



European Institute of Innovation,
Entrepreneurship, and Technology

Title: The Role of Contract Law in the Tourism Industry

Student Name: Yograj Sharma

Student ID: DE240204

Submission date: 14.02.2025

Contents

ABSTRACT	3
INTRODUCTION	3
LITERATURE REVIEW	4
Contract Law and Accommodation Services	4
Online Booking Platforms and Contractual Relationships	4
Essential Elements of a Valid Accommodation Contract	4
Intention to Create Legal Relations and Capacity	5
Types of Accommodation Contracts in Tourism	5
Exclusion Clauses and Cancellation Policies	6
METHODOLOGY	6
Research Approach	6
Sources of Data	7
Analytical Framework	7
FINDINGS	7
Consumer Understanding of Accommodation Contracts	7
Performance of Hotel Obligations	8
Online Booking Platforms and Liability	8
REAL-WORLD CONTRACT DISPUTES IN ACCOMMODATION	8
Case Study 1: Hotel Overbooking Disputes	8
Case Study 2: Cancellation and Refund Conflicts	9
Case Study 3: Misrepresentation of Accommodation Standards	9
REMEDIES UNDER CONTRACT LAW	9
DISCUSSION	10
Effectiveness of Contract Law in Accommodation-Based Tourism	10
Standard Form Contracts and Transparency Issues	10
Online Booking Platforms and Evolving Contractual Relationships	11
Implications for Hotels and Accommodation Providers	11
CONCLUSION	12
REFERENCES	13

ABSTRACT

The tourism industry depends heavily on contractual relationships, particularly in the context of hotel accommodation and online booking platforms. As tourists increasingly rely on digital platforms to reserve accommodation, contract law has become central to regulating the rights and obligations of hotels, intermediaries, and consumers. This assignment examines the role of contract law in the tourism industry with a specific focus on accommodation contracts formed between hotels and guests, as well as contracts mediated by online travel agencies. The study analyzes the essential elements of a valid contract and explores how these elements operate within hotel bookings and digital reservation systems. Common contractual issues such as overbooking, cancellation policies, misleading representations, and exclusion clauses are critically examined. Using a doctrinal research methodology, supported by legal literature and judicial decisions, the assignment evaluates how contract law addresses disputes arising from accommodation contracts. The findings suggest that while contract law provides a clear framework for enforcing hotel booking agreements, challenges such as unequal bargaining power, complex standard terms, and jurisdictional issues continue to affect consumer protection. The study concludes that clearer contractual practices and enhanced regulatory oversight are essential to ensure fairness and transparency in accommodation-related tourism contracts.

INTRODUCTION

Accommodation services form the backbone of the tourism industry, as every tourist requires a place to stay during their travel experience. Hotels, resorts, guesthouses, and short-term rental providers engage in contractual relationships with tourists on a daily basis, making contract law a central legal mechanism governing tourism operations (Sharpley, 2018). Whether a booking is made directly with a hotel or through an online travel agency, the rights and obligations of both parties are defined by contractual principles that determine service standards, payment terms, and remedies in the event of disputes.

In recent years, the rise of online booking platforms has significantly transformed the nature of accommodation contracts in tourism. Digital platforms allow tourists to compare prices, read reviews, and confirm reservations within minutes. While this has increased convenience and market efficiency, it has also introduced legal complexities regarding contract formation, intermediary liability, and consumer awareness of contractual terms (Mason & Bohdanowicz, 2020). Tourists often enter into binding contracts by clicking “confirm booking” without fully understanding the legal consequences of their actions.

Contract law plays a critical role in regulating accommodation contracts by ensuring that agreements are legally enforceable and that parties are held accountable for non-performance. Common issues such as overbooking, last-minute cancellations, substandard accommodation, and misleading advertising frequently lead to contractual disputes between tourists and hotels (Dickerson, 2019). Courts rely on established contract law principles to resolve these disputes, balancing consumer expectations with the commercial realities of the hospitality industry.

