

Is there a right to tourism?

Author

Breakey, N, Breakey, H

Published

2013

Journal Title

Tourism Analysis

DOI

[10.3727/108354213X13824558470943](https://doi.org/10.3727/108354213X13824558470943)

Rights statement

© 2013 Cognizant Communication Corporation. The attached file is reproduced here in accordance with the copyright policy of the publisher. Please refer to the journal's website for access to the definitive, published version.

Downloaded from

<http://hdl.handle.net/10072/57174>

Griffith Research Online

<https://research-repository.griffith.edu.au>

REVIEW

IS THERE A RIGHT TO TOURISM?

NOREEN BREakey* AND HUGH BREakey†

*School of Tourism, The University of Queensland, Brisbane, Queensland, Australia

†Institute for Ethics, Governance and Law, Griffith University, Brisbane, Queensland, Australia

With international tourist numbers surpassing 1 billion in 2012, the increasing consideration of the ethical issues in the Tourism Studies literature, and the investigation of “rights” in the broader context, it is surprising that the right to tourism has remained a relatively unexamined philosophical question. Indeed, even broader rights, such as the right to leisure, the right to freedom of movement, and the right to the pursuit of happiness, have little philosophical treatment—compared to the well-trammeled ground of rights of property, free speech, and suffrage, for example. While it is not possible (in a short review article) to mount a comprehensive case, in this review article Noreen and Hugh Breakey position their argument in the context of the international law of human rights, and offer a prima facie justification of the right to tourism on a number of ethical grounds, and present what they argue to be the philosophical right to pursue tourism. (Abstract by the Reviews Editor)

[Readers of this journal who may wish to respond to these views (emanating from the east coast of Australia) are encouraged to send their short critiques to The Review Editor of *Tourism Analysis*, viz., to Prof. Keith Hollinshead at khdeva@btopenworld.com. The editors will be particularly pleased to receive critiques/commentaries/challenges to Is There a Right to Tourism? that are under 1,000 words.]

Key words: Tourism ethics; Human rights; Right to tourism; Right to leisure; Right to freedom of movement; Pursuit of happiness

Synopsis

There are many calls for tourism rights. An influential example is the United Nations World Tourism Organization (UNWTO) Global Code of Ethics for Tourism (World Tourism Organization [WTO], 1999), which explicitly declares “The Right to Tourism” in

its Article 7. But are such calls legitimate? And if they are, what are the implications for governments and the tourism industry? What duties correlate with this alleged right? Are these duties legally obligatory, or are they merely moral duties? And who are the duties imposed upon? Such questions interweave

with the more fundamental philosophical question: Is the right to tourism ethically justified? This review article critically engages with this question. It considers the presence of the right to tourism in the major international human rights treaties, before turning to enlightenment political theorists Locke, Jefferson, and Mill to develop philosophical arguments for the right. In making this case for the right to tourism, we overview what we see as its five key layers, and describe what we argue is its fundamental nature: the human right to pursue tourism.

Introduction

The last couple of decades have seen a sustained theoretical examination of many of the ethical issues involved in tourism, focusing on such concerns as sustainable tourism, pro-poor tourism, ecotourism, tourism as a vehicle for economic development, and even its role in contributing to international peace. However, there has been little critical attention directed towards one part of this larger ethical milieu, namely the question of *tourism rights*. Do people have a right to be tourists?

The general idea of tourism rights is not unheard of. The UNWTO Global Code of Ethics for Tourism (WTO, 1999) announces the:

Right to tourism: The prospect of direct and personal access to the discovery and enjoyment of the planet's resources constitutes a right equally open to all the world's inhabitants; the increasingly extensive participation in national and international tourism should be regarded as one of the best possible expressions of the sustained growth of free time, and obstacles should not be placed in its way. (Art. 7.1)

However, this idea of the right to tourism has not been subject to critical appraisal. The question remains whether such a right can be vindicated and—if it can—what this means in terms of policy decisions and the obligations of tourism organizations. For as soon as some activity, resource, or entitlement is declared a right, philosophical questions—and, potentially at least, legal questions—fall down like rain. What duties correlate with the alleged right? Are there duties merely to *respect* the right (i.e., to not interfere with the protected activity) or also to *facilitate* or *fulfill* the right (i.e., to

take positive actions to ensure it)? Are these duties legally obligatory, or are they only moral duties? Are the duties primarily imposed on other individuals, or on state institutions? If the duties are imposed on state institutions, are those duties owed only to the state's citizens, or to all people within the state's borders, or to everyone in the world? And what is the status of this right compared with other human rights (such as, e.g., the right to life)?

