

Hospitality, Tourism, Human Rights and the impact of COVID-19

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Structured Abstract

Purpose:

The purpose of this paper is to undertake a 'real-time' assessment of the impact of the COVID-19 pandemic on the right to participate in hospitality and tourism and to illustrate where such rights are under threat.

Method:

This discussion is based on a review of current events, assessed through interpretation of a human rights lens

Findings:

Rights to participate in hospitality and tourism, particularly in parts of Asia, Europe and North America, were affected on a scale unprecedented in peacetime.

Implications:

Our rights to participate in hospitality and tourism have been challenged as never before. The big questions that will need to be answered going forward are the extent to which such rights will be restored, post-COVID-19.

Originality:

This is a 'real-time' assessment and will require re-visiting as events unfold over the coming months and years.

Key words: COVID-19; hospitality; tourism; human rights; pandemic

Introduction

COVID-19 engulfed the world in a matter of weeks, threatening the health and lives of millions of people worldwide and with particular early concentrations among mobile, relatively affluent communities in East Asia, Europe and North America although the poor and disadvantaged in these countries have been disproportionately affected. Subsequently, the spread of the virus has seen major threats to excluded communities in the Global South (UNWTO, 2020). As a consequence, the hospitality and tourism operations of many countries have been virtually shut down and international travel (and, in some countries, domestic travel as well) has all but ceased. Indeed, air and sea travel (especially in the form of mega-ship cruises) has been highlighted as one of the main causes behind the rapid and global spread of the pandemic (Chinazzi et al., 2020). The right to travel and to enjoy the services of hospitality and tourism operators has been curtailed in a way unprecedented except in times of the world wars of the twentieth century. In this discussion, we consider the multiple ways in which the COVID-19 impacted our rights to participate in hospitality and tourism and raise questions about what this means for the future of hospitality and tourism. We recognise that this paper has been written at a time when the pandemic remains a major global threat, confirmed deaths worldwide reach into the hundreds of thousands and its potential for further spread in the Global South remains considerable. At the same time, some countries are taking tentative steps towards re-opening their economies for social and business activity. Tellingly, hospitality businesses are frequently in the category which can expect to re-open last. How the hospitality industry will survive and revive in a post-COVID-19 world remains an unknown and it will be important to revisit this theme in the future.

Governments have applied the public health justification within the Siracusa Principles (1984) to take action through the use of emergency powers that very directly enables them to limit the application of and enable derogations from a range of economic, social and cultural rights (Müller, 2009, for example, explains how such limitations and derogations can be applied). As a consequence, the global health pandemic has impacted the way we live, including our entitlement to personal mobility through access to travel both locally and further afield and to be tourists, something increasingly taken for granted as a right in many societies. What are the consequences of COVID-19- induced restrictions for our mobility, on our capacity to travel at will, and what, speculatively, might the future hold in terms of our rights to partake in commercial hospitality and to be tourists?

We live in a mobile world or, until just a few weeks ago, those of us who live in affluent economies assumed that we did. COVID-19 has, within a very short time-span, challenged this assumption and placed many of us in (hopefully) temporary lockdown, constrained by walls, borders and the absence of transport by which to exercise our geographical and social mobility. As Sheller (2020) articulates so clearly, “all human mobilities have been brought to an abrupt halt”. However, as Urry (2000) reminds us, mobilities extend beyond the movement of peoples to encompass the technologically-facilitated exchange of goods, services, ideas, entertainment and, in tourism, virtual reality experiences. To this, in light of current developments, we need to highlight the mobility of contagion, transmitting a global pandemic across national and continental boundaries to effect peoples of all cultures (Jamal and Budke, 2020). In constraining our physical mobilities in response to this pandemic, governments have enacted laws and regulations that would have been unthinkable in most

countries prior to the current emergency. At a social level, the notion of ‘social distancing’ has entered common the common lexicon (Long, 2020), a notion that is the very antithesis of our expectations of the experience of hospitality and tourism.

In this paper, we address a number of observations relating to the current environment in terms of their human rights implications and raise questions about the consequences of these changes for the future. We recognise that any such discussion is constrained by exactly when it is written in the context of rapidly moving global events and apologise in advance to readers should assumptions and interpretations be outdated by the time they read them (see, for example, Jamal and Budke, 2020).

Hospitality and tourism as a right?