This assignment aims to analyze the role of contract law in the tourism industry by focusing on hotel accommodation contracts and online booking platforms. The objectives of the study are threefold. First, it examines the essential elements required to form a valid accommodation contract in tourism. Second, it explores the types of contracts commonly used by hotels and online booking intermediaries. Third, it critically evaluates the rights and obligations of tourists and accommodation providers, supported by real-world examples and legal case analysis. Through this approach, the assignment highlights the significance of contract law in promoting fairness, transparency, and trust within the tourism accommodation sector.

LITERATURE REVIEW

Contract Law and Accommodation Services

Academic literature consistently identifies accommodation contracts as one of the most common forms of tourism agreements. According to Dickerson (2019), hotel booking contracts are commercial agreements that involve advance payment for future performance, making them highly susceptible to disputes when expectations are not met. Unlike traditional retail contracts, accommodation contracts involve intangible services such as comfort, cleanliness, and hospitality, which are difficult to measure objectively.

Sharpley (2018) argues that contract law provides a framework for managing these uncertainties by emphasizing express terms and implied obligations. In accommodation contracts, implied terms often require hotels to provide services with reasonable care and skill and to ensure that rooms are fit for their intended purpose. Failure to meet these implied standards may constitute a breach of contract, even where no explicit promise has been made (Poole, 2020).

Online Booking Platforms and Contractual Relationships

The emergence of online travel agencies has significantly altered contractual relationships in tourism. Mason and Bohdanowicz (2020) note that online platforms often act as intermediaries rather than direct service providers, creating ambiguity regarding contractual liability. Tourists may be unsure whether their contract is with the hotel, the platform, or both, particularly when disputes arise over cancellations or refunds.

From a contractual perspective, courts examine the representations made by booking platforms and the extent of their involvement in the transaction. Where platforms present themselves as agents, liability may rest primarily with the accommodation provider. However, where platforms exercise significant control over pricing, booking conditions, and payment processing, they may be considered contractual parties (Dickerson, 2019). This evolving legal landscape highlights the importance of contract law in clarifying responsibilities within digital tourism transactions.

Essential Elements of a Valid Accommodation Contract

The formation of a valid accommodation contract in the tourism industry requires the presence of the essential elements of contract law, namely offer, acceptance, consideration, intention to create legal relations, and capacity (McKendrick, 2021). In hotel bookings, these elements are often embedded within reservation confirmations, booking emails, and online terms and conditions, making the contractual process less formal but equally binding (Poole, 2020).

The **offer** in accommodation contracts is typically made when a hotel or online platform displays available rooms with specified prices, dates, and conditions. While such displays may initially be considered invitations to treat, a formal offer arises once the hotel or platform confirms availability and accepts the booking request (Dickerson, 2019). This distinction is significant in cases involving pricing errors or overbooking, where hotels may attempt to deny contractual liability by claiming that no valid offer was made.

Acceptance occurs when the tourist confirms the booking, usually by providing payment details or completing an online transaction. The rise of digital bookings has simplified acceptance but has also raised concerns regarding informed consent, as tourists may accept terms without fully reviewing them (Mason & Bohdanowicz, 2020). Courts generally uphold electronic acceptance as valid, provided that contractual terms were accessible and clearly presented at the time of booking (Poole, 2020).

Consideration in accommodation contracts typically involves the payment of a booking fee or the promise to pay upon arrival. In some cases, consideration may also include non-refundable deposits or flexible cancellation terms offered by hotels (McKendrick, 2021). The presence of consideration reinforces the enforceability of accommodation contracts, even where services are to be delivered at a future date.

Intention to Create Legal Relations and Capacity

In the context of tourism accommodation, the intention to create legal relations is usually presumed due to the commercial nature of the transaction. Unlike social arrangements, hotel bookings involve monetary exchange and professional service provision, making them legally binding by default (Sharpley, 2018). This presumption is particularly strong where bookings are made through online platforms that clearly outline contractual obligations.

