⁴² Tourism can also positively impact both tourists and local citizens through cross-cultural benefits resulting from the exploration of, and interaction with, another culture. In many ways, without travel and tourism, this conversation, and many like it, would not be possible. There are, however, some intrinsic and extrinsic harms caused by T&T activities.

C. Harms Caused by Travel & Tourism

Generally, [the T&T] sector is characterised by low wages and seasonal employment. The jobs are considered relatively unstable and low status. Moreover, at times, the tourism industry may be blamed for its negative influences on environmental degradation, displacement of local people, inflation, crime and the dilution of culture.¹⁴³

Nobel-prize winning economist Joseph Stiglitz wrote, “for all the benefits they bring, multinationals have been vilified – and often for good reason[;]”¹⁴⁴ and this holds true in the T&T industry. Tourism can “generate a volume of flows higher than the destination carrying capacity and then produce negative impacts on the economic, social and natural environment.”¹⁴⁵ Jobs in hotels and catering tend

137. *UNWTO Annual Report 2014*, *supra* note 123, at 42.

138. G.A. Res. 69/15, SIDS Accelerated Modalities of Action (SAMOA) Pathway, at ¶ 30 (Nov. 14, 2014).

139. *UNWTO Annual Report 2014*, *supra* note 123, at 42.

140. Neto, *supra* note 127, at 4.

141. *Id. See, e.g.*, Myanmar Centre for Responsible Business, MYANMAR TOURISM SECTOR WIDE IMPACT ASSESSMENT 80-84 (2015) (explaining that the massive rapid increase in tourism has encouraged infrastructure development which “can benefit the Myanmar economy and the local population.”) [hereinafter Myanmar Tourism SWIA].

142. Neto, *supra* note 127, at 4.

143. Mark Camilleri, *Advancing the Sustainable Tourism Agenda Through Strategic CSR Perspectives*, in TOURISM PLANNING & DEVELOPMENT 42-56, 43 (2014).

144. Joseph E. Stiglitz, *Multinational Corporations: Balancing Rights and Responsibilities*, 101 AM. SOC’Y INT’L L. PROC. 3 (2007).

145. *See* Mara Manente, et al., *Responsible Tourism and CSR – Assessment Systems for Sustainable Development of SME’s in Tourism*, SPRINGER 3 (2014).

to pay less than other socially comparable occupations.¹⁴⁶ Regional shocks to the industry may have little impact on global trends, but the impact can be devastating on local communities reliant on income from tourists who shift travel plans to a different region. Communities who increasingly rely on tourism in lieu of other diversified sources of income are even more vulnerable to the “seasonal aspects of tourism[,] and to shocks, such as, natural disasters, regional wars and other unexpected events.”¹⁴⁷

One such example is in Egypt, where international arrivals in 2010 exceeded fourteen million people before sinking almost 40% after the Arab Spring uprisings began late that year.¹⁴⁸ Prior to 2010 the T&T industry accounted for 13% of Egypt’s GDP and directly or indirectly employed one in seven workers, but this is no longer the case.¹⁴⁹ In economies heavily reliant on tourism, a sharp downturn due to a shock of this type has the effect of causing severe hardship on employees, entrepreneurs, and family businesses, and as a result can cause distress throughout the economy.

The T&T industry also has a negative impact on the natural environment. In addition to the increase in carbon-based transportation used in international tourism, the industry places added pressure on natural resources and causes damage to ecosystems.¹⁵⁰ Over time, as a result of both government and consumer pressure, some T&T businesses have become more concerned with the environmental impact of their operations, and have begun to respond.¹⁵¹ For example, most of the existing declarations, guidelines, and initiatives which encourage sustainable tourism focus primarily on the environmental effects of tourism.¹⁵²

146. Neto, *supra* note 127, at 4.

147. *Id.*

148. *See International arrivals 2010-2014 Egypt*, WORLD BANK DATA EXPLORER, available at <http://data.worldbank.org/indicator/ST.INT.ARVL?page=2>. International expenditures dropped from a high of US\$ 475 million to a decade-low US\$ 372 million in 2011, a 20% drop, indicating that not only are fewer tourists coming, but that some are staying for even shorter periods of time. *See id.* A 20% drop in revenues indicates a larger disparity over a 1-year period than a 40% drop in arrivals does, because the cost of access to Egypt, in the wake up the regional crisis and the loss of overall tourists, has risen at a higher rate than inflation since 2010. *International tourism, expenditures for passenger transport items*, WORLD BANK DATA EXPLORER, available at http://data.worldbank.org/indicator/ST.INT.TRNX.CD__. This is additionally mitigated by continued increases in tourists to the beach resorts of the Saini particularly Sharm-al-Shiek and Hurgurda. *Arab Spring Break*, THE ECONOMIST (May 4, 2013), available at <http://www.economist.com/news/business/21577089-turmoil-has-scared-all-rugged-and-russians-arab-spring-break>.

149. Since 2010, hotel occupancy rates have averaged barely 15% in Cairo and below 5% in the Valley of the Kings. The Valley of the kings is where the tomb of Tutankhamun, the famous Egyptian boy king, is buried, and is one of the most visited ancient cites in Egypt, but is located near the modern city of Luxor, 1000km down the Nile from Cairo, and is considered less safe than the large metropolis, resulting in a significantly greater reduction in tourist arrivals. *Arab Spring Break*, *supra* note 148.

150. Neto, *supra* note 127, at 4.

151. *Id.* at 6.

152. *See infra* note 134, 311-12. The Davos Declaration, Djerba Declaration, and Global Code of

T&T industry, and businesses which supply the industry, also harm people, particularly in developing nations. T&T development impacts local cultures negatively, carrying the risks of hegemonic domination of culture¹⁵³ and global monoculturalism.¹⁵⁴ While cultures are often strengthened by interaction with foreign ideas, the behavior of tourists in culturally traditional areas can have negative social impacts when tourists show a lack of respect for local traditions, consume alcohol or drugs, or participate in exploitive tourist activities.¹⁵⁵ Additionally, while corruption may be viewed as a primarily economic problem, most corrupt activities have a negative effect on human rights, and several aspects of the tourism value chain have a high potential for corruption.¹⁵⁶

D. *Child Labor in the Travel & Tourism Industry*

Children are omnipresent in tourism. Historical narratives testify that this has been the case ever since this particular form of travel began to develop at the end of the eighteenth century.¹⁵⁷

The most pertinent negative impact of T&T to this analysis is the existence of child labor within the tourism value chain, in particular hazardous labor and the worst forms of child labor. Globally, 25.4% of child laborers are employed in the non-domestic services sector,¹⁵⁸ and a portion of these children are engaged in child labor in direct or indirect service of foreign tourists. There are no publicly agreed statistics on how many child laborers work in the T&T industry because the industry is large and complex, employment is fluid, and the scope is hard to define. For example, according to official statistics from the U.S. Department of Trade “about 13 million children are engaged in [the] tourism industry” in India, but many scholars believe this is not remotely accurate, as “unofficial estimates vary

Ethics in Tourism generally have more over all protections and enumerated provisions aimed at mitigating environmental impacts than relating to human rights.

153. See generally Steven Jacobs, *Rebel Music from Trenchtown to Oaktown: the Lyrics of Bob Marley and Tupac Shakur as Counter-Hegemonic Cultural* (2009) (on file with the University of Florida Library) (explaining that there is a fear that American, Western, Japanese, or Chinese culture may prevail in societies whose economies are dependent on tourism from those locations, principally the developing world, due to their tourists demanding more ‘at home’ conditions). For more on Cultural Hegemony see Clarabelle Ferguson, *The Relationship between American Media Exposure and Trinidadian Female Adolescents’ Body Image Satisfaction* (2011) (on file with the University of South Florida Library); see also Meg Spohn Bertoni, *The U.S. Imperial Juggernaut: Saturation Points and Cultural Globalization*, 6 INTEGRAL REVIEW 1 (March 2010).

154. The threat of global monoculturalism is the idea that powerful individuals, countries, and companies have plans, policies, and actions intended to direct marketing campaigns which are threatening cultural diversity. One such complaint focuses around American popular culture values becoming the preferences of youth around the world. Anthony J. Marsella, ‘Hegemonic’ Globalization and Cultural Diversity: The Risks of Global Monoculturalism, 11 AUSTRALIAN MOSAIC 13, 15-16 (2005), <http://www.humiliationstudies.org/documents/MarsellaHegemonicGlobalizationAustralianMosaic.pdf>.

155. See Myanmar Tourism SWIA, *supra* 141, at 87.

156. *Id.* at 82.

157. PLÜSS, *supra* note 1, at 13.

158. GLOBAL ESTIMATES, *supra* note 15, at 22.

between 60-100 million.”¹⁵⁹ While some nations in the developing world which rely heavily on the T&T industry as a major economic driver strictly enforce progressive child labor standards,¹⁶⁰ many popular tourist destinations do not.

In Thailand, one of the world's most popular tourist destinations,¹⁶¹ the T&T industry directly contributed 9% of GDP in 2014.¹⁶² While growth in tourism has catalyzed a doubling of Thailand's purchasing power parity (PPP) GDP since 1990,¹⁶³ its child labor protections have failed to follow suit. In 2014, 13% of children ages five to fourteen were engaged in child labor.¹⁶⁴ Hazardous child labor in Thailand exists within the tourism value chain in a number of ways, particularly in the form of child Muay Thai fighters, a popular sport in the vein of kickboxing which is advertised to tourists nation-wide.¹⁶⁵ Children also work in karaoke bars, restaurants, hotels, and vending; examples of the worst forms of child labor include sex tourism, and forced begging and vending.¹⁶⁶

Zimbabwe, one of Africa's leading tourist destinations, received over 1.8 million international visitors in 2014 and its travel industry comprises roughly 5.6% of GDP.¹⁶⁷ Yet the Zimbabwean government has made minimal progress in developing child labor policies.¹⁶⁸ National statistics are not available on the number of children engaged in child labor, and there is evidence of children in the work force, including in hazardous working conditions, throughout the country.¹⁶⁹ This is particularly true in the services sector, and the worst forms of child labor exist as evidenced by child drug trafficking, forced begging, and sexual exploitation.¹⁷⁰ The US Department of Labor speaks to a need for additional

159. Dr. Anupama Sharma et al, *Child Labour – An Ugly Face of Travel and Hospitality Industry*, 4 J. BUS. & MGMT. 8, 10 (Sept. – Oct. 2012).

