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Avinash Kumar



Avinash Kumar has completed his Ph.D. in International Investment Law from the Dept. of Law & Governance, Central University of South Bihar. His research work is on "International Investment Agreement and State's right to regulate Foreign Investment." He qualified UGC-NET and has been selected for the prestigious ICSSR Doctoral Fellowship. He is an alumnus of the Faculty of Law, University of Delhi. Formerly he has been elected as Students Union President of Law Centre-1, University of Delhi. Moreover, he completed his LL.M. from the University of Delhi (2014-16), dissertation on "Cross-border Merger & Acquisition"; LL.B. from the University of Delhi (2011-14), and B.A. (Hons.) from Maharaja Agrasen College, University of Delhi. He has also obtained P.G. Diploma in IPR from the Indian Society of International Law, New Delhi. He has qualified UGC – NET examination and has been awarded ICSSR – Doctoral Fellowship. He has published six-plus articles and presented 9 plus papers in national and international seminars/conferences. He participated in several workshops on research methodology and teaching and learning.

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A COMPARATIVE STUDY OF TOURISM LAW IN AUSTRALIA, UK AND INDIA

AUTHORED BY - DR. PRAJAKTA PIMPALSHENDE¹

Abstract

Tourism has evolved from an activity of privilege to a globalized, technology-driven mass phenomenon with immense socio-economic significance. This study examines the historical evolution of tourism, the technological and economic forces that transformed it, and the legislative mechanisms designed to regulate and protect tourists as consumers. The article analyses India's tourism policy framework—including the National Tourism Policy 2002, institutional structures like the ITDC, and the legal regime governing consumer rights under the Consumer Protection Act, 2019. Using doctrinal methodology, the paper critically evaluates judicial decisions that shape the contours of consumer protection in travel, transportation, and tour package services. A comparative examination of tourism-related consumer law in Australia (Australian Consumer Law) and the United Kingdom (Consumer Rights Act 2015 and Package Travel Regulations) highlights global best practices. The paper concludes with policy recommendations to strengthen India's tourism governance through harmonized legislation, enhanced regulatory oversight, and adoption of international standards ensuring safety, accountability, and consumer welfare.

Keywords: Tourism law, Consumer protection, Travel services, ACL, CRA 2015, CPA 2019, India tourism policy, Comparative study, Judicial decisions.

I. Introduction

Tourism today constitutes one of the world's largest industries, generating employment, foreign exchange, and socio-cultural advancement. Its rise from an elite recreational pursuit of the nineteenth century to a mass economic activity is attributed to industrialization, increased leisure time, technological innovation, and globalization. Along with growth emerged challenges: service deficiencies, misleading travel advertisements, unregulated operators, overcharging, inadequate safety mechanisms, and environmental impact. These issues

¹ Assistant Professor Modern Law College, Pune

necessitated the development of legal frameworks ensuring accountability, quality, and consumer rights.

In India, tourism plays a vital role in economic planning, contributing significantly to GDP, employment generation, regional development, and international mobility. The country's legislative and institutional frameworks—including the National Tourism Policy 2002, ITDC, and Consumer Protection Act 2019—work towards promoting sustainable tourism and safeguarding tourists' rights.

This research article critically analyses the evolution, regulatory mechanisms, and consumer protection regime in tourism, supported by judicial interpretation. A comparative study of Australia and the United Kingdom is undertaken to identify best practices that India may adopt to strengthen its tourism governance.

II. Literature Review

Scholarly literature on tourism recognizes it as a multidimensional activity combining economic, socio-cultural, technological, and legal aspects. Theories on tourism development (Cohen, Krippendorf, Mathieson & Wall) highlight the movement from elite tourism to mass tourism facilitated by industrial progress and rising income levels.

Legal literature on tourism law remains comparatively limited in India. Babu & Mishra (2018) emphasize the absence of a unified tourism statute and the dependence on sectoral laws. Singh (2020) notes increasing consumer grievances in travel services, particularly relating to cancellations, deficiencies, and misleading packages. Comparative analyses (Pearson, UK; Mupangavanhu, Australia) indicate that advanced jurisdictions have comprehensive, uniform consumer legislation with strong enforcement mechanisms.