Capacity is another essential element that may give rise to legal challenges in accommodation contracts. Issues may arise where contracts are entered into by minors or individuals lacking legal capacity (Grant & Mason, 2018). While hotels often impose age restrictions on bookings, online platforms may not effectively verify the age of users, increasing the risk of voidable contracts. This highlights the importance of robust verification mechanisms within digital booking systems to ensure contractual validity (Dickerson, 2019).

Types of Accommodation Contracts in Tourism

The tourism accommodation sector relies on various contractual forms, each serving distinct legal and commercial purposes. **Direct hotel booking contracts** are among the most common, establishing a contractual relationship directly between the hotel and the guest. These contracts

typically include terms relating to room type, duration of stay, pricing, cancellation policies, and hotel rules (Poole, 2020).

Another prevalent form is the **online intermediary contract**, where tourists book accommodation through online travel agencies. In such cases, contractual relationships may be split between the tourist and the platform, and between the platform and the hotel. Mason and Bohdanowicz (2020) argue that this fragmented structure often leads to confusion regarding liability when disputes arise, particularly in cases involving cancellations or refunds.

Standard form contracts dominate the accommodation sector, as hotels and platforms rely on pre-drafted terms to manage high booking volumes efficiently. While these contracts promote consistency and operational efficiency, they often limit consumer choice and negotiation (Grant & Mason, 2018). From a contractual perspective, the enforceability of standard terms depends on proper incorporation and reasonable notice to consumers.

Exclusion Clauses and Cancellation Policies

Exclusion clauses and cancellation policies are common features of accommodation contracts in tourism. Hotels often include clauses limiting liability for loss, damage, or inconvenience experienced by guests. The enforceability of such clauses depends on factors such as clarity, fairness, and compliance with statutory requirements (McKendrick, 2021).

Cancellation policies, in particular, have been a major source of contractual disputes in the accommodation sector. Non-refundable bookings may result in financial loss for tourists when travel plans change unexpectedly. Courts increasingly scrutinize such policies to ensure they are transparent and proportionate, particularly where consumers had limited bargaining power (Poole, 2020). This trend reflects a growing emphasis on fairness and reasonableness in tourism contracts (Sharpley, 2018).

METHODOLOGY

Research Approach

This assignment adopts a **doctrinal legal research approach** to examine the role of contract law in regulating accommodation contracts within the tourism industry. Doctrinal research focuses on the analysis of legal rules, principles, and judicial decisions, making it particularly suitable for the study of contractual relationships (McKendrick, 2021).

The research relies on qualitative analysis of secondary sources, including academic textbooks, peer-reviewed journal articles, and legal commentaries. These sources provide theoretical perspectives on contract law and practical insights into its application within the tourism accommodation sector (Dickerson, 2019).

Sources of Data

The primary sources of data include reported case law involving disputes between tourists, hotels, and online booking platforms. Case law analysis is essential in understanding how courts interpret accommodation contracts and allocate liability in complex tourism transactions (Poole, 2020).

Secondary sources, such as industry reports and tourism law publications, are used to contextualize legal principles within broader industry practices. These sources help to illustrate how contractual rules operate in real-world accommodation settings and how they affect both consumers and service providers (Mason & Bohdanowicz, 2020).

Analytical Framework

The analysis is structured around key contractual concepts, including contract formation, performance, breach, and remedies. Each concept is examined in relation to hotel accommodation and online booking contracts to assess the effectiveness of contract law in addressing tourism-related disputes (Grant & Mason, 2018).

By integrating doctrinal analysis with practical examples, the study aims to provide a comprehensive understanding of how contract law functions within the accommodation sector of the tourism industry. This methodological approach ensures that conclusions are grounded in established legal principles while remaining relevant to contemporary tourism practices (Sharpley, 2018).