Such questions intertwine with the fundamental philosophical question at the heart of our enquiry: *Is a right to tourism justified?* It is beyond our compass here to explore all the ways the right to tourism might be conceptualized, and all of the ethical grounds that might be used to justify it. Even so, we offer a *prima facie* justification of the right to tourism on several different ethical grounds, and outline what we see as the basic structure of the right: the right to *pursue tourism*. Our account begins with an overview of the right to tourism as a human right in international law. The second section then considers how the right to tourism might be ethically justified, drawing on enlightenment philosophers Locke, Jefferson, and Mill. In the third section we describe the scope and structure of the right (i.e., what duties does it actually impose on other people?), before section four considers two important objections to the right. As a whole, the following is not offered as a definitive account; rather it is put forward as a basis for further reflection and critique—as a preliminary investigation into this important, but as yet unexplored, philosophical question.

Human Rights Declarations and International Instruments

What is the status of the right to tourism in international law? Two rights are relevant here: the right to rest and leisure, and the right to freedom of movement.

The Right to Rest and Leisure as Part of the Right to Work

Following the course charted by the earlier Manila Declaration on World Tourism (WTO, 1980), the Global Code of Ethics for Tourism (WTO, 1999) argues that:

The universal right to tourism must be regarded as the corollary of the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay, guaranteed by Article 24 of the Universal Declaration of Human Rights and Article 7.d of the *International Covenant on Economic, Social and Cultural Rights*. (ICESCR—italics added; Art. 7.2)

The Universal Declaration of Human Rights, a resolution of the United Nations General Assembly (1948), is a seminal guiding text for the development of policies and institutions to further human rights, especially in the international context. However, it is not a legally binding treaty. The ICESCR (United Nations General Assembly, 1966b), on the other hand, is binding law for its state signatories. In the ICESCR the right to leisure and holidays is nested inside the right to just and favorable conditions of work, which includes the right to: “Rest, leisure, reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays” (Art. 7.d).

Importantly, the rights set down in the ICESCR are *positive rights*—that is, they are welfare-based entitlements requiring active support, as opposed to negative rights of protection from interference or harm. The provision of such rights can require the investment of substantial resources, and there will always be limitations on the amount of resources at a state’s disposal. For this reason the rights in the ICESCR are qualified such that state parties must “take steps” in accordance with the “maximum of its available resources,” with the goal of “achieving progressively the full realization of the rights” (United Nations General Assembly, 1966b, Art. 2.1). Thus, the right to tourism in the form of the ICESCR’s legally binding just conditions of work carries the important caveat that states should work towards this goal, rather than being assumed to be in a position to immediately ensure all of these entitlements.

The Right to Freedom of Movement

The right to tourism may also be one part of the legal right to freedom of movement. This right is set down in the second major international human rights treaty (alongside the ICESCR), the

International Covenant for Civil and Political Rights (ICCPR) (United Nations General Assembly, 1966a). The ICCPR determines that:

1. Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence.
2. Everyone shall be free to leave any country, including his own.
3. The above-mentioned rights shall not be subject to any restrictions except those which are provided by law, are necessary to protect national security, public order (*ordre public*), public health or morals or the rights and freedoms of others, and are consistent with the other rights recognized in the present Covenant. (Art. 12)

As distinct from the positive rights of the ICESCR, the entitlements of the ICCPR are negative rights—rights of protection against interference and harm. Pursuant to Art. 12.1, the right to freedom of movement is circumscribed by the “within that territory” clause. As such, the entitlement does not give Aneka (say) a right to enter a country lawfully, *but having so entered that country* the right does protect Aneka’s liberty to freely move around.