As global hospitality, travel and tourism have expanded over the past 70 years, so we have moved increasingly to viewing such experiences as an entitlement, arguably a right. McCabe and Diekmann (2015) address the evolution of the notion of tourism as a right or entitlement and recognise that, in a global context, the practical right to travel for tourism is privileged and by no means universal, for a combination of political, economic and socio-cultural reasons. Their starting point is the Universal Declaration of Human Rights (UDHR) within which Article 13 stipulates the rights of all to freedom of movement within their own country and the right to leave and re-enter that country and Article 24 which specifies the right to leisure, limitations to working hours and holidays with pay. Moncada Jimenez et al. (2015) argue the case that these two Articles in the UDHR provide the basis for designating tourism as a human right. Of course, Article 24 does not imply a right to tourism-induced travel as this would include mobility which does not necessarily follow from the right to leisure time. In their discussion, McCabe and Diekmann highlight Breakley and Breakley’s (2013) argument that there are three moral and ethical justifications for considering tourism in terms of rights. These are the right to pursue happiness as reward for labour undertaken, the right to free choice and individuality and, thirdly, such rights as core to the notion of a market economy within which relationship building is crucial. Focusing specifically on hospitality-related services, it is arguable that they contribute to meeting the human right to food and the absence of hunger (as articulated in the International Covenant on Economic, Social and Cultural Rights and adopted by the UN in 1976) through food support services (‘soup kitchens’ and similar outlets) in many countries (Beuchelt and Virchow, 2012). The current pandemic has hugely increased demand for such services (Grey Ellis, 2020).

The United Nations World Tourism Organisation has grappled extensively with the debate as to whether participation in hospitality and tourism is a universal right. Perhaps their first step was the Manila Declaration on World Tourism in 1980 (WTO, 1980) which includes a number of Articles that address what is specifically framed as the right to access to holidays and to freedom of travel and tourism for all, including social tourism as a means of ensuring inclusivity. Inclusive social tourism in this context can be challenged because, as McCabe and Diekmann (p.202) note “Rights to tourism as a human right are mainly couched in relation to employment rights, and so effectively exclude non-working members of societies”. WTO return to these themes in the *Global Code of Ethics for Tourism* (1999) within which Article 7 addresses rights to tourism in terms of a universal entitlement to

direct and personal access to the discovery and enjoyment of the planet's resources through tourism as complementary to obligations to work. Gascón (2019) challenges what he sees as UNWTO's attempts to formalise hospitality and tourism as a human right on environmental and climate change grounds, highlighting the impacts of overtourism on people's lives and, indeed, their consequent rights. He argues that, while the UNWTO avoids explicitly stating that tourism is a human right, it does insinuate as much and points to a range of other agencies, both national and international, that advocate for this designation. Therefore, reasonably, McCabe and Diekmann (p.202) are cautious when they conclude that "tourism might not be considered a human right, and there is no legal basis to support such a right" but they do argue the case that tourism is a social right, extending the context beyond links exclusively to employment.

Whatever our rights status with respect to hospitality and tourism, there is little doubt that for many citizens of world's more affluent communities, the ability to travel, unchallenged and unfettered by bureaucratic inconvenience or economic restrictions, has been one of the pleasures of modern living and, in practice, has been largely unchallenged as an entitlement. Such privilege does not, of course, extend to the economically and socially excluded in developed economies or to most citizens of the Global South.

Historically, global hospitality and tourism has presented significant challenges to human and social rights, both with respect to the individual and the community. Tourism Concern (nd) highlight a number of dimensions where tourism can challenge human rights, including displacement from homes and lands to make way for tourism development; consequent loss of traditional livelihoods; curtailment of access to natural resources, such as grazing land, coastal areas and fresh water; commodification of cultures as tourist attractions; and poor pay and conditions for tourism industry employees. To these, we can add the prevalence of human trafficking that is intended to support tourism activities. In addition to these dimensions, it is important to add child rights with respect to the impact of tourism, notably child labour, child sex tourism and child trafficking (George and Panko, 2010; Kosuri and Jeglic, 2017; Nguyen and Ngo, 2018).

How have our rights to participate in hospitality and tourism been affected by responses to COVID-19?

COVID-19 has created conditions that impact on the lives of all countries and people across the globe, forcing political, economic and socio-behavioural changes on societies on, arguably, an unprecedented scale in the modern era. In terms of tourism, the consumer impact is most obvious in relation to citizens of the Global North whose rights to be tourists have been seriously curtailed. The impact on those working in tourism is felt by both those in the Global South and the Global North. Indeed, arguably the impact on the workforce in the former is far greater because of the absence of social safety nets that are widely available in more wealthy countries (Baum and Nguyen, 2019).