FINDINGS

Consumer Understanding of Accommodation Contracts

One of the central findings of this study is that tourists often enter into accommodation contracts without fully understanding their legal implications. While hotel bookings and online reservations satisfy the formal requirements of contract formation, consumers frequently overlook detailed contractual terms such as cancellation policies, exclusion clauses, and jurisdiction provisions (Sharpley, 2018). This lack of awareness is particularly evident in online bookings, where contracts are accepted through a single click, often without meaningful engagement with the terms and conditions.

Research suggests that tourists prioritize convenience, price, and location over legal considerations when booking accommodation (Mason & Bohdanowicz, 2020). As a result, disputes commonly arise when hotels enforce strict contractual terms that consumers did not anticipate. Although contract law generally upholds the validity of such agreements, courts have increasingly recognized the need to consider fairness and transparency in accommodation contracts (Poole, 2020).

Performance of Hotel Obligations

Another important finding relates to the performance of contractual obligations by hotels and accommodation providers. While most hotels aim to deliver services in accordance with contractual terms, operational challenges such as overbooking, staffing shortages, and maintenance issues often affect service quality (Dickerson, 2019). Overbooking, in particular, represents a significant source of contractual disputes, as hotels may be unable to honor confirmed reservations.

The study finds that courts generally view confirmed hotel bookings as binding contracts, imposing a duty on hotels to provide the promised accommodation or an equivalent alternative. Failure to do so may constitute a breach of contract, entitling consumers to remedies such as refunds or compensation for additional expenses incurred (McKendrick, 2021). This approach reinforces the contractual responsibility of hotels to manage inventory accurately and communicate transparently with guests.

Online Booking Platforms and Liability

The role of online booking platforms introduces additional complexity into accommodation contracts. The findings indicate that tourists often perceive online platforms as contractual parties, even when platforms claim to act solely as intermediaries (Mason & Bohdanowicz, 2020). This perception is reinforced by platform practices such as processing payments, setting cancellation policies, and providing customer support.

Courts increasingly assess the degree of control exercised by booking platforms when determining contractual liability. Where platforms play an active role in the transaction, they may be held partially responsible for contractual breaches, particularly in cases involving misleading information or failure to process refunds (Poole, 2020). This evolving legal interpretation reflects the changing nature of tourism contracts in the digital age (Dickerson, 2019).

REAL-WORLD CONTRACT DISPUTES IN ACCOMMODATION

Case Study 1: Hotel Overbooking Disputes

Hotel overbooking disputes provide a clear illustration of contractual breach in the tourism industry. In cases where hotels accept more reservations than available rooms, guests may be denied accommodation upon arrival, despite holding confirmed bookings. Courts generally consider such situations to constitute a breach of contract unless the hotel provides suitable alternative accommodation at no additional cost (McKendrick, 2021).

These disputes highlight the importance of clear contractual terms regarding overbooking and relocation policies. While some hotels include clauses allowing for relocation, the enforceability of such clauses depends on whether they were adequately disclosed and whether alternatives offered are reasonable (Poole, 2020). This finding underscores the need for transparency and fairness in accommodation contracts (Sharpley, 2018).

Case Study 2: Cancellation and Refund Conflicts

Cancellation disputes are among the most common contractual conflicts in accommodation tourism. Non-refundable bookings often lead to disputes when tourists are unable to travel due to unforeseen circumstances. Courts typically examine whether cancellation policies were clearly communicated and whether enforcement of such policies is proportionate (Grant & Mason, 2018).

The study finds that ambiguous or hidden cancellation terms are more likely to be challenged successfully by consumers. In contrast, clearly drafted and prominently displayed cancellation policies are generally upheld under contract law (Poole, 2020). This reinforces the principle that transparency is a key factor in determining the enforceability of accommodation contracts (Mason & Bohdanowicz, 2020).

Case Study 3: Misrepresentation of Accommodation Standards

Misrepresentation disputes arise when accommodation fails to match advertised descriptions, such as room size, amenities, or cleanliness standards. Courts have held that inaccurate representations may amount to a breach of contract or misrepresentation, entitling consumers to remedies (Dickerson, 2019). This is particularly relevant in online bookings, where photographs and descriptions heavily influence consumer expectations.