For our purposes here it is important to observe that the ICCPR’s right to freedom of movement is not linked to the intention for that movement. What is being protected is the right to move freely in general, meaning that a right to move for the purposes of leisure can be inferred as one part of the right. The key clause of Art. 12.3 bulwarks this judgment by specifying the allowable restrictions that may be placed on the right. These restrictions do not include a stipulation against the pursuit of leisure. As such, a blanket intention-based restrictive law (e.g., “Citizens are prohibiting from traveling for purposes of leisure or enjoyment”) would be in violation of ICCPR obligations.

The Right to Tourism?

The ICCPR (with its right of freedom of movement) and the ICESCR (with its right of leisure and rest) are legally binding for all state signatories. Many nations have signed up to and ratified

both these treaties, and the overwhelming majority of UN member states are bound by at least one of them. As we will see below it is also possible to find domestic legislative and regulative protection of elements of the rights to tourism. Combined with the rights in these international instruments therefore, there is a solid case for asserting the existence of a legal right to tourism.

In our view, the *prima facie* picture of the legal right to tourism emerging here, with tourism as one part of the right to work (in the ICESCR), and as primarily a negative liberty (ICCPR), is an ethically sound one. In what follows we argue that ethical theories of human rights justify this right, but it is doubtful that they justify stronger versions of the right that might be imagined.

Ethical Justifications of the Right to Tourism: The Right to Pursue Tourism

We have seen that the right to tourism can be located in major international human rights treaties. But this only tells us what the state of the law is, not whether the rights it declares are in fact the rights that are owed, as a matter of genuine ethical imperative, to each human being. After all, in times past slave owners had legal rights to their slaves. They held these rights in law, but in violation—many argued—of the ethical duties of respect they owed to other human beings. As such, our focus now shifts critically to whether this legal right to tourism is ethically justified.

Let us take as our starting point the following deflationary view of the right to tourism. It might be argued that the right to tourism, especially in the context of the right to freedom of movement, is no more than what the legal theorist H. L. A. Hart termed a *naked liberty* right. A naked liberty right, Hart (1982) argued, is a freedom that is protected only by a normally adequate perimeter of general obligations. That is, surrounding each human being is a barrier of general obligations against harm, comprised of familiar prohibitions such as “thou shalt not kill” and “thou shalt not steal.” Naked liberty rights are those freedoms of action that happen to fall beneath this protective aegis. That is, because you are protected from harm, you can use the resulting bodily freedom in

a variety of ways, such as to travel or visit a tourism provider. Perhaps, it could be argued, the right to tourism is no more than this type of naked liberty. It is not justified in itself. Rather, the right to tourism emerges only as one way humans just-so-happen to use the liberty that is protected by these general obligations not to harm. The obligations themselves are justified, and the right to tourism happens to fall, accidentally, as it were, within the resulting zone of free action.

How might the right to tourism be vindicated against this skeptical view? In response, we argue that pursuing tourism is a type of activity that in itself ethically warrants protection.

At first blush, such a justification might appear difficult. *Pace* the Beastie Boys, it is not obvious that you have a right to party. One will scour in vain Enlightenment ethical treatises for the words “fun,” “thrill” or “leisure”—much less “party” or “relax.” Instead one will be confronted with rather austere notions of autonomy, rationality, and conditions of personhood. (Though Martha Nussbaum’s (2000) influential *capabilities theory* warrants an honorable mention here, with her welcome realization that capabilities for *play* and *recreation* constitute irremovable requirements for a flourishing life.)