160. For example, in Costa Rica, a nation which hosts over 2.4 million international tourists annually accounting for almost 5% of its total GDP, the government has enacted and is beginning to enforce strict laws on child labor not only in the T&T sector, but across the entire economy, and they have reduced child labor incidence among children ages 5 to 14 by 35% to a 2014 low of 4.4%, through strong policing, numerous guiding policies, and governmental and social programs. See TDA Report, *supra* note 80, at 238-42. In Grenada, a Caribbean country where total contribution of the T&T sector to the overall GDP of the nation is over 20% and forecast to rise to over 25% by 2024, there is no incidence of any child labor, including the worst forms of child labor, due to strong enforcement of international treaties obligations. See *id.* at 360-62.

161. Thailand has over 25 million international visitors annually. International tourism, number of arrivals, Thailand, WORLD BANK DATA EXPLORER, <http://data.worldbank.org/indicator/ST.INT.ARVL>.

162. WEF T&T Report, *supra* note 125, at 324 (discussing the overall competitiveness of each nation in the industry).

163. World Bank Development indicators, GDP per capita, PPP, WORLD BANK, available at https://www.google.com/publicdata/explore?ds=d5bncppjof8f9_#!ctype=l&strail=false&bcs=d&nselm=h&met_y=ny_gdp_pcap_pp_kd&scale_y=lin&ind_y=false&rdim=region&idim=country:THA&ifdim=region&hl=en_US&dl=en_US&ind=false (last visited May 29, 2016).

164. TDA Report, *supra* note 80, at 835.

165. *Id.* at 836.

166. *Id.*

167. WEF T&T Report, *supra* note 125, at 350.

168. TDA Report, *supra* note 80, at 948-51.

169. *Id.* at 948.

170. *Id.*

governmental intervention, the adoption of sound laws, and better enforcement.¹⁷¹

Indonesia is a nation which has made moderate advancement over the past ten years in enforcing child labor laws through diligent policing, but still has a relatively high number of child laborers.¹⁷² 3.7% of children ages ten to fourteen are engaged in child labor, and the government has failed to gather reliable statistics on the number of young children in the workforce.¹⁷³ Indonesian children engage in work in the tourism value chain through work on the streets, vending, and as restaurant workers.¹⁷⁴ They also may engage directly or indirectly with tourists in the worst forms of child labor through drug sales or trafficking, and through sexual exploitation.¹⁷⁵ At under 4%, Indonesia may have a lower rate of incidence of child labor than many other developing nations, but with a population of over 250 million people, the fourth largest in the world, Indonesia has a high total number of child laborers.¹⁷⁶ Just short of ten million international tourists came to Indonesia in 2014 and the T&T industry accounted for around 3% of GDP.¹⁷⁷ The T&T industry in Indonesia is likely an employer of child labor.¹⁷⁸ Indonesia has robust rule of law which strictly enumerates prohibitions in line with international standards, has relatively efficient enforcement, and numerous governmental and social programs addressing child labor,¹⁷⁹ yet its ability to effectively enforce has not been fully realized.

Child labor is also prevalent in developed nations. Mexico, one of the top-ten countries in the world in international tourist arrivals with almost thirty million annual visitors, receives around 6% of its GDP from tourism.¹⁸⁰ Child labor in Mexico is rampant,¹⁸¹ with an estimated 6.8% of children ages seven to fourteen engaged in some form of child work.¹⁸² In 2013 there were 870,000 young

171. *Id.* at 951-52.

172. *Id.* at 425.

173. TDA Report, *supra* note 80, at 425.

174. *Id.* at 425-26.

175. *Id.*

176. Population Total, Indonesia, WORLD BANK DATA EXPLORER, <http://data.worldbank.org/indicator/SP.POP.TOTL> (last visited May 29, 2016).

177. *UNWTO Tourism Highlights*, WORLD TOURISM ORG. 1, 9 (2015), available at <http://www.e-unwto.org/doi/pdf/10.18111/9789284416899>.

178. *WEF T&T Report*, *supra* note 125, at 425-26

179. *Id.* at 429-32.

180. *UNWTO Tourism Highlights*, *supra* note 177, at 6, 10; *WEF T&T Report*, *supra* note 125, at 368.

181. *Children at work in Mexico, Still a Major Issue*, WORLD BANK (Jan. 18, 2013), available at <http://www.worldbank.org/en/news/feature/2013/01/18/children-at-work-in-mexico-still-a-major-issue>.

182. Child labor in this case is defined as “[c]hildren in employment are children involved in any economic activity for at least one hour in the reference week of the survey. Work only refers to children who are employed and not attending school”, which does not necessarily mean all of them are child laborers. World Bank Development Indicators 2011, https://www.google.com/publicdata/explore?ds=d5bncppjof8f9_#!ctype=l&strail=false&bcs=d&nselem=h&met_y=children_at_work&scale_y=lin&ind_y=false&rdim=region&idim=country:ZWE:MEX&ifdim=region&hl=en_US&dl=en_US&ind=false.

children, ages five to thirteen, engaged in child labor in Mexico.¹⁸³ Similarly, child labor is prevalent in Turkey, where 39.8 million international visitors in 2014¹⁸⁴ brought in almost US \$30 billion accounting for 4.6% of GDP.¹⁸⁵ 2.6% of Turkish children ages six to fourteen are engaged in some form of child labor, many involved in street work in tourist locations, and there is evidence of child sexual exploitation in the tourism industry.¹⁸⁶ The U.S. Department of Labor recommends that Turkey update its domestic laws to comply with international standards, increase enforcement of existing laws, and increase funding for educational programs.¹⁸⁷

In nations where child labor exists, children are engaged with the tourism value chain through work in all branches of the tourism industry, and across diverse working conditions.¹⁸⁸ They work for entrepreneurial businesses, family enterprises, and larger companies.¹⁸⁹ Some end up as independent contractors in agricultural work, or as forced laborers for gangs.¹⁹⁰ Even outside of the forced labor context child laborers working in the tourism value chain are not always paid for their work, particularly when working for a family enterprise, such as a hotel or a restaurant.

One bright spot, thanks to effective CSR policies, is that nearly all large multinational hotel and tour operations companies have taken steps to abolish the direct hiring of child labor.¹⁹¹ This, however, neglects a large portion of child laborers, such as those who provide indirect labor or third-party labor to those companies, and those children working in the informal tourist sector or for SME's.¹⁹² Additionally, large hotels and tour operators still employ children indirectly through laundry, cleaning, and other services that they subcontract,¹⁹³ though some are now beginning to address supply chain labor issues.¹⁹⁴

Children working in the accommodations sector generally occupy jobs as receptionists, baggage haulers/attendants, bell-boys, lift-boys, chambermaids, room-boys, domestic servants, grooms, porters, garden hands, cleaners, or launderers.¹⁹⁵ In the food and beverage sector, children are often employed as general kitchen helpers, dishwashers, water-carriers, cleaners, servers, delivery

183. *Children at work in Mexico, Still a Major Issue*, WORLD BANK (Jan. 18, 2013), <http://www.worldbank.org/en/news/feature/2013/01/18/children-at-work-in-mexico-still-a-major-issue>.

184. UNWTO Tourism Highlights 2015, *supra* note 177, at 6.

185. *WEF T&T Report*, *supra* note 125, at 368.

186. *TDA Report*, *supra* note 80, at 875.

187. *Id.* at 880.

188. PLÜSS, *supra* note 1, at 23.

189. *Id.*

190. *Id.*

191. *Id.* at 24. This statement does not presuppose that all CSR is effective or that there are no companies in these groups which employ child laborers.

192. *Id.*

193. PLÜSS, *supra* note 1, at 24.

194. *See infra*, sect. V.

195. PLÜSS, *supra* note 1, at 25.

boys, and vendors of fruit or snacks.¹⁹⁶ Work in hotels and restaurants can be particularly damaging to child welfare as it often has demanding physical safety conditions such as the use of knives, hot oils, and other kitchen equipment, a high likelihood of workplace injury such as slips and falls, and can be physically demanding.¹⁹⁷ It often involves loud noise and hot temperatures, high workload and workplace stress, the potential for exposure to adult behavior such as exposure to violence and harassment, and long, overtime, or night shift hours.¹⁹⁸

In addition to work in accommodations and restaurants, other sectors within the T&T industry have a high risk perception for child labor, including the catering and food and beverage sector; in excursions, recreational activities, and the entertainment industry; in tour operations and transport; and in the selling of souvenirs.¹⁹⁹ Dozens of jobs comprise other categories, including tour guides, flower girls, beach cleaners, trash haulers, errand-boys, deck-hands, car-washers, bus attendants, porters, drivers, vendors, and prostitutes.²⁰⁰ Each of these jobs has its own challenges, and the consequences on child welfare vary depending on the job and within each position dependent on the conditions.

In many nations children participate in some of the worst forms of child labor in the T&T industry, including prostitution and sexual exploitation.²⁰¹ The heightened risk perception is not solely a result of the inherent consequences of child labor, but because work that involves interactions with adult tourists creates the potential for additional sexual or other adult type interaction.²⁰² These types of exploitation are accompanied by the worst consequences for children, especially girls. The greatest concerns are economic exploitation by protectors, physical injury from abusers and protectors, and illness including HIV and AIDS, in addition to all of the other consequences generally expected for any child laborer.²⁰³

“[C]hild labor occurs for many reasons, the most common being poverty.”²⁰⁴ Additionally, “limited social protection has forced many vulnerable households to resort to child labour as a coping strategy, and pushed many vulnerable youth into serious poverty.”²⁰⁵ Migration, trafficking, and other forms of criminal exploitation also lead children to work in tourism, often against their will.²⁰⁶ Family distress, traditional or cultural customs, desire for consumer goods, lack of

196. *Id.*

197. Yoshie Noguchi, Senior Legal Officer, Slide Presentation at the International Programme on the Elimination of Child Labour: Accelerating Action against Child Labour in Tourism, 22.

198. *Id.*

199. Hagedoorn, *supra* note 47, at 11.

200. PLÜSS, *supra* note 1, at 25.

201. *See id.*

202. *See* Hagedoorn, *supra* note 47, at 11

203. Erika R. George & Scarlet R. Smith, *In Good Company: How Corporate Social Responsibility Can Protect Rights and Aid Efforts to End Child Sex Trafficking and Modern Slavery*, 46 N.Y.U. J. Int'l L. & Pol. 55, passim (2013); PLÜSS, *supra* note 1, at 6.

