

## Reviewing the Concept of Libel Tourism in Private International Law

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### Abstract

The conflict of the material or substantive laws of countries in the realm of civil liability, as well as the conflict of the rules of international jurisdiction (conflict of courts) among different countries, has given rise to a phenomenon known as 'libel tourism'. It is a form of abuse of the right to choose a court in the field of cross-border slander, whereby the petitioner initiates a lawsuit in the court of the country that expects to achieve the most favorable result. Libel tourism arises from a confluence between two seemingly contradictory values, freedom of expression and respect for rights related to personality and privacy, across different legal systems. Despite significant legal similarities, the laws of England and the United States follow different rules in this regard, leading to a shift in the location of litigation for numerous lawsuits from one country to another. In a defamation lawsuit, which is the primary battleground between privacy and freedom of expression rights, England has been considered the most desirable country by the plaintiffs to file lawsuits, even earning the title of the "libel capital of the world". What condemns this phenomenon is the attempt to exploit the disturbance between the domestic laws of countries to choose the desired court to hear the lawsuit, as well as the application of the favorable substantive law for winning the lawsuit. This study examines the distinction between libel tourism and forum shopping, analyzes the reasons behind the emergence of this phenomenon, and explores strategies to address it in the legal systems of England, the United States, and the European Union, with a comparative look at Iranian law.

**Keywords:** Libel tourism; Forum shopping; European Union; England; United States.

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### Bibliography

- Barbour, Emily C. "Speech Act: The Federal Response to "Libel Tourism"." *Congressional Research Service (CRS) Report for Congress* (2010): 1-15.
- Bogdańska, Olga. "Libel tourism in the context of press freedom." *Annales Universitatis Mariae Curie-Skłodowska, sectio K–Politologia* 22, no. 1 (2016): 195-212.
- Carrascosa González, Javier. *The Internet: Privacy and Rights Relating to Personality*. Netherlands: Martinus Nijhoff, 2016.
- Civil Law. [In Persian]
- Constitution of the Islamic Republic of Iran. [In Persian]
- E, Klazmer. "The uncertainties of libel tourism, is diplomacy the answer?" *Entertainment Law Review* 23, no. 6 (2012): 160-175.
- European Commission, 2009.
- Hartley, Trevor C. "libel tourism' and conflict of laws." *International and Comparative Law Quarterly* 59, no. 1 (January 2010): 25-38.
- Jütte, Bernd Justin. "AG Bobek suggests limiting jurisdiction for online defamation of legal and natural persons." *EUROPEAN LAW BLOG* (August 2017): 1-10.
- Law on the Procedure of General and Revolutionary Courts (in Civil Matters) 2000-2001. [In Persian]
- Klein, Andrew R. "Some Thoughts on Libel Tourism." *Pepperdine Law Review* 38, no. 2 (2010): 375-391.
- Kramberger, Škerl Jerca. "Jurisdiction in On-Line Defamation and Violations of Privacy: In Search of a Right Balance." *LeXonomica* 9, no. 2 (2017): 87-108.
- Kuipers, Jan-Jaap. "Towards a European Approach in the Cross-Border Infringement of Personality Rights." *German Law Journal* 12, no. 8, (2015): 1-26.
- Mafi, Homayoun, and Rashid Adabi Firouzejahi. "Iran's Courts Competence in the Scope of Private International Law." *Civil Law Knowledge* 3, no. 2 (2015): 48-63. [In Persian]
- Maghsoudi, Reza. "Abuse of Right in Private International Law." *Private Law Research*, no. 12 (2015): 109-129. [In Persian]
- Maghsoudi, Reza. "Jurisdiction Clause in Private International Law." *Criminal Law Research* 1, no. 2 (2011): 143-163. [In Persian]
- Maghsudi Pashaki, Reza. "Forum Non-Conveniens Doctrine in Private