In fact, however, closer examination reveals several ways the right to tourism might be justified. Remarkably, one of the very first natural rights asserted by early rights theorists was the right of “hospitality”—the right to have various forms of welcoming treatment offered by foreigners to travelers. This question of the proper treatment of visitors was fiercely debated from de Vitoria in the early 16th century to Immanuel Kant in the late 18th (Baker, 2011). The debate on hospitality took place in the context of increasing European exploration and trade, as well as increasing European exploitation and colonization of “uncivilized” lands. Still, hospitality’s link with tourism in this context should not be overplayed. While rights of tourism are one part of the right of hospitality, a host of other vexing issues were implicated in these debates, including rights to trade, to communicate, to help in emergencies, to seek asylum, to emigrate, to extract resources, and to colonize (Baker, 2011; Caze, 2004). In what follows we will touch on some of the arguments from these historical debates, but

our specific focus is on rights to tourism, and not to “hospitality” in the early modern sense.

We offer three main lines of justification for the right to tourism. Of necessity, our treatment will be brief, but we hope it will establish a presumptive case, or at least lay the groundwork for further critical debate.

John Locke and the Right to Labor

Taking our bearings from the right to work in the ICESCR, it is natural to turn to the forefather of natural rights thinking, the 17th century political philosopher, John Locke. In his *Second Treatise of Government*, Locke penned an influential argument for the right to property, arguing that while the world as a whole was given to humanity in general, it was given to them to *use*, and that such use required particular individuals and communities taking hold of particular resources (Locke, 1690/1947, II:26–30). Locke’s theory thus linked property with prior *labor*. Laboring on a piece of virgin land and incorporating it into one’s life and plans by farming or developing it, Locke argued, provided a reason for others to ethically respect that labor. For this reason others should not interfere with the laborer’s work or abscond with the fruits of their efforts. This allowed the laborer to take ownership of the land (“appropriate” it). While laboring to preserve their life was the priority, Locke emphasized that people could use their honest labor to “any advantage of life” and to the “support and comfort of their being” (Locke, 1690/1947, II:26, 31). In other words, provided you have worked for the fruits of your labor, you have the right to enjoy yourself with those fruits. Note you do not have a right to the advantages and comforts *themselves*. Rather you have a right to work for them; having produced such comforts, you then have a right to enjoy them. In terms that would later be invoked by Thomas Jefferson to great effect, and famously set down in the American Bill of Rights, you do not have a right to happiness, but you have a right to the *pursuit of happiness* (Jefferson, 1993, p. 25). Applied to tourism more specifically, you have a right to pursue tourism.

This Lockean capacity to appropriate land through labor was subject to important qualifications. For

a person could only justifiably appropriate land if they left “enough and as good” for others (Locke, 1690/1947, II:33, 36). This “Lockean proviso” is material to our investigation of the right to tourism in two ways. The first way is that the right to earn through productive labor was a natural right owed to everyone. If all the land was taken up by prior acquisitions, then it was only reasonable that those who had appropriated the natural resources of the land must employ others on reasonable terms—a conclusion explicitly drawn by Jefferson (1993, p. 68). This line of thought opens a space within the framework of natural rights theory for the right to fair conditions of work—including with paid holidays—exactly as found in the ICESCR. If initial appropriation allows people to work for holidays and enjoyment, it equally must not foreclose the capacity of later people to do the same. This is a constraint of “robust universalizability” (Breakey, 2009), requiring that any protected liberty cannot systematically undermine the like liberty of others. The result is that the initial laborers had a right to appropriate land and work for the good things in life, including tourism activities. However, in the modern world where all land is effectively appropriated, these initial owner-laborers (and their descendants) must accept regulations on their property in order to ensure that other, current-day laborers have the like capacity to work for the good things in life, including the right to work for holidays.

The second way the Lockean proviso is germane to the right to tourism is that tourism destinations are often special places—locales of surpassing natural beauty. If such places are appropriated by a first settler, then there will not be “enough and as good” left for others. Any appropriation of these places must therefore be limited by concern for the on-going access rights of others, to ensure that their prior rights to enjoy the beauty of the natural world are upheld. This supports the Global Code of Ethics for Tourism (WTO, 1999) that “direct and personal access to the discovery and enjoyment of the planet’s resources constitutes a right equally open to all the world’s inhabitants” (Art. 7.1). (Note that this requirement of access does not apply to nonnatural resources, where the beauty and rarity are not pre-existing, but are instead constructed by those who built those resources.)