204. TDA Report, *supra* note 80, at xxii.

205. ILO 2015 World Report on Child Labour, *supra* note 81, at 3.

206. Hagedoorn, *supra* note 47, at 10.

legislation, lack of opportunity for education, lack of decent work for parents, and lack of social protections are factors identified as 'push' factors, forcing children into work in the T&T industry.²⁰⁷

Not all forms of child labor in T&T are forced or exploitive. 'Pull factors', those which lure children to work willingly, such as the opportunity for quick money, contact with foreigners, and a wider range of job opportunities, also encourage child labor.²⁰⁸ It is unlikely that these pull factors would overcome the 'pull' of proper educational opportunities if they were readily available. Push factors often outweigh pull factors, and therefore, the stakeholders in the best position to reduce child labor in the T&T industry are T&T businesses. In order to do this, they are likely to employ CSR.

IV. CSR

A. *The Corporate Responsibility to Respect Human Rights*

[I]n an increasingly interconnected world with closer scrutiny of corporate impact on people and communities, more businesses are coming to realize their legal, moral and commercial need to do so within their activities and business relationships. Beyond the minimum responsibility to respect human rights, companies are also finding that voluntary actions which support social development – such as creating diverse and inclusive workplaces, investing in communities and public policy advocacy, and engaging stakeholders – have business benefits as well.²⁰⁹

Globalization has catalyzed a rise in the scope of impact of the operations of the world's largest MNE's and other international corporations.²¹⁰ The UNGP represents a response to this rise, and as a result there has been a call for standards and practices to govern the conduct, responsibility, and accountability of corporations in relation to the impact their activities have on people and the planet.²¹¹ Corporations are now commonly turning to voluntary self-regulation to curb the negative impact their operations have on human rights, particularly in relation to child labor.²¹² The SRSG wrote that "respecting rights is not an

207. *Id.*

208. *Id.* at 9-10.

209. United Nations Global Compact, *Guide to Corporate Sustainability: Shaping a Sustainable Future* 13 (2015), https://www.unglobalcompact.org/docs/publications/UN_Global_Compact_Guide_to_Corporate_Sustainability.pdf.

210. See Elisa Westfield, *Globalization, Governance, and Multinational Enterprise Responsibility: Corporate Codes of Conduct in the 21st Century*, 42 VA. J. INT'L L. 1075, 1080 (2002).

211. See Jean-Marie Kamatah, *The New Guiding Principles on Business and Human Rights' Contribution in Ending the Divisive Debate over Human Rights Responsibilities of Companies: Is It Time for an ICJ Opinion?* 20 CARDOZO K. INT'L & COMP. L. 437, 442 (2012).

212. The purpose of this paper is not to determine the root impetus for CSR initiatives in companies, but it has been opined that "most CSR initiatives currently implemented in the private sector are a direct response to the demand for greater social responsibility from international trade

obligation that current international human rights law generally imposes directly on companies,²¹³ indicating that difficulty exists in applying existing international human rights instruments to corporate activity. It is increasingly recognized, however, that companies have a responsibility to respect human rights, namely to avoid infringing on the rights of others and to remediate negative impacts they cause.²¹⁴ Voluntary self-regulation in the form of robust CSR policies may be the most effective tool corporations can employ in order reduce their negative impact on the human rights of people in the communities they operate.

B. *The Fundamental Principles of CSR*

[O]ne of the major issues pertaining to CSR is the lack of a universally accepted definition[.]²¹⁵

CSR exists as a plethora of voluntary and mandatory statutes, codes of conduct, guidelines, policies, and concepts which guide corporate governance, structure, and actions, and varies not only by sector, but also by region and nation. The United Nations Industrial Development Organization (UNIDO) defines CSR as “a management concept whereby companies integrate social and environmental concerns in their business operations and interactions with their stakeholders[.]”²¹⁶ It is generally understood “as being the way through which a company achieves a balance of economic, environmental and social imperatives (‘Triple-Bottom-Line Approach’), while at the same time addressing the expectations of shareholders and stakeholders.”²¹⁷ Typically, CSR initiatives are considered “an explicit and voluntary implementation of environmentally, ethically, and socially conscious standards of conduct[.]”²¹⁸ requiring that corporations adopt a triple-bottom-line approach, focusing on not just profit, but also on people and planet, and be aware of and responsible for the “economic, social and environmental impacts they produce with their activities.”²¹⁹

unions, nongovernment organizations, human rights organizations, and environmental groups[.]” not to mention consumers. See Erika R. George & Scarlet R. Smith, *In Good Company: How Corporate Social Responsibility Can Protect Rights and Aid Efforts to End Child Sex Trafficking and Modern Slavery*, 46 N.Y.U. J. INT’L L. & POL. 55, 94 (2013).

213. Special Rep. of the Secretary-General on the Issue of Hum. Rights and Transnat’l Corps. and Other Bus. Enterprises, John Ruggie, *Business and Human Rights: Further Steps Toward the Operationalization of the ‘Protect, Respect and Remedy’ Framework*, 55, U.N. Doc. A/HRC/14/27 (Apr. 9, 2010).

214. International Labour Organization [ILO], *Production of a Guidance Tool on “How to do Business with Respect for Children’s Right to be Free from Child Labour”*, 1, Brochure (Mar. 13, 2013), available at http://www.ilo.org/ipec/Informationresources/WCMS_IPEC_PUB_21578/lang-en/index.htm.

215. Arjya B. Majumdar, *India’s Journey With Corporate Social Responsibility—What Next?* J. L. & COM. 169 (2015).

216. UNIDO, *What We Do*, <http://www.unido.org/what-we-do/advancing-economic-competitiveness/competitive-trade-capacities-and-corporate-responsibility/csr/what-is-csr.html> (last visited Apr. 2, 2016).

217. *Id.*

218. George & Smith, *supra* note 214, at 94.

219. Manente, et al., *supra* note 145, at 16.

The UNGP is not merely another set of voluntary standards but the “authoritative UN Standards around which the articulated expectations of many public and private institutions have already converged.”²²⁰ These principles, while often criticized for failing to enumerate an international legal duty on corporations to take action in regards to human rights,²²¹ are not meant to progress CSR principles beyond accepted international standards. They are designed to recognize and enumerate existing fundamental principles which give rise to CSR. The UNGP rests on three fundamental pillars. First, the state duty to fulfill its human rights obligations and protect its citizens against human rights abuses by all parties, including businesses; second, the corporate responsibility to respect human rights; and third, greater access by victims to effective remedy.²²² UNGP 11 expresses that the responsibility for corporations to respect human rights is wide in scope; requiring that businesses “avoid infringing on the human rights of others[,]” and “address adverse human rights impacts with which they are involved.”²²³ The Special Representative stresses that this responsibility “exists over and above compliance with national laws and regulations[,]”²²⁴ and that human rights are to be understood, at minimum, “as those expressed in the International Bill of Human Rights[.]”²²⁵

UNGP 13 explains that the ‘responsibility to respect’ requires that businesses “avoid causing or contributing to adverse human rights impacts through their *own* activities, and address such impacts when they occur.”²²⁶ Businesses are additionally required to “[s]eek to prevent or mitigate adverse human rights impacts that are directly linked to their operations, products or services *by their business relationships*, even if they have not contributed to those impacts.”²²⁷ This principle is cited as expressing that corporations have a responsibility to enforce their own human rights policy throughout their supply chains.²²⁸ Additionally, UNGP 14 expresses application to all businesses, regardless of their size, bringing into the scope of the recommendation’s intended audience many of the SME’s operating in the T&T industry.²²⁹

The UNGP mandates that corporate policies and processes be appropriate to

220. Sarah A. Altschuller, *Business and Human Rights: A Convergence of Expectations*, FOLEY HOAG: CORPORATE SOCIAL RESPONSIBILITY AND THE LAW (Dec. 19, 2011), <http://www.csrandthelaw.com/2011/12/articles/human-rights/business-and-human-rights-a-convergence-of-expectations> (quoting John Ruggie).

221. See, DODDS & JOPPE, *supra* note 4, at 11.

222. See UNGP, *supra* note 23, at 4-5.

223. See UNGP, *supra* note 23, at 13.

224. See UNGP, *supra* note 23, at 13.

225. *Id.* (including at minimum the CRC, which is a part of the International Bill of Human Rights, and the ILO Declaration, but may not expressly include the MAC or ILO 182, outside of those provisions which can be argued to have fallen into CIL).

226. UNGP, *supra* note 23, at 14 (emphasis added).

227. *Id.*

228. See OXFAM INTERNATIONAL, BUSINESS AND HUMAN RIGHTS: AN OXFAM PERSPECTIVE ON THE UN GUIDING PRINCIPLES 4 (June 2013).

229. UNGP, *supra* note 23, at 15 (explaining that all business enterprises may employ child labor).

the size of the industry, including: a policy commitment to meet the corporation's responsibility to respect human rights; a human rights due diligence process to identify, prevent, mitigate and account for how the company addresses their impacts on human rights; and processes for remediation of any adverse impacts they cause.²³⁰ This principle encourages accountability throughout the corporation and requires communication of a human rights policy to all relevant parties.

The OECD Guidelines for Multinational Enterprises ("OEC Guidelines") and the UN Global Compact provide detailed guidance on the development and implementation of CSR policies. The OECD Guidelines are recommendations from adhering OECD countries to multinational enterprises which "provide non-binding principles and standards for responsible business conduct in a global context consistent with applicable laws and internationally recognised standards."²³¹ These guidelines are principally intended for MNE's, but some portions of the code are also applicable to SME's.²³² They are vitally important to the development of CSR policies because they are the "only multilaterally agreed and comprehensive code of responsible business conduct that governments have committed to promoting."²³³ The guidelines aim to promote contributions by business to economic, environmental, and social progress worldwide, and it includes a human rights chapter which is consistent with the UNGP Protect, Respect and Remedy Framework.²³⁴

In addition to reiterating the UNGP framework, the OECD Guidelines elaborate on the corporate responsibility to respect human rights.²³⁵ Under the OECD guidelines, when a state fails to either enact laws consistent with international standards or to enforce existing laws, enterprises are not freed from their obligation to respect human rights.²³⁶ When domestic laws are in conflict with internationally recognized human rights standards, enterprises should seek to honor their CSR commitments to the fullest extent which does not place them in violation of domestic laws,²³⁷ and may need to consider additional standards when dealing with particularly vulnerable groups, including children.²³⁸ The OECD clarifies that the business activities considered should include corporate acts and

230. UNGP, *supra* note 23, at 14-15; *see also* UNGP, *supra* note 23, at 16-17 (recommending that a statement of policy should be: Approved at the most senior level; informed by relevant internal and/or external expertise; stipulates the enterprise's human rights expectations or personnel, business partners, and other parties directly linked to its operations, products or services; publicly available and communicated internally and externally to all personnel, partners, and other relevant parties; and reflected in policies and procedures necessary to embed it throughout the business enterprise).