- International Law.” *Journal of Comparative Law* 0, no. 23 (2012): 3-24. [In Persian]
- Martin ,Elizabeth a .*Oxford Dictionary of Law Oxford*. England :Oxford University Press, 2011.
- McFarland, Robert L. “Please Do Not Publish this Article in England: A Jurisdictional Response to Libel Tourism, Mississippi Law Journal, Forthcoming.” *Mississippi Law Journal* 79 (2009): 1-43.
- Mills, Alex.” The law applicable to cross-border defamation on social media: whose law governs free speech in ‘Facebookistan?’” *The Journal of Media Law* 7, no. 1 (2015): 1-35. <https://doi.org/10.1080/17577632.2015.1055942> .
- Mullis Alastair, and Andrew Scott, “Tilting at Windmills: the Defamation Act 2013.” *Modern Law Review* 77, no. 1 (2013): 87-109. <https://10.1111/1468-2230.12057> .
- Nielsen, Peter Arnt. “Choice of Law for Defamation, Privacy Rights and Freedom of Speech.” *Oslo Law Review* 6, no. 1 (May 2019): 32-42. <https://doi.org/10.18261/issn.2387-3299-2019-01-06>.
- Nilsson, Axel. “Personality rights, defamation and the internet.” *Considerations of private international law* (2017): 1-75.
- Regulation (EU) No 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (recast).
- Rendleman, Doug. “Collecting A Libel Tourist's Defamation Judgment.” *Washington and Lee LawReview* 67 (2010): 466-487.
- Rolph, David. “Splendid Isolation: Australia as a Destination for Libel Tourism.” *Australian InternationalLawJournal* 19 (January 2012): 79-95.
- Safaei Moafi, Sayyed Hussein, Reza Maghsoudi, and reza daryae. “Proposing an appropriate international jurisdictional rule for preventing the libel tourism With a comparative study of Iranian and English law.” *Journal of Comparative Law*, Articles in Press, Accepted Manuscript. <https://doi.org/10.22080/lps.2024.23887.1598> [In Persian]
- Sakolciová, Sandra. “Defamation on Social Media: Challenges of private international law.” *Bratislava Law Review* 5, no. 1 (2021): 121-134.
- Salehi Zahabi, Jamal. “Mas'uliyat-e Madani va Qanun-e Hakem bar ān dar Ta'aruz-e Qavānin.” *Iranian Journal of Insurance Research*, no. 67 (Fall 2002): 101-130. [In Persian]
- Sanchez, Thomas. “London, Libel Capital No Longer? The Draft Defamation

- Act 2011 and the Future of Libel Tourism.” *University of New Hampshire Law Review* 9, no. 3 (2011): 468-521.
- Sapna, Kumar. “Website libel and the single publication rule.” *University of Chicago Law Review* 70, no. 2 (2003): 639-662.
- Sharghi, Marzieh, and Parviz Ameri. “Civil liability due to defamation in the common law legal system with an comparative approach in Iran’s law.” *CLR* 23 (Summer 2019): 58-79. [In Persian]
- SmithdeBruin, Michelle. “Ignity Knows No Bounds –Transnational Defamationactions.” *Irishjudicial Studies Journal* 6, no. 2 (2022): 14-29.
- Stewart, Daxton R. *Social Media and the Law: A Guidebook for Communication Students and Professionals*. New yourk: Routledge, 2022.
- Svantesson, Dan Jerker B. *Private International Law and the Internet*. Netherlands: Kluwer Law International, 2016.
- TEKİN, Esra. “LIBEL TOURISM IN PRIVATE INTERNATIONAL LAW.” *Inonu University Law Review* 13, no. 2 (2022): 390-404.
- Vick, Douglas W., and Linda Macpherson. “Anglicizing defamation law in the European Union.” *Virginia Journal of International Law* 36 (1997): 933-999.
- Vische, Frank. “General Course on Private International Law.” *In Collected Courses of the Hague Academy of International Law* 232 (1993): 224-240.
- Warshaw, Aaron. “Uncertainty from Abroad: Rome II and the Choice of Law for Defamation Claims.” *Brooklyn Journal of International Law* 32, no.1 (2006): 268-309.
- Watrous, George D. “Newspaper before the Law.” *YaleLawJournal* 9, no. 1 (October 1899): 1-16.
- Whytock, Christopher A. “The Evolving ForumShopping System.” *Cornell Law Review* 96 (10 March 2011): 480-534. <https://ssrn.com/abstract=1596280>.
- Yanisky, Shlomit Ravid, and Ben Zion Lahav. “Public interest vs. Private lives-affording public figures privacy in the digital era: The three principle filteringmodel.” *University of Pennsylvania Journal of Constitutional Law* 19, no. 5 (2016): 977-1014.