In sum, then, we can locate the right to work to pursue tourism both in Locke's justification for property through labor, and in the constraints he placed on that right.

John Stuart Mill and Human Diversity

A second ethical defense for the right to tourism draws upon the 19th century champion of liberty, John Stuart Mill. Mill (1859/2003) defended rights on the basis of intrinsic human diversity. He argued that each person needed to flourish in their own way, and that the proper political environment was one that allowed and encouraged people to undertake their own "experiments in living" (p. 54). Of a man, Mill (1859/2003) asked:

is it easier to fit him with a life than with a coat, or are human beings more like one another in their whole physical and spiritual conformation than in the shape of their feet? Human beings have different tastes, and require different conditions for their own development; they can no more exist healthily in the same moral than all the variety of plants can in the same physical, atmosphere and climate. (p. 65)

On these grounds Mill defended free human activity, arguing that states were only justified in interfering with citizens in order to prevent their harming one another (Mill's famous "harm principle").

Tourism activities take a natural place in Mill's protected area of liberty and his prizing of diverse lifestyles. Tourism activities encourage reflection and planning on one's life, they allow experience of alternative lifestyles, and they express our distinct personalities. For many people, tourism expeditions are one of the most conscious and deliberate ways they pursue happiness. Rather than quick and unreflective temptations, such as switching on the television or snacking on chocolate, tourism activities are planned. They are subjects of genuine reflection; not just whether to go, but where to go and what to do. When they are spontaneous, there is still often a choice that they will be spontaneous, rather than merely hurried. Additionally, they are a key way that people experience the different moral climates of which Mill spoke. This is obviously so when we have a chance to view or even enter into a different culture, with different practices and

values—each of which might speak to us personally. Even for more mundane repeat beach holidays, there is still a break from our usual workaday world, which gives the tourist some distance from their normal routines and ways of being. Finally, many people use their tourism choices and experiences to help define and express their identity: as adventurous, cosmopolitan, culturally sensitive or environmentally conscious, for example.

In sum, one increasingly important part of respecting people's diversity and individuality is to respect their tourism choices.

Rights as Relations:

Creating Consensual Interactions

The third way tourist rights might be justified draws on a different kind of insight about rights, though not one that would be alien to Locke, Jefferson, or Mill. Rather than thinking about the key types of human interests and capabilities that warrant protection, David Schmidtz considers the more *relational* aspect of rights. Rights, Schmidtz (2009) posits, are like traffic lights. While rights can stop us doing things that we might otherwise want to do, just like traffic lights, people's ability to say "no" (guaranteed by their rights) is also an ability to say "yes." When they say "yes," we move forward. Getting these interactions right allows people to produce and to trade, and so to prosper. By attributing people rights, human interaction shifts from being a zero-sum affair—where one person's gain comes from another's loss—to a positive sum game where each person's consent ensures that each gains from a win-win interaction. Such consensual interactions are a key ingredient of human sociability; they provide each person with the motivation to interact with their society and so be a part of it.

Like many other types of commercial and market-based interactions, tourism activities are consensual acts with a ripe potential for win-win interactions. The Manila Declaration on World Tourism (WTO, 1980) and the subsequent Global Code of Ethics for Tourism (WTO, 1999) reflect this vision in their incorporation of tourism activities into a larger "market economy." In so doing they evince keen awareness of tourism's profound capacity—if done with appropriate sensitivity to local needs

and values—to release people from poverty and contribute to sustainable development (WTO, 1999, Arts. 2, 3, 5), more recently addressed in United Nations Environment Programme’s (UNEP) Green Economy (2011).

Scope and Structure of the Right to Tourism

Drawing on these arguments of Locke, Jefferson, Mill, and Schmidt, then, what type of right to tourism arises? It is possible to sketch several different layers to the right to tourism.