231. Org. for Econ. Co-operation and Dev. [OECD], *OECD Guidelines for Multinational Corporations*, at 3, <http://www.oecd.org/daf/inv/mne/48004323.pdf>.

232. *Id.*

233. *Id.*

234. *Id.*

235. *See id.* at 31.

236. *Id.* at 32.

237. *Id.*

238. Org. for Econ. Co-operation and Dev. [OECD], *OECD Guidelines for Multinational Corporations*, at 32, <http://www.oecd.org/daf/inv/mne/48004323.pdf>.

omissions to act, as both have human rights implications, and prohibits businesses from escaping responsibility by simply turning a blind-eye.²³⁹ Enterprises are also encouraged to adopt policies which allow managers to leverage relationships in order to alleviate human rights impacts of other businesses.²⁴⁰ Most importantly, the OECD codifies due diligence core criteria as including legitimacy, accessibility, predictability, equitability, compatibility with the guidelines, and transparency.²⁴¹

The OECD guidelines recommend that enterprises “[c]ontribute to the effective abolition of child labour, and take *immediate and effective measures* to secure the prohibition and elimination of the worst forms of child labour *as a matter of urgency*.”²⁴² This recently adopted language is crucial as it stems from ILO 182 and ILO 190, and is increasingly being incorporated into other newly developed codes of conduct prohibiting the worst forms of child labor.²⁴³ It encourages businesses to treat the worst forms of child labor as a distinct issue, which, while related to other forms of child labor, must be addressed through direct examination.

The Global Compact is the world’s largest corporate sustainability initiative with a mission to create a “sustainable and inclusive global economy that delivers lasting benefits to people, communities, and markets.”²⁴⁴ Through its five defining features, the Global Compact supports corporate efforts to do business more responsibly.²⁴⁵ It recommends that corporations align their strategies and operations with the ‘Ten Principles’ of the compact and take strategic actions to advance broader societal goals, such as the SDG’s.²⁴⁶ While some Global Compact partners have been removed due to lack of implementation of initiatives or due to evidence of ‘greenwashing’,²⁴⁷ currently 8,402 companies and 162 countries participate in the initiative, who, through the compact, have published over 35,000 reports.²⁴⁸ Of the Ten Principles fundamental to the global compact,

239. *Id.* at 33.

240. *See id.*

241. *Id.* at 34.

242. *Id.* at 35 (emphasis added).

243. *See* Int’l Labour Org. [ILO], *Worst Forms of Child Labour Convention* No. 182, 190 (Jun. 17, 1999), [available at http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C182](http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C182).

244. UNITED NATIONS GLOBAL COMPACT, *Our Mission*, <https://www.unglobalcompact.org/what-is-gc/mission> (last visited Apr. 2, 2016).

245. UNITED NATIONS GLOBAL COMPACT, *Our Strategy*, <https://www.unglobalcompact.org/what-is-gc/strategy> (last visited Apr. 2, 2016).

246. UNITED NATIONS GLOBAL COMPACT, *supra* note 247.

247. Jo Confino, *Cleaning up the Global Compact: Dealing with Corporate Free Riders*, THE GUARDIAN: BUSINESS ON THE ROAD TO RIO (Mar. 26, 2012), [available at http://www.theguardian.com/sustainable-business/cleaning-up-un-global-compact-green-wash](http://www.theguardian.com/sustainable-business/cleaning-up-un-global-compact-green-wash).

(explaining that greenwashing generally refers to corporate efforts to make their operations look like they are complying with environmental or sustainability standards while not actually acting to enforce those standards, or where a corporations publicly advertised standards may seem to the public to be sustainable where in reality they do not meet international requirements.

248. United Nations Global Compact, <https://www.unglobalcompact.org/> (last visited Apr. 4,

Principle 1, which states that “businesses should support and respect the protection of international proclaimed human rights[,]” and Principle 5, which calls for the “effective abolition of child labour[,]”²⁴⁹ are especially relevant. The initiative helps companies “navigate a range of challenges through resources, ranging from guidance documents, webinars and online forums, to special initiatives on the rights of groups – such as women, children, indigenous peoples and persons with disabilities.”²⁵⁰

C. CSR and Child Labor

Companies are increasingly concerned with child labour in their supply chains. They view it as inconsistent with company values, a threat to their image and ability to recruit and retain top employees, as well as to the sustainability of their supply chain.²⁵¹

Child labor isn’t just morally wrong, it costs money, increases risk, and reduces the long-term stability of a corporation. Corporations also occupy an advantageous position relative to other stakeholders in their ability to affect positive change in regards to child labor. For example, the private sector is particularly well situated to contribute to ending the practice of child sex trafficking, as “the business community occupies an especially advantageous position in its ability to put pressure on the bottom line of an illicit business that has benefited from being overlooked and misunderstood.”²⁵² The global community has responded. The ILO, UNWTO, UN Global Compact, and other national and international organizations publish and update CSR guides and recommendations specifically aimed at combating child labor through a host of programs and initiatives.²⁵³

The ILO and the International Organization of Employers embarked on a project (ILO-IOE project) that aims to provide companies with the tools and know-how they need to tackle the challenge of child labor.²⁵⁴ Their assessment process has been praised by a number of large corporations, including the Coca-Cola Company, for providing “expert” analysis which led to improvements in policies and due diligence systems.²⁵⁵ The project is led by experts on child labor and human rights and “engages select companies in an assessment process that provides them with expert insight on the alignment of existing policies and

2016).

249. UN Global Compact, *supra* note 211, at 11.

250. *Id.* at 13.

251. Int’l Labour Org. [ILO], *Corporate Social Responsibility (CSR) and Child Labour*, available at <http://www.ilo.org/ipec/Action/CSR/lang-en/index.htm>.

252. George & Smith, *supra* note 214, at 58.

253. See generally Int’l Labour Org., *supra* note 254; UNWTO, *supra* note 123; UN Global Compact, *supra* note 211.

254. Int’l Labour Org. [ILO], *Guidance Tool on “How to do Business with Respect for Children’s Right to be Free From Child Labour”*, <http://www.ilo.org/ipec/projects/global/protect-respect-remedy/lang-en/index.htm>.

255. *Id.*

processes in this area with the UN Guiding Principles and ILO standards, and, if relevant, where improvements could be made.”²⁵⁶

The ILO also published *Eliminating Child Labor: Guides for Employers – How employers can eliminate child labor*²⁵⁷ as a guideline for companies who seek to develop a child labor CSR policy. The publication includes eight concrete and detailed steps, beholden to 4 guiding principles,²⁵⁸ that companies can take to end child labor within their organizations and supply chains through voluntary CSR.²⁵⁹ Step 1 recommends that companies analyze their current situation through research on domestic laws, buyer requirements, and the current status of child laborers within the country and industry.²⁶⁰ Step 2 guides the development of strategy and internal policies for eliminating child labor, of which the eight steps enumerated in the document should be principle elements.²⁶¹ It recommends that states consult internal and external sources while drafting, communicate the finalized policy throughout the company supply and buyer chains, and implement the elements of the policy according to the specified timeline.²⁶² Step 3 recommends an immediate cease on the hiring of children, the elimination of hazardous work by children, and a reduction of hours for children currently employed.²⁶³ It does not suggest that all child laborers be instantly removed from the workforce, for fear of creating an economic shock.²⁶⁴

Step 4 highlights the importance of transitional activities during this period, encouraging policies which reduce the impact of the loss of income on families in the communities in which they operate.²⁶⁵ It is vital that corporations cooperate with labor reduction programs which compensate for the loss of a child's wage and facilitate re-entry into the educational system.²⁶⁶ Steps 5 and 6 direct companies on how to eliminate the need for children within their organization, how to steadily eliminate the use of children in operations, and how to eliminate incidences of child labor thereafter throughout the supply chain.²⁶⁷ Step 7 recommends companies adopt an internal code of conduct to which they may be held

256. *Id.*

257. Int'l Labour Org. [ILO], *Eliminating Child Labour: Guides for Employers – Guide Two: How Employers can Eliminate Child Labor*, ACT/EMP 55 (2007), http://www.ilo.org/public/english/dialogue/actemp/downloads/projects/child_guide2_en.pdf.

258. *Id.* at 5-6 (Listing principles, including: 1) Understanding the consequences of actions, 2) being proactive rather than reactive, 3) Cooperating with Others, Working to have an effect on your spheres of influence).

259. Int'l Labour Org., *supra* note 260.

260. *Id.* at 7-13.

261. *Id.* at 14-17.

262. *Id.*

263. *Id.* at 18-20.

264. *See* Int'l Labour Org., *supra* note 260, at 18-20 (referencing the shock felt in the Bangladeshi economy after 40-50,000 child laborers were let go instantly, mostly as a result of the lack of tracking for children, lack of support for child laborer families, and lack of other opportunities for recently liberated children).