The findings indicate that hotels and platforms must ensure accuracy in marketing materials, as consumers rely on these representations when forming contracts. Failure to do so undermines consumer trust and increases the likelihood of legal disputes (Sharpley, 2018).

REMEDIES UNDER CONTRACT LAW

Damages and Financial Compensation

Damages are the primary remedy for breach of accommodation contracts. Courts aim to compensate tourists for financial losses resulting from non-performance, such as the cost of alternative accommodation or additional travel expenses (McKendrick, 2021). In some cases, damages may also reflect inconvenience or distress caused by the breach, particularly where the purpose of the contract was leisure (Poole, 2020).

However, the assessment of damages in accommodation disputes can be complex, as courts must balance fairness with the need to prevent excessive claims. This complexity highlights the importance of clear contractual terms regarding remedies and liability limitations (Dickerson, 2019).

Termination and Refund Rights

Termination of contract is available where breaches are sufficiently serious to undermine the purpose of the agreement. In accommodation contracts, termination may occur when hotels fail to provide reserved rooms or significantly alter booking conditions (Grant & Mason, 2018). Tourists may be entitled to full or partial refunds, depending on the circumstances and contractual terms.

The study finds that refund disputes are particularly contentious in online bookings, where platforms and hotels may dispute responsibility. Courts increasingly emphasize consumer protection and fairness when resolving such disputes (Poole, 2020).

DISCUSSION

Effectiveness of Contract Law in Accommodation-Based Tourism

The findings of this study indicate that contract law plays a crucial role in regulating accommodation-based tourism by providing a legal framework that governs booking agreements, performance obligations, and remedies for breach. The principles of contract formation ensure that hotel bookings and online reservations are legally binding, while doctrines relating to breach and misrepresentation offer mechanisms for addressing service failures (McKendrick, 2021). In this respect, contract law promotes certainty and predictability in tourism transactions, benefiting both consumers and accommodation providers.

However, the discussion reveals that the practical effectiveness of contract law is limited by structural and informational challenges. Although tourists are legally bound by accommodation contracts, they often lack the knowledge or bargaining power necessary to challenge unfair terms (Sharpley, 2018). This is particularly evident in online bookings, where contracts are formed rapidly and standard terms dominate. As a result, contract law alone may be insufficient to ensure substantive fairness in accommodation contracts without support from consumer protection principles (Poole, 2020).

Standard Form Contracts and Transparency Issues

A major issue highlighted in this study is the dominance of standard form contracts in hotel accommodation and online booking platforms. While such contracts allow hotels and platforms to manage large volumes of bookings efficiently, they also contribute to an imbalance of power between service providers and tourists (Grant & Mason, 2018). Consumers typically have no

opportunity to negotiate terms relating to cancellations, liability, or refunds, which can lead to dissatisfaction and disputes.

Contract law attempts to address these issues through doctrines such as incorporation and reasonableness. Courts have increasingly emphasized the need for clear notice and transparency, particularly where exclusion clauses or strict cancellation policies are involved (McKendrick, 2021). Despite this judicial oversight, many tourists remain unaware of their contractual rights, suggesting that improved disclosure practices and clearer contractual language are necessary to enhance fairness in accommodation contracts (Mason & Bohdanowicz, 2020).

Online Booking Platforms and Evolving Contractual Relationships

The rise of online booking platforms has significantly altered contractual relationships in the tourism accommodation sector. The discussion highlights that traditional distinctions between principals and intermediaries are increasingly blurred, as platforms exert greater control over pricing, payment processing, and booking conditions (Dickerson, 2019). This evolution has prompted courts to reassess contractual liability, particularly where platforms play an active role in shaping consumer expectations.

From a contractual perspective, this shift underscores the adaptability of contract law in responding to technological developments. However, it also raises concerns about jurisdiction, dispute resolution, and enforcement, as online bookings often involve cross-border transactions (Poole, 2020). The discussion suggests that clearer regulatory guidance may be required to complement contract law and address the complexities introduced by digital tourism platforms (Sharpley, 2018).