At the first layer, the right to tourism is fully constituted by people’s general rights to bodily security, private property, and freedom of movement. These protect people using their property to develop tourism destinations and enterprises. They also protect people’s use of their property to pay for travel and tourism experiences. While this is the most minimalist interpretation of the right to tourism, it is not trivial. Indeed, tourists can often be vulnerable in terms of their physical security and their property. Recognition of this significant issue for tourism is evidenced by the Mansfeld and Pizam’s (2006) edited book: ‘Tourism, security, and safety: from theory to practice’. The implementation of such targeted protection measures are the first step in respecting the right to tourism. As a specific example, recent research investigated the important factors that ensure visitors experience a ‘safe and pleasant’ Hajj pilgrimage experience, as this is an identified aim of the Saudi Arabian organizers (Eid, 2012).

The second layer of the right to tourism mandates that, if all people have a right to pursue tourism, then it is wrong if some groups of people are arbitrarily prohibited from this pursuit (e.g., by discrimination against their race or gender). As such, regulation is required to ensure that tourism operators do not offer their services only on a discriminatory basis. Laws of public accommodation are an example of such antidiscrimination measures, where rights of access prevail for public properties such as motels and restaurants (Singer, 2000).

These first two layers are considered *negative rights*, and can be immediately put into place with the appropriate legislation. The next three layers, however, require more resources again, and are, we suggest, appropriate goals that nations should be

striving towards, respecting their different development situations.

The third layer of the right to tourism focuses on ensuring win–win interactions, and underscores the importance of protecting tourists from exploitation. A review of the various techniques used to exploit tourists identified three common categories: “tourist service scams, general retail scams and social interaction scams” (Pearce, 2011, p. 147). The right to tourism implies policing such practices. For example, the Hong Kong Tourism Board (2013) website provides tips for shopping, information about accredited “Quality Tourism Services” shops, and contact details for the Consumer Council should visitors be concerned about their rights. Of course, protection from exploitation needs to go both ways and research has also investigated exploitation of local people, including their cultural heritage (e.g., Prideaux, Timothy, & Chon, 2008) and sex tourism (e.g., Ryan & Hall, 2011).

The fourth layer is an extension of the second layer’s antidiscrimination imperative. People can have the possibility for tourism activity foreclosed, not because of active discrimination, but instead because of the ways that tourism enterprises and travel modalities are designed. This is especially so for people who are disabled, and there has been a recent shift to focusing on accessible tourism (e.g., Buhalis & Darcy, 2011). The fourth layer of the right to pursue tourism encourages methods that ensure such people can enjoy at least some (and hopefully many) tourism activities. Equally, engagement with tourism activities may be a challenge for those on a minimum wage. A current issue that potentially implicates both discrimination and financial equity is air ticket pricing based on weight, introduced this year by Samoa Air (Reese, 2013). The access rights of layer four could apply in a special way to facilitating access to natural resources, such as beaches and national parks, which are the natural inheritance of all people, rich or poor.

The fifth and final layer is a stronger level of protection for those on minimum wage. If tourism is a natural and reasonable object of working people’s aspirations, then this gives us reason to ensure their conditions of work (if at all possible) include some paid holidays, in line with the ICESCR.

These five layers of the rights to pursue tourism emerging from the ethical theories described

in section two parallel the entitlements found in the international instruments of the ICCPR and the ICESCR, as well as the Manila Declaration and the Global Code.

What is *not* justified, however, would be a fully positive, welfarist right to tourism *itself*. Such a right would assert that all people—regardless of whether they work productively and irrespective of other’s property rights—are entitled to fully paid tourist vacations. Unguarded assertions of a right to tourism—rather than a right to *pursue* tourism—can seem to imply these sorts of fanciful entitlements, and it is important to clarify that this is not what is being defended.

Limitations and Objections

As appropriate when presenting new philosophical positions it remains to respond to objections. Here we consider two.