265. Int'l Labour Org., *supra* note 260, at 21-28.

266. *See id.*

267. *Id.* at 29-38.

accountable.²⁶⁸ Developing a code of conduct is an excellent way for companies to mandate internal standards to which they can be held accountable, and are fundamental to an effective CSR policy. Step 8 presents recommendations for auditing, monitoring, and certification, essential tools in the fight against child labor.²⁶⁹ Effective auditing and monitoring procedures ensure that companies are held to the standards they set.²⁷⁰ Businesses can outsource their auditing and monitoring to third-party certification entities, and reputable certification can be attractive to customers and investors.²⁷¹

The Global Compact, in collaboration with UNICEF and Save the Children, has developed the Children's Rights and Business Principles (CRBPs), which address a full range of actions companies can take to respect and support children rights.²⁷² These 10 principles do not create new substantive rights, but merely enumerate rights consistent with a host of internationally recognized documents, including the CRC, the UNGP, the MAC, and ILO 182.²⁷³ Principle 2 calls for the abolition of child labor.²⁷⁴ It also guides businesses on how to identify and prevent child labor and how to cooperate with government, social partners, and others to promote education and sustainable solutions to the root causes of child labor.²⁷⁵ The CRBPs encourage businesses to "seek to concentrate production in the formal economy and avoid informal working arrangements that may contribute to child labor."²⁷⁶ The Global Compact takes steps to implement Principle 5, in joint coordination with the ILO, through the Child Labor Platform.²⁷⁷

In order to implement the MAC and Declaration 182, the ILO developed the International Programme on the Elimination of Child Labour (IPEC), which aims to progressively eliminate child labor by "strengthening the capacity of countries to deal with the problem and promoting a worldwide movement to combat child labour."²⁷⁸ IPEC currently operates in 88 countries and has partnered with intergovernmental and governmental agencies, businesses and corporations, workers unions, NGOs, governmental officials, universities, and others, to promote the elimination of the worst forms of child labor worldwide.²⁷⁹ The IPEC collects

268. *Id.* at 39-45.

269. *Id.* at 46-52.

270. *See id.* at 46.

271. *See* Int'l Labour Org., *supra* note 260, at 46.

272. UN Global Compact, *supra* note 211, at 15.

273. United Nations Children's Fund [UNICEF], *Children's Rights and Business Principles*, at 12-13, https://www.unglobalcompact.org/docs/issues_doc/human_rights/CRBP/Childrens_Rights_and_Business_Principles.pdf (last visited Apr. 4, 2016).

274. *Id.* at 18-19.

275. *Id.* at 18-19.

276. *Id.* at 19 (emphasis in original).

277. UN Global Compact, *supra* note 211, at 17.

278. Int'l Labour Org. [ILO], *About the International Programme on the Elimination of Child Labour*, <http://www.ilo.org/ipec/programme/lang—en/index.htm> (last visited Apr. 4, 2016) (emphasis added).

279. *Id.*

data on child labor, tracks and reports on progress, provides education on child labor issues, and provides advice to businesses on implementing CSR initiatives.²⁸⁰ Numerous other programs, guidelines, and initiatives exist within the Global Compact, and many more have been produced by other UN and civil society organizations, governments, and businesses.

D. CSR in Travel & Tourism: Responsible Tourism Terms of Art

Responsible tourism goes beyond fancy packaging and eco-certification. It also goes far beyond simplistic internal hotel policies of washing sheets and towels, or accommodations simply being located in natural jungle or forest areas. Responsible tourism has to do with an everyday lifestyle that promotes cultural and biological diversity, and promotes environmental and natural resources conservation, at home and while travelling.²⁸¹

The size and scope of the T&T industry is enormous, and there is great diversity in economic activities and available certification programs.²⁸² There is a widespread call for a more universal certification program, code of conduct, or guideline aimed at aiding T&T businesses in developing CSR policies.²⁸³ Currently, there are many certification schemes and guiding documents available to businesses, but they are not well organized.²⁸⁴ There are dozens of terms of art referring to the different types of tourism generally described as responsible, which are poorly delineated, weakly defined, and may be confusing at first glance.²⁸⁵ One of these is 'Responsible Tourism'.²⁸⁶ CSR programs may be carried out in response to responsible tourism declarations or initiatives, and companies often advertise their CSR policy as being in line with specific responsible tourism recommendations. However, responsible tourism is a broad concept that carries no accepted definition.²⁸⁷

There are other correlated forms of tourism "characterised by an overlapping of concepts and contributions[.]"²⁸⁸ such as eco-tourism, sustainable tourism, pro-poor tourism, and the like.²⁸⁹ All describe different but related types of tourism

280. *See id.*

281. Manente, et al., *supra* note 145, at 4-5.

282. Certification programs available are innumerable, and include regional, national, industry specific, and international programs. *See, e.g.*, SUSTAINABLETOURISM.NET, *Sustainable Tourism | Tourism Accreditation & Certification*, <http://www.sustainabletourism.net/sustainable-tourism/sustainable-tourism-resource/tourism-accreditation-and-certification> (last visited June 6, 2016).

283. *See generally*, DODDS & JOPPE, *supra* note 4.

284. *See* Manente, et al., *supra* note 145, at 29.

285. *See id.* at 10.

286. *See id.* at 7.

287. *See id.*

288. *Id.*

289. Other common forms of certified tourism include: Pro-Poor tourism, Developmental tourism, Fair-Trade tourism, Rural-tourism, Voluntourism, Conscientious tourism, Agro-tourism, and others. All of these forms have some overlapping features with responsible tourism and sustainable tourism, but they are not one in the same. *See Manente, supra* 145.

rooted in the same foundational principles recognizing the potential developmental benefit and negative impact that T&T can have, and seek to advance development through tourism while preventing negative effects on people and/or the environment.

Responsible tourism is a broad term encompassing actions by individuals, businesses, and societies as a whole, and there is a plethora of interpretations of what it requires. The South African Responsible Tourism handbook explains that “[r]esponsible [t]ourism is a tourism management strategy embracing planning, management, product development and marketing to bring about positive economic, social, cultural, and environmental impacts.”²⁹⁰ The Cape Town Declaration on Responsible Tourism in Destinations, the founding international agreement on responsible tourism, recognized that while “[r]esponsible [t]ourism takes many forms, [and] different destinations and stakeholders will have different priorities[,]” that certain characteristics are inherent.²⁹¹ The declaration also expresses, among others, two principles for social responsibility which affect child labor; that companies should “[a]dopt equitable business practices, pay and charge fair prices, and build partnerships in ways in which risk is minimised and shared, and recruit and employ staff *recognising international labour standards*[,]”²⁹² and “combat the sexual exploitation of human beings, particularly the exploitation of children.”²⁹³

The National Responsible Tourism Development Guidelines for South Africa instructs businesses on operating as a responsible tourism entity.²⁹⁴ It presents guiding principles under a triple-bottom line approach and each prong includes requirements, including but not limited to impact assessments, strategic planning, and involvement from the local community.²⁹⁵ Most relevant is guiding principle 2.1.4(L) which states that “[t]he exploitation of human beings in any form, particularly sexual and when applied to women and children, should be energetically combated with the co-operation of all concerned.”²⁹⁶ Ultimately, the most widely accepted descriptive statement of responsible tourism is that it “is

290. Ministry of Environmental Affairs and Tourism, South Africa, *Responsible Tourism Handbook* (2003), http://www.fundacionglobalnature.org/proyectos/tuismo_y_ma/Tourism%20handbook.pdf

291. *Cape Town Conference on Responsible Tourism in Destinations*, RESPONSIBLE TOURISM, <http://responsibletourismpartnership.org/cape-town-declaration-on-responsible-tourism> (last visited Mar. 31, 2016). This declaration was developed by a group from the world summit in Johannesburg in 2002 and is an agreement between tour operators, emerging entrepreneurs in the tourism industry, and national parks. Among other things, these characteristics include: minimize negative economic and social impacts; generate economic benefits for locals and enhance host communities; and improve working conditions and industry access.

292. *Id.* (emphasis added).

293. *Id.*

294. See Dep’t of Env’tl. Affairs and Tourism, *National Responsible Tourism Development Guidelines For South Africa* (2002), <http://www.tourism.gov.za/CurrentProjects/ResponsibleTourism/Responsible%20Tourism/Responsible%20Tourism%20Guidelines.pdf>.

295. *See id.*

296. *Id.* at 2.1.4(l).

about 'making better places for people to live in and better places for people to visit.' Responsible tourism requires that operators, hoteliers, governments, local people and tourists take responsibility, take action to make tourism more sustainable."²⁹⁷

Sustainable tourism is another broadly defined 'umbrella' category related to responsible tourism, and is a term of art used by many certification, compliance, reporting, auditing, and other governmental and non-state initiatives. In many ways, this term of art is the most interchangeable with responsible tourism. It is defined by the United Nations Environment Programme (UNEP) as tourism development which "meets the needs of the present tourists and host regions while protecting and enhancing the opportunity for the future."²⁹⁸ Similar to responsible tourism, "sustainable tourism development guidelines and management practices are applicable to all forms of tourism in all types of destinations, including mass tourism and the various niche tourism segments."²⁹⁹ The Global Sustainable Tourism Council (GSTC) provides the minimum criteria which business, government, and destinations should achieve to approach social, environmental, cultural and economic sustainability in two sets; one for hotel and tour operators, and another for destinations.³⁰⁰ As an example, GSTC criteria B6 requires organizations to implement "a policy against commercial, sexual or any other form of exploitation and harassment, particularly of children, adolescents, women and minorities[.]" and B7 requires that the organization "restrain child labor."³⁰¹

Eco-tourism, more correctly classified as "ecologically sound tourism", is responsible tourism in natural areas that conserves the environment and improves the well-being of local people.³⁰² Unlike responsible tourism and sustainable tourism, eco-tourism is a more narrowly defined category which, while it does have category-specific certification programs,³⁰³ is not considered an 'umbrella'

297. *What is Responsible Tourism*, RESPONSIBLE TOURISM, <http://responsibletourismpartnership.org/what-is-responsible-tourism> (last visited Mar. 31, 2016) (quoting the Cape Town Declaration in which the statement provided by the Responsible Tourism Partnership, an organization which supports the development of responsible tourism businesses and initiatives through workshops, training, consultancy, auditing, and reporting, has been echoed by many other responsible tourism initiatives in one form or another).

298. Mara Manente & Valeria Minghetti, *Overview of Methodologies or The Analysis of Responsible Tourism And of Corporate Social Responsibility (CSR) and Proposal For a Common EU Responsibility Label*, CISET 7, https://earthresponsible.files.wordpress.com/2013/03/ciset_csrfinal-report_161210.pdf.

299. UNEP, FACTS AND FIGURES ABOUT TOURISM, available at <http://www.unep.org/resourceefficiency/Business/SectoralActivities/Tourism/FactsandFiguresaboutTourism/Definitions/tabid/78773/Default.aspx>.

300. GLOBAL SUSTAINABLE TOURISM COUNCIL, *Global Sustainable Tourism Council Criteria*, available at <https://www.gstcouncil.org/en/gstc-criteria/sustainable-tourism-gstc-criteria.html>. (Each of these criteria sets are organized in 4 pillars, focusing on sustainable management, socioeconomic impacts, cultural impacts, and environmental impacts).