We now consider some of the key areas where COVID-19 has impacted on rights to consume and access hospitality and tourism at international and local levels. As we write, COVID-19 is still very much with us so the analysis provided here draws on a range of press and other grey sources which cannot be formally verified at this time. We acknowledge the

potential for the misinterpretation of such information, especially in relation to examples given.

Borders closing

Our expectations of the right to unfettered mobility across national borders has been severely challenged by government responses to COVID-19 although it is arguable that moves in this direction had already started prior to the pandemic (as an example, President Trump's 'wall' along the Mexican border). National borders in Europe and North America have, effectively, been closed to most travellers including leisure, business and pilgrimage tourists. In some instances, this involved reinstating borders which were removed many years ago, for example within the Schengen area in Europe. Many countries, including Australia, China and New Zealand, closed their borders completely to non-nationals and non-residents. Similarly, countries such as Vietnam withdrew Visa on Arrival schemes while others, for example Singapore, removed the right to transit through airports.

Curtailement of travel

In part as a consequence of the closure of national borders, opportunities to travel were reduced or totally eliminated by governments and transport providers. For example, the Scottish Government barred all but residents and essential workers from using island ferry services. Many airlines reduced both domestic and international services to a skeleton of recent provision and, in other instances, ceased service altogether. Rail and bus service providers, likewise, reduced their services in response both to a decline in demand and to government strictures against non-essential travel. As a consequence, transport operators, notably airlines, face critical financial pressures and many of them may not come through the crisis in a state able to operate services as before. Governments are stepping in to nationalise or renationalise airline assets in order to protect their longer-term futures.

Closure of attractions and tourism facilities

In many destinations, the main reasons why tourists visit destinations were removed with the closure of cultural venues such as theatres and museums, the postponement of sporting fixtures (including the Games of the XXXII Olympiad in Tokyo), removal of access to beaches and national parks and the closure of non-essential retail and hospitality outlets. As an exemplar consequence, the freedom to roam in Scotland, established by the Land Reform Act in 2003 was all but been abolished. It is worth noting, however, that closure of hospitality and tourism facilities is not universal – countries such as Sweden took a rather different path in addressing the containment of COVID-19 and allowed such facilities to continue trading for a rather longer time than was the case elsewhere (Franks, 2020).

Rescinding of consumer protection rights in hospitality and tourism

A major consequence of the COVID-19 crisis in the area of travel and tourism was the impact on the area of consumer protection. Consumer rights can be considered as a human right that is the joint responsibility of government, businesses and other relevant social organizations, underpinned by the United Nations' Guidelines for Consumer Protection

(UNGCP) that were agreed in 1985 and updated in 1999 and 2015. Consumer rights in tourism are addressed in national legislation and trans-nationally through instruments such as those applicable within the European Union. Consumer rights were temporarily suspended with government connivance or unilaterally as hotels, airlines and other operators struggled to cope with the consequences of a global shutdown in travel, relating to areas such as refunds, compensation and insurance (Murray, 2020).

Reaction against second home and campervan owners

As urban dwellers have sought to escape pandemic hotspots by removing themselves to second homes or trailer parks in rural areas, communities reacted strongly with the message 'tourists go home' in a rural echo of the overtourism protests of just a few months ago. The primary objection centred on potential overloading of medical, social and retail services by tourists in sparsely populated areas which, in Norway, led to a ban on travel beyond counties of residence and a prohibition to stay in second homes or *hytte*.

Return to the mothership

Global citizenship based on mobilities and the possibility to visit virtually all jurisdictions means that, prior to the pandemic, more people were in countries other than that of their primary residence than ever before, as tourists and students and in employment. The COVID-19 crisis curtailed such opportunities for global citizenship as individuals in their thousands sought to return to their home countries, under their own steam or in transport provided by their government. Countries such as Australia and New Zealand directed their citizens abroad to return home at the earliest possible time, reacting as in wartime to the global uncertainties. Some countries operated rescue flights on behalf of stranded citizens and, where these were delayed or did not operate, nationals expressed anger at a denial of their right to be protected by the state and repatriated home.