Judicial precedents in India, including *Thomas Cook (India) Ltd. v. Suresh Bhatia, Rajkot Municipal Corp. v. Manjulaben Jayantilal Nakum*, and *Indian Railways v. Prakash Chand*, highlight the expanding scope of consumer rights in the tourism sector.

This article aims to bridge gaps by providing a comprehensive legal analysis combining tourism development, policy framework, consumer law, and international comparison.

III. Objectives of the Study

1. To analyse the evolution and causes of modern tourism development.
2. To examine India's tourism policy and institutional framework.
3. To study the legal regime for consumer protection in tourism under the Consumer Protection Act, 2019.
4. To evaluate judicial decisions shaping rights of tourists as consumers.
5. To conduct a comparative study of Australia and the United Kingdom.
6. To propose policy recommendations to strengthen India's tourism governance.

IV. Methodology

This research adopts the **doctrinal method**. Primary sources include statutes, case law, policy documents, and government reports. Secondary sources include journal articles, books, international standards, and online resources. Comparative analysis is employed to assess Australia's ACL and the UK's CRA 2015 and Package Travel Regulations.

V. Evolution of Modern Tourism

A. Industrial Revolution and Social Change

The Industrial Revolution altered global socio-economic structures. Urbanization, factory-based labour, and increasing stress created demand for leisure and recreation. By the late nineteenth century, travel became accessible to middle and working classes due to:

1. Reduction in working hours
2. Paid holidays (legislated in over 20 countries by 1937)
3. Technological improvements
4. Growth of hospitality infrastructure

B. Technological Advancements

Transport innovation revolutionized tourism:

- Railways and steamships
- Motor vehicles and highways
- Commercial aviation
- Introduction of charter flights
- Online booking platforms (late 20th century onwards)

The “package tour” concept democratized travel by combining transport, accommodation, and guided experiences at reduced cost.

C. Economic Factors

Tourism growth was also driven by:

- Rising per capita income
- Higher disposable income
- Middle-class expansion
- Greater leisure time
- Urban stress and lifestyle changes

Tourism shifted from a luxury to a global mass industry.

VI. Tourism Policy and Institutional Framework in India

A. National Tourism Policy, 2002

The policy recognizes tourism as an engine of economic growth. It highlights seven key areas (the “7 S” framework):

1. **Swagat** – Welcome
2. **Suchana** – Information
3. **Suvidha** – Facilitation
4. **Suraksha** – Safety
5. **Sahyog** – Cooperation
6. **Samrachana** – Infrastructure
7. **Safai** – Cleanliness

Key objectives include public-private partnership, community involvement, environmental sustainability, tourist safety, research, and human resource development.

B. India Tourism Development Corporation (ITDC) (1966)

ITDC functions include:

- Hotels and restaurants
- Beach resorts
- Travel services
- Event management
- Consulting services
- Money changing

- Training through Ashok Institute
- C. Role of Industry Associations*
- **IATO**: Regulates tour operators, resolves disputes, promotes ethics.
 - **TAAI**: Represents travel agents, provides training.
 - **FHRAI**: Represents hospitality sector and engages in policy advocacy.

VII. Consumer Protection in Tourism Under the Consumer Protection Act, 2019

A. Definition of Consumer

Under §2(7), a person availing tourism services for consideration, including beneficiaries of such services, is a consumer. This encompasses:

- Rail, air, and road passengers
- Hotel guests
- Tour package travellers
- Users of travel platforms

B. Definition of Service

§2(42) includes all services except those rendered free of charge or under a contract of personal service. Tourism services fall squarely within this definition.

C. Deficiency of Service

§2(11) covers any imperfection or inadequacy in the quality, nature, or performance of tourism services.

D. Judicial Decisions (Key Cases)

1. **Thomas Cook (India) Ltd. v. Suresh Bhatia** – Travel agency held liable for failure to provide promised services during a foreign tour.
2. **Air India v. S. Chinnaswamy** – Airline held liable for deficiency in passenger services.
3. **Indian Railways v. Prakash Chand** – Railways considered “service provider”; delayed trains due to negligence amounted to deficiency.
4. **Kuoni Travel (India) Pvt. Ltd. v. Kamala** – Misrepresentation in tour brochure amounts to unfair trade practice.