301. *Id.* at *Global Sustainable Tourism for Hotels and Tour Operators*, <https://www.gstcouncil.org/en/gstc-criteria/criteria-for-hotels-and-tour-operators.html>.

302. Manente, *supra* note 301, at 8.

303. See e.g., *Certification Standards*, THE INTERNATIONAL ECOTOURISM SOCIETY,

terminology.³⁰⁴ It is inherent that eco-tourism operations provide for environmental conservation, include community participation, and are profitable.³⁰⁵ At one point in time eco-tourism was heralded by the UN as the “key to eradicating poverty and protecting environment.”³⁰⁶

E. CSR in Travel & Tourism: Declarations and Guidelines

[T]he world tourism industry as a whole has much to gain by operating in an environment that favours the market economy, private enterprise and free trade and that serves to optimize its beneficial effects on the creation of wealth and employment . . . [and] provided a number of principles and a certain number of rules are observed, responsible and sustainable tourism is by no means incompatible with the growing liberalization of the conditions governing trade in services and under whose aegis the enterprises of this sector operate and that it is possible to reconcile in this sector economy and ecology, environment and development, openness to international trade and protection of social and cultural identities[.]³⁰⁷

The Djerba³⁰⁸ and Davos³⁰⁹ Declarations of the International Conferences on Climate Change and Tourism have profound influence on responsible tourism initiatives. The Djerba Declaration directly calls on operators in the T&T industry to “adjust activities, using more energy-efficient and cleaner technologies and logistics” in order to minimize climate change.³¹⁰ The Davos Declaration expands on this concept, recommending that tourism industry and destinations implement “concrete measures in order to mitigate climate change *throughout the tourism value chain*[.]” to promote energy efficient tourism programs, and to raise awareness of consumers to tourism related environmental concerns.³¹¹ These declarations were, however, focused on mitigating the environmental impacts of T&T, and not as concerned with the impacts tourism has on human rights or child-

<https://www.ecotourism.org/certification-and-standards> (last visited Apr. 2, 2016).

304. *Ecotourism and Protected Areas*, UNWTO, <http://sdt.unwto.org/en/content/ecotourism-and-protected-areas> (last visited Apr. 2, 2016), (classifying eco-tourism as: All “nature-based forms of tourism” with a main purpose of observing nature and traditional cultures found in natural settings; which contains educational and interpretation features; often organized for small groups by local tour operators; minimizes negative impact on natural and socio-cultural environment; and supports the natural areas through economic benefits to host communities resulting from increased employment opportunities, and through increasing awareness to towards conservation).

305. See Manente, *supra* note 301, at 8.

306. UNWTO, *UN: General Assembly: ecotourism key to eradicating poverty and protecting environment*, <http://media.unwto.org/press-release/2013-01-03/un-general-assembly-ecotourism-key-eradicating-poverty-and-protecting-envir> (last visited Apr. 2, 2016).

307. Global Code of Ethics for Tourism, *supra* note 134, at 3.

308. *Djerba Declaration*, UNWTO (Apr. 11, 2003), <http://sdt.unwto.org/sites/all/files/docpdf/decladjerbae.pdf>.

309. *Davos Declaration*, UNWTO (Oct. 3, 2007), <http://sdt.unwto.org/sites/all/files/docpdf/decladavose.pdf>.

310. *Djerba Declaration*, *supra* note 311, at 2.

311. *Davos Declaration*, *supra* note 312, at 2 (emphasis added).

labor.³¹²

The UN Global Code of Ethics for Tourism is a wide-ranging non-binding code which sets standards for tourists, governments, non-state actors, and businesses in the T&T Industry.³¹³ The preamble recommends that obligations under the CRC, MAC, and ILO 182 be complemented by a set of “interdependent principles for their interpretation and application on which the stakeholders in tourism development should model their conduct[.]”³¹⁴ The Global Code of Ethics mandates that “[t]he exploitation of human beings in any form, particularly sexual, especially when applied to children, conflicts with the fundamental aims of tourism and is the negation of tourism[.]”³¹⁵ It recommends that exploitation should be “energetically combatted with the cooperation of all the States concerned and penalized without concession by the national legislation of both the countries visited and the countries of the perpetrators of these acts, even when they are carried out abroad.”³¹⁶ Article 9.1 requires that the fundamental rights of workers be guaranteed under national laws, in compliance with internationally recognized work standards, including the international recognized rights of children under the CRC, MAC and ILO 182.³¹⁷

The UNWTO’s World Tourism Network on Child Protection, which holds annual meetings at international T&T fairs, “serves as a platform for key actors to exchange experiences and best practices, present awareness-raising materials and capacity building tools, and promote the adoption of professional codes of conduct or other responsible practices in line with the UNWTO Global Code of Ethics for Tourism.”³¹⁸ In particular, the objectives of the organization are to support efforts to protect children from all forms of exploitation in tourism, particularly to protect minors against sexual exploitation.³¹⁹ It has an established network of published contact persons in many national tourism administrations, provides related information on local and national hotlines for tourists to call to report suspected child exploitation, and publishes information on the laws of many nations relating to tourism and child exploitation.³²⁰ Most importantly, the network is a multi-stakeholder initiative, made up of private sector, public sector, and civil society participants, and encourages the T&T industry to engage in ethical practices through adoption of CSR codes of conduct.³²¹

312. See generally *Djerba Declaration*, *supra* note 311; see also *Davos Declaration*, *supra* note 312.

313. *Global Code of Ethics for Tourism*, *supra* note 134.

314. *Id.* at 3.

315. *Id.* art. 2.3.

316. *Id.*

317. See *id.* art. 9.1.

318. UNWTO, *World Tourism Network Child Protection*, <http://ethics.unwto.org/content/world-tourism-network-child-protection>. (last visited Apr. 2, 2016).

319. *Id.*

320. See *id.*

321. See *id.*

V. BEST PRACTICE IN THE TRAVEL & TOURISM INDUSTRY

A. *Best Practice Initiatives and Certifications*

Certification can be described as the process of assuring consumers and industry that the company being assessed has met a set of minimum standards . . . [and] the purpose of certification [is] to achieve voluntary standards of performance which meet or exceed baseline standards or legislation.³²²

In addition to conforming CSR policy and procedure to the guidelines and declarations examined in the preceding section, best-practice policy aimed at abolishing child labor in the T&T industry requires that businesses are cognizant of existing governmental and civil society initiatives and certification programs, and take steps to utilize them. Some states have developed national action plans, modified legal requirements, enhanced enforcement, financed programs, and introduced initiatives to assist T&T businesses in developing CSR policies which incorporate best practices. In other nations, improvements were made by simply requiring a minimum age on employment in additional sectors or by requiring transparent reporting on employees.³²³

The Government of El Salvador, in coordination with the ministries of labor from Nicaragua and Guatemala, implemented *Primero Aprendo en Centroamerica* (First I Learn), a program designed to provide training to businesses in the tourism sector on commercial and sexual child exploitation, and help them to develop a manual for workers on the prevention and eradication of child labor, which eventually went on to help over 1,000 at risk children across the three countries.³²⁴ Kenya developed their own National Plan of Action for the Elimination of Child Labor and for the Elimination of Sexual Exploitation in Children which directly emphasizes the important role of tourism companies and employees in ending child labor practices in the T&T industry.³²⁵ In a similar vein, the popular tourist destination Sri Lanka³²⁶ has a child labor problem, and the government is moving to remedy it through the development of quinquennial roadmap documents seeking to end the worst forms of child labor, including commercial labor in the tourism industry.³²⁷

322. DODDS & JOPPE, *supra* note 4, at 16.

323. *TDA Report*, *supra* note 80, at 162 (such as in Cambodia, where in the May 2014 Sub-decree on the management of Tourism Entertainment-Tourism Centers for Adults (METCA), which is designed to fight against child sexual exploitation in the tourism sector through explicit fines for children working in adult entertainment facilities).

324. *TDA Report*, *supra* note 80, at 300; *see also*, Care (Nicaragua). *Proyectos: Primero Aprendo en Centroamerica*. Care.org (January 12, 2015) available at <http://www.care.org.ni/proyectos/?proyecto=3>.

325. *TDA Report*, *supra* note 80, at 467.

326. SRI LANKA TRAVEL, Home, <http://srilanka.travel/index.php?route=common/home> (last visited Apr. 2, 2016) (*discussing* that Sri Lanka, recently embroiled in civil war, is now a rapidly growing tourist destination with beautiful beaches and a 'golden triangle' of world heritage sites).

327. *TDA Report*, *supra* note 80, at 808; *see also*, UNICEF Sri Lanka Roadmap, http://www.unicef.org/srilanka/2003_UNICEF_Roadmap_wcms_149650.pdf. The Sri Lanka roadmap

International organizations, including international and regional associations, international law enforcement, NGO's, and IGO's, have contributed by developing programs aimed to combat child labor in the tourism industry. The Code of Ethics against the Sexual Exploitation of Children and Adolescents ("the code") is one of the most effective initiatives aimed at eliminating incidence of child sex work and child trafficking within major hotel and tourism chains.³²⁸ Through their work with over 1,300 members, The Code has found that "encouraging hotels, hospitality works, and other tourism businesses to implement a zero tolerance policy against sex trafficking and educating the business community on identifying child trafficking may significantly contribute to disrupt the demand side of the trade."³²⁹ In committing to join The Code, a tourism company commits to six criteria to help protect children, steps derived from general CSR recommendations of founding international documents adapted specifically for use by tourism companies seeking to end child sexual exploitation.³³⁰ Fair Trade in Tourism in South Africa (FTTSA), the local implementation of The Code in South Africa, requires that enterprises in the T&T industry take measures to protect children and young workers from exploitation of all forms in order to receive certification.³³¹

Many of these initiatives, codes, programs, and certification schemes have been effective, and show that the stakeholders in the most advantageous position to eradicate child labor are those in the private sector. Enterprises look to these initiatives as both guidance for their own CSR policy development, and as potential initiatives which they themselves may join in implementing their policies. In other situations, programs involve direct coordination with national governments.³³²

document is particularly relevant because it contains some broadly defined but easy to implement recommendations, created distinctly for T&T entities, to bring their processes in line with accepted CSR recommendations. Sri Lanka is a country with a high percentage of SME's operating in the tourism sector and a rapidly growing rate of increase in annual international visitors. The roadmap merely recommends; an assessment, informational campaigns, improved processes for identification of victims, utilizing CSR program's developed by larger corporations, and support for community awareness building. For some nations this roadmap may seem simplistic, but for the small business entrepreneurs in Sri Lanka it may be a perfect introduction to international child labor laws.