Confinement to place of residence and penalties for non-compliance

Emergency powers and legislation in many countries and states were enacted which effectively places citizens in lockdown within their own homes, further restricting opportunity for travel, even within immediate localities. These powers were also enforced through financial and further punitive sanctions. This was accompanied by the enforced closure of most hospitality businesses. In the UK, concern was expressed by civil liberties groups about police using drones to target those visiting beauty spots and setting up checkpoints to prevent entry to national parks. This requirement to demonstrate right to movement was enforced in diverse ways in different countries, for example through documentation in France and through a health app in China. Such measures could represent a challenge to interpretations of privacy and, potentially, human rights and would be resisted in other jurisdictions (Wired, 2020).

The lack of personal mobility beyond the home (for tourism purposes, for example) has other consequences. There was evidence, during COVID-19 lockdowns, that domestic abuse and violence increased, with victims literally having few routes of escape. There was also

some evidence that, once lockdowns are eased (as was the case in Hubei Province, China), that the number of couples filing for divorce increased as well.

Restrictions on rights to visit friends and family

A key market for tourism in all countries and internationally as well is visitation to friends and family, an important right that crosses cultures and countries. This right was immediately under challenge at the onset of the COVID-19 pandemic as authorities in China curtailed movement during the lunar holidays early in 2020. This was followed by successive measures in other countries, encouraged and enforced to differing degrees.

Confinement in tourism locations

Tourists saw their ability to travel or return to their home countries restricted by actual and possible outbreaks of COVID-19. High profile examples included cruise ships quarantined in Japan and California as well as tourists confined in resorts in Spain and Peru. Such confinement also had the effect of increasing the levels of COVID-19 infection among the travellers who were impacted, especially on cruise ships.

Abuse of minorities, boycotting of their businesses

COVID-19 was first identified in Hubei Province in China and early in its spread was widely associated with that country although subsequent events have challenged this simplification. However, Chinese tourists (and others of Chinese origin) were subject to racially motivated abuse and denial of services in a number of countries. There have also been further reports of abuse against minorities in other countries, notably migrant workers, that appear to be linked to COVID-19 fears.

Other consequences of COVID-19

The International Labour Organisation's (ILO) aspiration of the right to decent work for all (Baum and Nguyen, 2019) has been challenged by the consequences of COVID-19 induced economic upheaval which has led to widespread retrenchment of tourism workers, often with little or no compensation. ILO (2020) highlight the global impact of COVID-19 on work and employment opportunities, particularly for those in the informal sectors of the Global South. Many of these workers are currently denied their right to work as a result of the collapse of the international tourism industry. Globally, a substantial number of employees work in notional self-employment in the gig economy where social protection and employment rights for workers is limited or non-existent. Similar concerns relate to the vulnerability of migrant workers, both in terms of catching the virus (in Singapore, for example) and their employment rights (UNHCR, 2020). News reports include anecdotal examples of high profile companies in tourism who have acted without apparent concern for the rights of individuals to work. Tourism work is precarious at the best of times (Robinson et al, 2019) and the current crisis has demonstrated this with far greater rapidity than in other sectors. Whether the lost workers will return to serve tourists after the crisis remains to be seen.

Silver linings?

Notwithstanding the challenge to the rights of individuals to travel as tourists presented through the COVID-19 crisis, it is arguable that there are some positive outcomes which may benefit new forms of tourism that emerge post-crisis.

Human trafficking

The closure of national borders and the decimation of much air and land transport is likely to impact positively on opportunities for human trafficking and the modern slave trade, its victims frequently unwillingly mobile and sharing this mobility with tourists through rail, ship and rail travel.

Reduction in child sex tourism

As the world became less mobile, so too did the opportunities for paedophile tourists to travel to destinations around the world and prey on children and young people in child sex tourism 'hotspots' of the Global South. Whether, as a consequence, online abuse of young people will increase remains to be seen. It is unlikely that national and international agencies have the resources, in the current climate, to combat such abuse.

Human rights, tourism and the environment

A perhaps welcome consequence of the virtual cessation of travel and tourism activities as well as the reduction in wider economic activity has been the positive impact on the natural environment at a time when many countries are addressing the wider climate change crisis. This has resulted in a global slowdown of fossil fuel consumption and the collapse in the price for oil. Human rights with respect to the natural environment are set out in the United Nations Framework Principles on Human Rights and the Environment, in stating that "our human rights are intertwined with the environment in which we live. Environmental harm interferes with the enjoyment of human rights, and the exercise of human rights helps to protect the environment and to promote sustainable development" (Human Rights Council, nd.). The immediate benefits to the environment have been seen in reduced pollution in major cities in India, for example and in the return of sea life to the canals of Venice (Millman, 2020).