These cases expand consumer rights in tourism and impose strict responsibilities on service providers.

E. Consumer Disputes Redressal Agencies

A three-tier structure exists under the Act:

- **District Commission** – up to ₹50 lakh
- **State Commission** – appeals + higher claims
- **National Commission** – apex body for consumer disputes

Jurisdiction is determined by pecuniary limit, location of service provider, or place of cause of action.

VIII. Comparative Analysis: Australia and the United Kingdom

A. Australia – Australian Consumer Law (ACL)

The ACL creates a uniform nationwide consumer protection system.

1. Consumer Guarantees

- Services must be provided with due care and skill.
- Must be fit for the purpose.
- Must be supplied within reasonable time.

Tour operators, hotels, airlines fall within its scope.

2. Enforcement

The **Australian Competition and Consumer Commission (ACCC)** has strong powers:

- Investigations
- Penalties
- Infringement notices
- Compensation orders
- Public warnings
- Class actions

3. Voluntary Accreditation

Australia's tourism accreditation models ensure service quality and accountability.

B. United Kingdom

UK law combines the **Consumer Rights Act 2015** and **Package Travel and Linked Travel Arrangements Regulations 2018**.

1. Rights under CRA 2015

- Services must be performed with reasonable care and skill.
- Information provided to consumer is binding.
- Remedies include price reduction and repeat performance.

2. Package Travel Regulations – European Standards

Provides:

- Pre-contractual disclosures
- Liability for improper performance
- Right to cancel under extraordinary circumstances
- Insolvency protection

3. Enforcement Mechanisms

Regulators include:

- **Competition and Markets Authority (CMA)**
- **Trading Standards**
- Courts with broad injunctive powers

4. Key Features

- Strong protection for travellers
- Standardized package tour regulations
- Safety, transparency, and solvency safeguards

IX. Comparative Insights between India, Australia, and UK

| Parameter | India | Australia (ACL) | United Kingdom (CRA/PTD) |
|---------------------------|------------|-------------------------|---------------------------------------|
| Unified tourism law | No | No (but ACL is uniform) | No (but sector-specific uniform laws) |
| Consumer guarantees | Moderate | Very strong | Strong |
| Enforcement | Weaker | Very strong | Strong |
| Package travel regulation | Limited | Covered services | under Detailed and EU harmonized |
| Penalties | Moderate | High | High |
| Regulatory bodies | Fragmented | ACCC (powerful) | CMA + local authorities |
| Insolvency protection | Limited | Available | Mandatory |

X. Policy Recommendations for India

1. **Enact a Comprehensive Tourism Law** integrating standards for hotels, tour operators, transport, safety, dispute resolution, and online platforms.
2. **Strengthen Enforcement** by creating a dedicated national tourism regulatory authority.
3. **Introduce Package Tour Regulation** modeled on the EU Package Travel Directive.
4. **Mandatory Licensing and Accreditation** for tour operators and travel platforms.
5. **Enhanced Consumer Rights** including statutory guarantees similar to the ACL.
6. **Tourist Safety Protocols** ensuring standardized emergency services, insurance, and grievance mechanisms.
7. **Digital Regulation** for online travel aggregators—refund timelines, pricing transparency, cancellation norms.
8. **Capacity Building** through training, professional certification, and infrastructure investment.
9. **International Cooperation** for dispute resolution involving overseas travel packages.

XI. Conclusion

Tourism's evolution into a global economic force necessitates robust legal frameworks to regulate service providers and protect consumer rights. India's policy framework recognizes tourism's potential but lacks comprehensive legislative integration. The Consumer Protection Act, 2019 and judicial interpretations offer safeguards, but enforcement remains fragmented. The Australian and UK models provide effective mechanisms including consumer guarantees, strong enforcement bodies, and harmonized package tour regulations.

Adopting global best practices—uniform legislation, enhanced consumer rights, empowered regulators, and digital platform regulation—will significantly strengthen India's tourism governance and ensure safety, accountability, and consumer welfare. A dedicated tourism legislation aligned with international standards is essential for India to emerge as a globally competitive and safe tourism destination.