328. *The Code of Ethics against the Sexual Exploitation of Children and Adolescents*, THE CODE.ORG, <http://www.thecode.org/> (last visited Apr. 2, 2016).

329. *Id.*

330. *Id.* Namely, these steps are to 1) establish policy and procedures, 2) train employees to prevent, detect, and report, 3) include a clause in contracts throughout the value chain stating a zero tolerance policy, 4) provide information to travelers on the laws, how to prevent, and report, 5) support, collaborate & engage stakeholders, and 6) report annually on implementation.

331. *Id.*; *Fair Trade Tourism*, available at <https://fairtradetourism.wordpress.com/> (Mar. 25, 2013).

332. For example, In Jordan, a trilateral project between UNESCO, the ILO, and the City of Petra operates a non-formal education center and provides services to children at risk of becoming laborers in the local tourism dominated communities surrounding the World Heritage Site and Wadi-Rum historical sites. *TDA Report*, *supra* note 80, at 454.

B. CSR Best Practice in the Travel & Tourism Industry

“Leadership gives us a number of rights, but more importantly, it entails certain corresponding duties towards our employees, guests, partners and, naturally, our host communities around the world.” – Accor Hotels CSR Charter³³³

As a result of these developments, companies are increasingly adopting internal policies and procedures consistent with CSR guidelines which regulate the way they treat child labor in their organizations and throughout their supply chains.³³⁴ For over a decade Accor hotel group has been recognized as leading the CSR movement in the accommodations sector.³³⁵ In a study conducted for a 2005 Dodds & Joppe report, Accor’s codes of conduct were found to be the most progressive in the industry, mandating actions in all five measured categories, including the human rights/labor category and the social/community category.³³⁶ Accor hotel group operates over 3,700 hotels in 92 countries, including the Ibis and Adagio brands and luxury brands Pullman, Sofitel, and Grand Mercure, and had EU €5.454 billion in revenues in 2014.³³⁷ As a world leader in CSR, Accor proudly claims that they employ over 180,000 people, fund the world’s leading hotel school, Academie Accor, support 200,000 beneficiaries through the Solidarity Accor endowment fund, and plant 2,000 trees per day.³³⁸ Accor also proudly boasts in their 2014 Business Review that they are “committed and responsible” to their duty as a socially responsible corporation which creates social, environmental, and societal value for every stakeholder in the Accor ecosystem.³³⁹ Since the launch of the company in 1985, they have been promoting policies, processes, and programs, many a mix of CSR and corporate philanthropy, which implement their socially responsible strategic vision.³⁴⁰

Today, Accor’s Ethics and Corporate Social Responsibility Charter is the primary guiding document which mandates policies and procedures throughout the corporation.³⁴¹ In 2014 Accor created an internal ethics and CSR committee tasked with monitoring, auditing, and updating the CSR policies to ensure that

333. *Accor Ethics and Corporate Social Responsibility Charter 3*, http://www.accorhotels-group.com/fileadmin/user_upload/Contenus_Accor/Commun/pdf/EN/accor_ethics_csr_charter_2014.pdf [hereinafter Accor CSR Charter].

334. See *Corporate Social Responsibility (CSR) and child labour*, ILO-IPEC, <http://www.ilo.org/ipec/Action/CSR/lang—en/index.htm> (last visited Apr. 2, 2016).

335. See Jacqui Boardman & Candida Barbato, *Review of socially responsible HR and labour relations practice in international hotel chains* 16 (2008), http://www.ilo.org/wcmsp5/groups/public/—ed_dialogue/—sector/documents/publication/wcms_162286.pdf.

336. DODDS & JOPPE, *supra* note 4, at 46.

337. ACCOR, *Enhancing your Hotel Experience: 2014 Business Review 1*, http://www.accorhotels-group.com/fileadmin/user_upload/Contenus_Accor/Finance/Documentation/2014/UK/accor_br_en_2014.pdf. [hereinafter Accor Business Review]

338. *Id.* at 2-4.

339. *Id.* at 75-76.

340. See *id.* at 77-79.

341. See generally Accor CSR Charter, *supra* note 336.

Accor is the world leader in this area for many years to come.³⁴² Accor implements a triple-bottom line approach in their CSR Charter that reaches through all levels of the corporation.³⁴³ All members of the board, management, and employees are responsible to uphold its principles.³⁴⁴ The company prohibits the use of children in work which would violate national laws in each country they operate, and have a company-wide ban on employing children under the age of 14.³⁴⁵ Additionally, the charter requires that the company be extremely vigilant in choosing suppliers or service providers, and vows to refuse to work with, or immediately suspend work with, any business that violates child labor laws.³⁴⁶ The refusal to do business with any company engaging in unlawful child labor is a best practice which enumerates child labor protections throughout the tourism value chain.³⁴⁷

Accor acknowledges that it has a moral obligation to protect children from abuse, and does so through partnership with the ECPAT International, an NGO which aims to end the sexual exploitation of children.³⁴⁸ Accor has pledged to train and inform its employees and guests in protecting children from abuse, train employees on how to detect and report abuse, and integrate suppliers and partners into the detection process.³⁴⁹ The Accor Group is a major corporate partner of the COP21 climate summit in Paris, and in preparation for that summit developed a program which is open for all hotel operators to join.³⁵⁰

Planet 21 is structured around twenty-one commitments backed by quantifiable objectives, and provides information and guidance to other hotel operators.³⁵¹ One of these policy commitments, "to protect children from abuse", is measured by their goal of seeking 70% of hotels in countries in which they also operate to commit to protecting children as outlined in the Accor CSR Charter.³⁵² The process of setting goals, measuring internal success on an annual basis, and then opening those measurements to the industry as a standard which they should seek to attain is best practice in the industry. The WATCH program oversees the implementation of this goal and measured 48% compliance in 2014.³⁵³

342. Accor Business Review, *supra* note 340, at 77.

343. See Accor CSR Charter, *supra* note 336, at 6-9.

344. See *id.*

345. *Id.* at 11.

346. *Id.*

347. *Id.* at 28. In implementing this, Accor vows to fulfill its commitments to the Global Compact by paying careful attention to the employment practices of its suppliers and service providers in an effective and transparent manner in order to eliminate the use of child labor throughout its supply chain.

348. *Id.* at 30; see generally ECPAT INTERNATIONAL, <http://www.ecpat.net> (last visited Apr. 3, 2016).

349. Accor CSR Charter, *supra* note 336, at 30.

350. *Sustainable Development*, ACCOR HOTELS, <http://www.accorhotels-group.com/en/sustainable-development.html> (visited Apr. 3, 2016).

351. *Id.*

352. *7 Pillars of Planet 21*, ACCOR HOTELS, <http://www.accorhotels-group.com/en/sustainable-development/the-7-pillars-of-planet-21/local.html> (visited Apr. 3, 2016).

353. *Enhancing your Hotel Experience: Registration Document and Annual Financial Report 58* (2014), ACCOR, <http://www.accorhotels->

Additionally, Accor recognizes that a social license to operate exists, and they strive to ensure that, through corporate philanthropy aimed at aiding host communities, they can maintain local support for their business ventures.³⁵⁴ Financial donations through the corporate philanthropy program are a minimum of 0.1% of annual gross revenues, in 2014 totaling almost US\$ 1.5 million.³⁵⁵

Another MNE hotel chain with a heralded CSR policy is Marriott hotels.³⁵⁶ Marriott owns eighteen brands operating more than 4,100 hotels in 79 countries and reported nearly US \$14 billion in gross revenues in 2013.³⁵⁷ Marriott's CSR policies are guided by an overarching CSR policy which includes multiple levels of activity specific documents laying out principles in five distinct categories, including human rights, the environment, and employment.³⁵⁸ This comprehensive set of policies and principles prohibits Marriott from using any forms of prohibited child labor,³⁵⁹ and states that Marriott "will work to raise awareness concerning [child sexual exploitation], and will cooperate with law enforcement authorities to address any such instances . . . in which the company becomes aware."³⁶⁰ In regards to sexual exploitation, Marriott publishes a training manual and communicates it throughout the corporation and to all suppliers, provides training to their over 200,000 employees to recognize and report sexual exploitation of children, actively cooperates with global safety and security partners, and conducts surveys regularly to gauge the scope and sources of issues.³⁶¹ In response to the corporate philanthropy mandate recently initiated in India which requires 2% of average net profits to be spent in CSR initiatives,³⁶² Marriott updated its India CSR policy to include an explicit provision requiring that the board "[e]nsure the CSR spending every financial year of at least 2% of average net profits made during immediately preceding 3 financial years, in accordance with the Act."³⁶³

group.com/fileadmin/user_upload/Contenus_Accor/Developpement_Durable/pdf/PLANET_21/EN/accor_drf2014_uk_csr.pdf.

354. *See id.* at 24.

355. *Id.*

356. *See generally Corporate Responsibility*, MARRIOTT, <http://www.marriott.com/corporate-social-responsibility/corporate-responsibility.mi> (last visited Apr. 3, 2016).

357. MARRIOTT, <http://news.marriott.com/new-hotels/> (last visited Apr. 3, 2016).

358. *Responsible Business Principles*, MARRIOTT, <http://www.marriott.com/corporate-social-responsibility/corporate-values.mi> (last visited Apr. 3, 2016).

359. *Global Employment Principles*, MARRIOTT, http://www.marriott.com/Multimedia/PDF/CorporateResponsibility/Marriott_Global_Employment_Principles.pdf.

360. *Human Rights Policy Statement*, MARRIOTT, <http://www.marriott.com/Multimedia/PDF/Corporate/HumanRightsStatement.pdf>.

361. *Our Commitment to Human Rights*, MARRIOTT, <http://www.marriott.com/Multimedia/PDF/Corporate/HumanRightsCommitment.pdf>.

362. The Companies Act, 2013, para. 135(5), THE GAZETTE OF INDIA, <http://www.mca.gov.in/Ministry/pdf/CompaniesAct2013.pdf> (requiring that companies allocate 2% of their average net profits to pursue their CSR policy).

363. *Corporate Social Responsibility ("CSR") Policy For Marriott Hotels India Private Limited ("MHIPL")* app. 2, 1, 4, MARRIOTT, http://www.marriott.com/Multimedia/PDF/CorporateResponsibility/CSR_Policy_India.pdf.