Conclusions

There is no doubt that consumers of hospitality and tourism experiences across the globe have been denied their rights to access these services as a result of both political and commercial decisions. As we have seen, such rights manifest in a wide diversity of ways across the hospitality and tourism environment. In the context of saving lives, such sacrifices pale into relative insignificance but, none-the-less the question is whether such diminution of rights becomes part, even a small portion, of the new, post-pandemic reality for hospitality and tourism. Only time will tell.

Hospitality and tourism will undoubtedly re-emerge from the effects of the pandemic over an extended timeframe and at varying speeds in different countries. In most locations, access to domestic travel, maybe led by visiting friends and relatives (VFR)-induced mobility, will probably lead the way followed, slowly, by international travel as countries relax their border controls and permit international flights. So it is likely that the right to travel and the right to enjoy gainful employment in the hospitality and tourism industry will continue to be denied in full or in part for some time to come. How fully these rights will be returned to us remains to be seen.

Planning for the impact of a global health pandemic on the hospitality and tourism sector has been recognised as a necessity for some time. At the time of the Avian flu epidemic in Asia and beyond, the scenario planning approach adopted by VisitScotland was held up as a model of best practice (Page et al, 2006; Page and Yeoman, 2007) by industry planners. In no sense, however, did the scale of impact anticipated in this scenario planning exercise (or in others at the same time) anticipate the reaction to COVID-19 from governments, public health experts, hospitality and tourism operators and tourists themselves. It is clear that, going forward, existing tourism planning manuals and textbooks will need to be torn up and thrown away as thinking about possible scenarios is scaled up to a level unimagined before this current crisis. This is certainly the case when addressing our human rights as citizens to participate in hospitality and tourism.

In this discussion, we have considered how the current COVID-19 pandemic challenges the rights of citizens as tourists. In concluding this discussion, we question whether some or all of these rights will return once the world returns to a new normal in a post-pandemic era. There is little doubt that international and domestic tourism have been major 'victims' of the global crisis caused by the health pandemic. Many of the consequences of the COVID-19 pandemic on tourism and our individual mobilities have been enacted by governments, frequently backed up by emergency legislation. In human rights law, governments may legitimately exercise their powers to limit some rights. The big question now is the extent to which, directly or implicitly, governments will rescind these powers that they have adopted and allow citizens the right to the same levels of unfettered mobility they had in the past? Will borders reopen to allow the same level of freedom to travel? Will visa requirements be relaxed? Will tourists be required to demonstrate that they are fully fit and healthy in order to travel? Will the use of technology to prove health status become established practice as a requirement for mobility? Will governments retain public control of travel and tourism assets such as airlines? Will nationalistic rhetoric, in many respects the antithesis to a global right to travel, be allowed to capitalise on COVID-19 in the future in order to restrict rather than facilitate travel?

At the same time, the global hospitality, travel and tourism industry faces a precarious future across its operating sectors and many businesses will not emerge from the crisis in their former shape if at all. Some commentators suggest that up to 75% of small businesses in the hospitality sector may not reopen after the pandemic in Europe and the US (Goger and Hadden Loh, 2020). Will this lead to greater price-rationing of tourism on the basis of cost, with fewer and more expensive operators, thus undermining any notion of a universal right to travel? This is already predicted in suggestions for the need for long-term social distancing while travelling on planes, cruise ships and in restaurants, significantly increasing

operating costs and therefore consumer prices. As a result, this will increase social exclusion with regard to access to hospitality, travel and tourism for significant sections of the population (Walton, 2020).

These and a plethora of other questions that impinge on the right to mobility, to travel and to be tourists will need to be answered. In many respects, these are also matters that need to be addressed both on an on-going basis as the pandemic and its effects evolve over time and place and as a retrospect once the new hospitality and tourism world order establishes itself after the pandemic. Human rights in the context of hospitality and tourism is at best a fragmented area of study with little coherent overview and is more aptly described as seriously neglected. The current crisis gives opportunity to redress this neglect in both philosophical and wider social, political and environmental terms, helping our positioning of hospitality and tourism consumption as a right, a privilege or a hedonistic indulgence. As researchers, these are questions that we will need to address carefully and critically in the post-COVID-19 era. It is likely that they will be conflated with other, pressing issues relating to hospitality and tourism (notably climate change) and there is some evidence that advocacy groups are already doing just that. The answers to these research questions can only emerge in a valid way over time as rights to participate in hospitality and tourism are (hopefully) reinstated in a post-COVID-19 world.

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