Implications for Hotels and Accommodation Providers

For hotels and accommodation providers, the findings emphasize the importance of accurate representations and transparent contractual practices. Overbooking, misleading descriptions, and unclear cancellation policies increase the risk of contractual disputes and damage consumer trust (Grant & Mason, 2018). By ensuring that contractual terms are clearly communicated and consistently applied, accommodation providers can reduce legal risk and enhance customer satisfaction.

From a risk management perspective, hotels should regularly review contractual terms to ensure compliance with evolving legal standards and consumer expectations. While exclusion clauses and liability limitations may provide some protection, their enforceability depends on fairness and transparency (McKendrick, 2021). Proactive compliance with contract law principles can therefore support sustainable business practices in the tourism accommodation sector.

CONCLUSION

This assignment has examined the role of contract law within the tourism industry, with particular emphasis on hotel accommodation contracts and the growing influence of online booking platforms. The analysis demonstrates that contract law provides a fundamental legal framework for regulating tourism-related transactions by clearly defining the rights, obligations, and remedies available to the parties involved. In the context of accommodation bookings, contract law ensures that both service providers and consumers are bound by enforceable agreements, thereby promoting legal certainty and transactional security.

A key finding of this study is the importance of the essential elements of a valid contract, including offer, acceptance, consideration, intention to create legal relations, and capacity. These elements ensure the legal validity of hotel booking agreements, whether formed directly with accommodation providers or through online intermediaries. In addition, legal doctrines relating to breach of contract and misrepresentation play a crucial role in addressing service failures, inaccurate descriptions, and unmet expectations, offering tourists appropriate remedies when contractual obligations are not fulfilled.

The analysis further highlights that, despite the protections offered by contract law, its practical effectiveness in the tourism sector is often limited by structural and informational challenges. Standard form contracts, which are commonly used by hotels and online booking platforms, tend to favour service providers and restrict consumers' ability to negotiate terms. This imbalance, combined with unequal bargaining power, may undermine the fairness of contractual relationships and reduce the extent to which tourists can effectively protect their legal interests.

Another significant issue identified is the limited level of consumer awareness regarding contractual rights and obligations. Many tourists enter into accommodation contracts without fully understanding the terms and conditions, cancellation policies, or liability limitations associated with their bookings. This lack of awareness can weaken the practical value of contractual protections and restrict consumers' ability to seek remedies in cases of dispute or service failure.

Judicial decisions have played an important role in addressing these challenges by adapting traditional contract law principles to the realities of modern tourism. Courts have increasingly recognised the contractual responsibilities of hotels and online booking platforms, particularly in relation to information accuracy, service standards, and consumer protection. Such decisions reflect an evolving legal approach that seeks to balance commercial efficiency with fairness and accountability in tourism transactions.

Ultimately, contract law remains a vital mechanism for promoting fairness, transparency, and accountability within the tourism accommodation sector. However, its effectiveness depends on the presence of complementary measures, including clear and accessible contractual drafting, informed and empowered consumers, and supportive regulatory frameworks. By strengthening these elements, the tourism industry can foster a more balanced contractual environment that protects consumer interests while supporting the legitimate commercial objectives of accommodation providers and digital platforms.

REFERENCES

Dickerson, T. A. (2019). *Travel law* (5th ed.). Law Journal Press.

Grant, D., & Mason, P. (2018). *Holiday law: The legal implications of travel and tourism*. Routledge.

Mason, P., & Bohdanowicz, P. (2020). *Tourism impacts, planning and management*. Butterworth-Heinemann.

McKendrick, E. (2021). *Contract law: Text, cases, and materials* (8th ed.). Oxford University Press.

Poole, J. (2020). *Textbook on contract law* (15th ed.). Oxford University Press.

Sharpley, R. (2018). *Tourism, tourists and society* (5th ed.). Routledge.