One of the great successes of Marriott's CSR program is their contribution to the Youth Career Initiative (YCI). Through YCI underprivileged youth who are vulnerable to human trafficking and exploitation are invited to a six month educational experience which serves to place them in safe and secure employment on completion.³⁶⁴ 85% of YCI participants join the workforce or enroll in further education after the program.³⁶⁵ The YCI program is an example of best practice in training-oriented programs, and helps to eradicate child labor by supplying educational opportunities to those children most vulnerable to falling into child labor conditions. In addition, Marriott's sustainability reports and targets, represent another CSR best practice because thorough reports are a fundamental element of a tangible, high impact, and measurable CSR program.³⁶⁶ Much of Marriott's comprehensive policy, unfortunately, does not specify how the policies are implemented, and there is no express inclusion of a triple-bottom line approach, though it is implied.

The accommodations sector is not the only portion of the T&T Industry in which businesses exhibit best practice CSR policies. Tour operators like Intrepid Travel, a boutique tour provider with over 1,000 employees offering small group responsible travel in adventurous destinations, enumerates a robust CSR policy designed to minimize the harm their operations have on people and the planet.³⁶⁷ Intrepid employs a detailed CSR strategy, operating in a responsible manner by "incorporating the principles of sustainable development in the way we provide our travelers with real life experiences."³⁶⁸ Intrepid expects staff and travelers to demonstrate the principles of responsible travel, respecting people, cultures, and local environments.³⁶⁹

Intrepid developed its policies on the three pillars of responsibility; environmental, economic, and social.³⁷⁰ Within each pillar Intrepid defines their commitments, steps for implementation, and how they incorporate those commitments into their trips, scheduled transportation, and their corporate structure.³⁷¹ They publish an independent travel code of conduct, information on 'voluntourism' opportunities, and responsible travel tips.³⁷² They communicate detailed targets and goals throughout the organization, monitor progress through surveys at all levels of the company, and produce transparent annual reports that

364. 2014 *Sustainability Report* 13, MARRIOTT, http://www.marriott.com/Multimedia/PDF/CorporateResponsibility/2014SustainRpt_FNL_lr.pdf.

365. *Id.*

366. UNWTO *A Compilation of Good Practices*, *supra* note 6, at 23.

367. *About*, INTREPID TRAVEL, <http://www.intrepidtravel.com/about> (last visited Apr. 3, 2016).

368. *Responsible Business*, INTREPID TRAVEL, <http://www.intrepidtravel.com/about/responsible-business> (last visited Apr. 3, 2016).

369. *Id.*

370. *Id.*

371. *See id.*

372. *See generally Travel Responsible Travel Code of Conduct*, INTREPID TRAVEL, http://www.intrepidtravel.com/sites/default/files/images/Responsible_Travel_Code-of-conduct.pdf; *see also Voluntourism and Intrepid*, INTREPID TRAVEL, http://www.intrepidtravel.com/sites/default/files/images/Voluntourism_and_Intrepid.pdf.

specifically address adverse human rights and environmental impacts, labor standards, and anti-corruption efforts.³⁷³

Intrepid makes a commitment to “protect human rights within [their] sphere of influence and to ensure that all parties impacted by [their] business including staff, travelers, suppliers, local communities and other stakeholders, are treated with fairness and respect.”³⁷⁴ The company re-publishes on their website the ChildSafe Network recommendations for protecting children in tourism,³⁷⁵ and notes that they are working with ECPAT, ChildWise, and ChildSafe Asia, to help protect children in the destinations they service.³⁷⁶ They also commit to support the principles of human rights contained in the UNDHR, acknowledge their responsibilities under the UNGP, and are members of the Global Compact.³⁷⁷

Nonetheless, Intrepid does not expressly dictate that all employees or third-party independent contractors they hire meet their countries’ minimum age requirements. This is likely because this type of guarantee from a services company operating in the developing world is just not possible. Instead, Intrepid publishes a policy which guarantees that all porters hired for trekking, hiking, or other expeditions, and for transportation, are over the age of 18.³⁷⁸ Work as a porter is hazardous, and Intrepid acknowledges this, guaranteeing that all porters are ages 18 to 55, well trained, and provided with adequate medical care.³⁷⁹ Intrepid has a strong CSR policy, enumerates procedures for implementation, sets strict goals, and transparently reports on their progress.³⁸⁰ The only shortcoming is that while Intrepid does have programs and policies aimed at improving the lives of the young and vulnerable, and they aim to meet all requirements of the UNGP in regards to their operations and throughout their sphere of influence, the company could do more to expressly address child labor by developing initiatives aimed at abolishing the worst forms of child labor in the destinations they service.

VI. CONCLUSION AND A CALL FOR AWARENESS:

That so many children and young people work in [T&T] is a fact virtually incompatible with the positive images people generally associate with tourism: happy memories and the anticipated pleasure of the next holiday; the hope of getting a job, of good business, or of better living conditions in the case of people in areas dependent on tourism. So

373. See, e.g., *Communication Progress Report 2014*, UN GLOBAL COMPACT, <https://www.unglobalcompact.org/participation/report/cop> (last visited Apr. 3, 2016).

374. *Responsible Business*, *supra* note 361.

375. See *7 better ways to Protect Children around the World*, CHILD SAFE NETWORK, http://d3oxn90f3yphmd.cloudfront.net/sites/default/files/intrepid_campaign/7%20Tips%20Internat%20A4%20summary.pdf.

376. *Responsible Business*, *supra* note 361.

377. *Id.*

378. *Porter Policy*, INTREPID TRAVEL, <http://www.intrepidtravel.com/porter-policy> (last visited Apr. 3, 2016).

379. *Id.*

380. *Responsible Business*, *supra* note 361 .

many positive expectations almost overshadow the darker sides of tourism.³⁸¹

It is for this reason, and those highlighted herein, that MNE's and SME's in the T&T industry have not only a particular opportunity, but also a distinct duty, to take action to drastically reduce all forms of child labor and effectively abolish the worst forms of child labor throughout the tourism value chain. Companies large and small should immediately take the necessary steps to implement best practice CSR policies which acknowledge their responsibility to respect human rights consistent at minimum with UNGP recommendations. Guided by recommendations highlighted herein from the Global Compact, OECD, and others, companies should enumerate the methodology through which they plan to take action in policies drafted in consultation with all relevant stakeholders. The policies should include independent auditing, consistent monitoring, and transparent reporting procedures.

Child laborers who provide services either directly or indirectly to tourists are those whose lives will be most rapidly improved as a result of the adoption of comprehensive CSR policies by T&T businesses. Without elsewhere to go, however, there is a risk that children who lose desperately needed income from a boost in enforcement of robust CSR policies in the T&T industry will turn to work in other industries, leading to recidivism, and may increase the number of children in hazardous work conditions. For this reason, the most effective CSR initiatives are those coupled with proper opportunities for children to transition to education after being removed from the workforce, financial support for laborers' families, and policies which generally alleviate poverty and other root causes of child labor. This is where corporate philanthropy programs aimed at reducing the overall burden of poverty and increasing opportunities for education can be of great assistance.

The T&T industry can, and should, reach far beyond seeking to abolish child labor in the services portion of their operations, towards abolishing child labor throughout the tourism value chain. Jobs in services are often where child laborers are most visible to tourists, and hence, where companies are likely to begin the elimination process. However, child labor also exists in the production and distribution of goods purchased by tourists, particularly in developing nations. T&T businesses should develop and enforce policies which call for the abolition of the worst forms of child labor throughout their supply chains.

The T&T industry is diverse; it includes MNE's and SME's, global and local brands, and the tourist value chain effectively stretches across all sectors of the economy. These variables complicate the development and enforcement of CSR policies aimed at reducing child labor in the industry. It is also exactly these variables that make the T&T industry a major driver of development; entrepreneurs, eco-tours, and mass-tourism operations all compete for the same visitors, and consumers tend to purchase goods and services in any given holiday

381. PLÜSS, *supra* note 1, at 15.

from a balance of all types of companies. Therefore, if the largest MNE's take sustainable operations seriously, they can drive the debate surrounding CSR policies and place the plight of child laborers at the forefront of the conversation.

There is no guarantee that even the most robust CSR policies will entirely eliminate child labor; as hopeful as the SDG's are, complete eradication of forced child labor is not possible on a global scale. The SDG's merely strive for *effective* eradication, particularly in regards to the worst forms of child labor as defined by ILO 182. It *is* possible, however, to bring the number of child laborers infinitely closer to zero, and there is a huge gap between 168 million and *zero*. In order to catalyze this change, additional investment in capacity building is required, and there is a distinct need "for public-private sector cooperation with a view to establishing policies, strategies and regulations relative to sustainable tourism development."³⁸² However, recommendations relating to CSR policy development need to be just an appetizer. The T&T industry requires additional guidance from the UNTWO, civil society, states, IGO's, and other initiatives in the form of industry wide and entity-specific guidelines on policy implementation and enforcement, certification, reporting, and dispute remedy.

"Nor should tourists become silent accomplices in child exploitation."³⁸³ In order to accomplish our common goals, governments should legislate and enforce laws effectively, and provide additional incentives to businesses that demonstrate compliance; non-state actors should effectively study, suggest, monitor, and advise stakeholders; and consumers should make their voices heard and encourage responsible tourism through their purchasing power. States and tourists should follow the Global Code of Ethics for tourism. Tourists can be made more aware of the likelihood that their 'comparatively inexpensive' trip to a developing nation may only be so 'inexpensive' because it is supported by child labor. Tourists should look for reliable information when planning travel in order to select the most responsible forms of travel and accommodation available. Governments and civil society organizations should provide tourists with access and information on planning sustainable travel.

All of these recommendations, however, are responsive in nature; tourists and governments only react to what is available and reasonably accessible in the market. This is why corporations must lead the way by providing a greater range of options for consumers to engage in responsible tourism. The T&T industry is deeply reliant on great societies, past and present, as inherent to its function and purpose, and therefore T&T businesses have a distinct responsibility to protect the people who make up the future of those great societies, the children.

382. Final Report, WORLD ECOTOURISM SUMMIT 87 (2002), <http://www.gdrc.org/uem/ecotour/Final-Report-WES-Eng.pdf>.

383. PLÜSS, *supra* note 1, at Exec. Summary.