First, it might be objected that the right to tourism cannot really be an important human right given it has only recently been asserted. Indeed, it is only in the last century where tourism itself, as a mass activity possible for ordinary people worldwide, has become possible. A first point to make is that, as noted above, the right to tourism was an element in one of the very first proposed natural rights—the right to hospitality. A second point is that tourism activities are not wholly new; examples of travel and norms of hospitality stretch back centuries. O’Gorman’s (2009) exploration of the origins of commercial hospitality identifies laws in Mesopotamia governing the business of hospitality from at least 1800 BC.

Another line of rebuttal celebrates the newness of widespread tourism as being a prime example of the wisdom of enlightenment thinkers in setting down the open-ended right to the pursuit of happiness. Happiness is not demarcated as whatever some authority says it is. Rather, it is created anew by each generation. As Barnouw (1983) relates, in his exploration of the tradition encompassing Francis Bacon, Thomas Hobbes, and Jefferson:

By definition, the goods that are the object of this ‘pursuit of happiness’ could not be determined by the state or by a consensus, or by anyone for anyone else. . . . even the individual concerned cannot

determine, once and for all, the good that he pursues, for defining our ends and interests is itself part of the pursuit, of experience seen as endeavor. (p. 240)

In other words, the right to tourism has become an indispensable aspect of our current list of human rights because people have voted with their feet. Their choices to find fun, relaxation, and fulfillment in this activity are a perfect example of the restless human spirit and its quest for the good life—a quest that is protected by the right to the pursuit of happiness.

A second objection queries whether it is justifiable to place entitlements to pursue tourism activities on the same moral plane as other human rights—such as the right to life. Surely a government that executes civilians without trial is not of the same standing as a state that denies its citizens holiday travel! We agree this is an important objection. Rather than renouncing tourism as a human right, however, we think the appropriate response is to accept that there are some human rights that are more vital than others, and should be prioritized accordingly. Shue’s (1980) idea of “basic rights” is helpful here. If your basic rights are violated, then all your other rights are effectively worthless. For example, if you don’t have a right to bodily security, then your right to free speech is worthless, as people can silence you physically, or through fear. The right to tourism is a human right, but it is not a basic right. A state that denies its citizens a right to tourism is denying them a key human liberty and an important mode of human fulfillment. But it is not in so doing making a mockery of all their rights; they may still have food, property, and freedom of speech. With awareness of the distinction between basic rights and other rights, it is possible to describe the political wrong done to a person when they are denied their right to pursue tourism, without elevating that wrong to the pitch of a violation of a basic right.

Conclusion and Implications

The two key international human rights treaties identify the basis for the legal right to tourism through the existence of the right of freedom of movement (ICCPR) and the right of leisure and rest as part of the right to work (ICESCR). We have

argued that this legal right is ethically justified. Locke's right to labor for the good things in life, Mill's respect for human diversity, and Schmidt's emphasis on win-win interrelations each provide a solid foundation for the right. The resulting entitlement, we argued, is the right to pursue tourism. We distilled five layers of this right, moving from simple respect for security and property rights to stronger protections facilitating individuals' pursuit of tourism.

If the five layers of the right to pursue tourism are taken seriously, then this imposes duties on the state. In the first instance, state actors and lawmakers must work to ensure the security and nonexploitation of tourists. Freedom from discrimination on the basis of race, gender, ethnicity, or religion must also be enshrined in law. The next layers require increased resourcing, and are, we consider, goals that states should be striving toward, taking into account their development circumstances. However, it must be borne in mind that these rights-based duties are also ones that are likely to redound to the state's own economic benefits accrued through its tourism-related industries. But duties are also imposed on other agents, such as tourism operators. Even outside the mechanism of the law, operators can adopt proactive nondiscriminatory policies, can work to ensure that tourists are not exploited, and can increase access for those who otherwise would be excluded. Such government and industry activities would thereby support the human right to pursue tourism.

In conclusion, it remains to remind the reader that, while rights to pursue tourism are important, they are not the only—nor even perhaps the most important—part of the tapestry of tourism ethics. Such rights must be situated within a framework that also protects local communities and individuals, the economic rights of the tourism operators, and the natural environment in which they work. Future research could consider the balance of all these rights within such a framework of tourism ethics.

