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## Law, tourism

Phil Cameron  
King AbdulAziz University, Tourism Institute,  
Jeddah, Kingdom of Saudi Arabia

Tourism law utilizes aspects of contract law, employment issues, tourism and hospitality procedures, antitrust rules, regulatory and agency compliance mechanisms, and substantive areas of aviation, maritime, innkeeper, transportation, and public charter laws. It also spans the areas of tort, criminal, contract, corporate, administrative, and constitutional law. Tourism law is found in national and local, common, and civil traditions, customs, and international treaties. Jurisdiction and procedural rules often determine the outcome of tourism lawsuits based on purchase locations, contract formation, places of service provided, forum nonconveniens, and the application of choice of law rules (Dickerson 2011).

### Legal Issues in Tourism

Airline legal issues include overbooking, lost luggage, frequent flyer mileage disputes, delays and cancellations, unlawful restraint of passengers, passenger air rage, flight attendant air rage, crash and collision, death and injuries, and airline ticket price fixing. International air travel is frequently governed by the agreement between

States Parties known as the Montreal Convention for the Unification of Certain Rules for International Carriage by Air (1999). The treaty was sponsored by the United Nations International Civil Aviation Organization and has been ratified by states that seek to replace the Warsaw Convention (1929).

Hoteliers are frequently in court for issues involving overbooking, bait and switch schemes, rape, theft, hotel safes, fire, lifeguard, and pool safety. Restaurant lawsuits result from coat check liability, food poisoning, and misuse of alcohol. Hotel and restaurant legal issues are generally governed by municipal, local, or national statutes, cases law, as well as the contract between the guest and the innkeeper. Hotel law harmonization governing hotelier-guest liability has been drafted, but not ratified, in the Convention on the Hotelkeeper's Contract of the International Institute for the Unification of Private Law (Barth 2011).

Cruise law includes port skipping, ticketing, discrimination, food poisoning, onboard virus, typhoid fever, SARS, rape, child safety and supervision, and many other issues governed by hotel and restaurant law. Cruise industry law encompasses admiralty, ocean, and corporate law, as well as international and ocean laws, and the contract of passage. The Athens Convention, relating to the Carriage of Passengers and their Luggage by Sea (1974) and the Protocol (2002), provides that carriers can be held liable for loss or damage suffered by a passenger resulting from

fault or negligence of the cruise line. The Athens Convention also limits cruise line liability and, depending on its nationality, may include insurance, financial security, and jurisdiction requirements (Gore 1995).

Tour operators face liability for negligent hiring, personal injuries, breach of contract, and particularly with adventure tours, snorkeling, skydiving, hang gliding, and the failure to warn of hazardous conditions. Tour operator liability is generally governed by state common and statutory laws which vary greatly depending on the jurisdiction. Public charter regulations typically state that the tour operator is the “principal” and, as such, is liable for all defaults in the tour, regardless of fault, except when physical injuries are caused by third parties. These regulations typically penalize the tour operator when it makes changes in the itinerary. Motorcoach legal problems include crash and collision, death and injuries, and being lost in a foreign country because the driver is untrained (Anolik 1995).

Rail issues involve deregulation, privatization and state support, sexual harassment, crash and collision, and death and injuries. The rental car industry faces legal issues with bait and switch schemes, unbundling price schemes, negligent entrustment, GPS tracking devices, airport service charges, rental car theft, and destruction of property.

The seller of travel is a person, business entity, or other legal entity that sells, provides, contracts for, represents, or arranges travel services as an intermediary between the provider and the consumer. An agent is a person or company authorized to act on authority of and on behalf of the principal. The agent remains under the control of principal in dealing with third parties, and all the authorized acts of the agent are imputed back to the principal as if they were done by the principal and not the agent. Many courts find that travel agents owe a fiduciary duty to the customer. In other words, the travel agent is the legal agent of the customer, as well as being the legal agent of the provider of travel. This is a dual agency status

of being an agent for both the consumer and the provider. Agents may be company employees, duly authorized individuals, or even independent contractors acting on behalf of suppliers of travel.

## The Rights of Tourism and Future Research

The rights of the traveler are increasingly being recognized. The legal classification of the traveler often entails third-party beneficiary rights that may be important to a particular case to distinguish the tourist, consumer, and traveler in contractual disputes with a provider or seller. General cases that apply to many tourism transactions include fraud, misrepresentation, bankruptcy, theft of deposits, and illegal ticket sales (Anolik 1995).

Hosts are the locals that have rights regarding tourism when they receive the travelers. The hosts’ connection between culture and tourism is protected under international law as evidenced in treaties and agreements such as the UNESCO World Heritage Convention (1972) to protect host peoples’ cultural landscapes, historic towns and town centers, heritage canals and routes, and intangible heritage such as food, song, and dance, the Statement on the Prevention of Organized Sex Tourism (1995), and the Convention on the Protection and Promotion of the Diversity of Cultural Expressions (2005).

Tourism law, procedures, and remedies depend largely on domestic state-based laws, and therefore jurisdiction issues dominate many lawsuits. Future harmonization of tourism laws will be felt with increased ratification of international treaties and domestic codification of industry standards.

**See also** ► [Heritage](#), ► [international tourism](#), ► [internet](#), ► [policy and policymaking](#).

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## References

- Anolik, A. 1995 *The Law and the Travel Industry*. San Francisco: Anolik Law Offices.
- Barth, S. 2011 *Hospitality Law: Managing Legal Issues in the Hospitality Industry*. Hoboken: Wiley.
- Dickerson, T. 2011 *Travel Law*. New York: Law Journal Press.
- Gore, L. 1995 *Current Legal Issues in the Cruise Industry*. Northumbria: University of Newcastle Press.