Acknowledgments

The authors wish to acknowledge The University of Queensland (UQ) for supporting the initial concept through the UQ Summer Research Program and Isabella Qing Ye who took part in the Program.

References

- Baker, G. (2011). Right of entry or right of refusal? Hospitality in the law of nature and nations. *Review of International Studies*, 37(3), 1423–1445.
- Barnouw, J. (1983). The pursuit of happiness in Jefferson and its background in Bacon and Hobbes. *Interpretation*, 11(2), 225–248.
- Breakey, H. (2009). Without consent: Principles of justified acquisition and duty-imposing powers. *The Philosophical Quarterly*, 59(237), 618–640.
- Buhalis, D., & Darcy, S. (Eds.). (2011). *Accessible tourism: concepts and issues*. Bristol, UK: Channel View Publications.
- Caze, M. L. (2004). Not just visitors: Cosmopolitanism, hospitality and refugees. *Philosophy Today*, 313–324.
- Eid, R. (2012). Towards a high-quality religious tourism marketing: The case of Hajj service in Saudi Arabia. *Tourism Analysis*, 17(4), 509–522.
- Hart, H. (1982). *Essays on Bentham*. Oxford: Clarendon.
- Hong Kong Tourism Board. (2013). *Shopping tips*. Retrieved from <http://www.discoverhongkong.com/eng/shop/qts-scheme/shopping-tips.jsp>
- Jefferson, T. (1993). *The political writings of Thomas Jefferson*. Chapel Hill, NC: The Thomas Jefferson Foundation.
- Locke, J. (1947). *Two treatises of government*. New York: Hafner. (Original work published 1690)
- Mansfeld, Y., & Pizam, A. (Eds.). (2006). *Tourism, security & safety: From theory to practice*. Oxford: Butterworth-Heinemann.
- Mill, J. S. (2003). *On liberty*. Cambridge: Hackett. (Original work published 1859)
- Nussbaum, M. (2000). *Women and human development: The capabilities approach*. Oxford: Clarendon Press.
- O'Gorman, K. (2009). Origins of the commercial hospitality industry: from the fanciful to factual. *International Journal of Contemporary Hospitality Management*, 21(7), 777–790.
- Pearce, P. L. (2011). Tourist scams: Exploring the dimensions of an international tourism phenomenon. *European Journal of Tourism Research*, 4(2), 147–156.
- Prideaux, B., Timothy, D. J., & Chon, K. (Eds.). (2008). *Cultural and heritage tourism in Asia and the Pacific*. London: Routledge.
- Reese, D. (2013). Samoa Air prices tickets based on passengers' weight. *The Washington Post*. Retrieved from <http://www.washingtonpost.com/blogs/she-the-people/wp/2013/04/03/airline-charges-for-weight-of-bags-and-humans/>
- Ryan, C., & Hall, C. M. (2011). *Sex tourism: Marginal people and liminalities*. London: Routledge.
- Schmidt, D. (2009). *Functional property, real justice*. Bruxelles: European Liberal Forum.
- Shue, H. (1980). *Basic rights: Subsistence, affluence and US foreign policy*. Princeton: Princeton University Press.
- Singer, J. (2000). *Entitlement*. London: Yale University Press.
- United Nations Environment Programme. (2011). *Towards a green economy: Pathways to sustainable development and poverty eradication*. New York: Author.

- United Nations General Assembly. (1948). *Universal declaration of human rights (UDHR)*. New York: United Nations.
- United Nations General Assembly. (1966a). *International covenant on civil and political rights (ICCPR)*. New York: United Nations.
- United Nations General Assembly. (1966b). *International covenant on economic, social and cultural rights (ICESCR)* (Vol. A/6316). New York: United Nations.

- World Tourism Organization. (1980). *Manila Declaration on World Tourism (A/36/236)*. The World Tourism Conference, Manila, Philippines, September 27–October 10.
- World Tourism Organization. (1999). *Global code of ethics for tourism* [Resolution A/RES/406(XIII)]. Thirteenth WTO General Assembly, Santiago, Chile, September 27–October 1.