The Academic
International Journal of Multidisciplinary Research

An Online Peer Reviewed / Refereed Journal
Volume 4 | Issue 2 | February 2026
ISSN: 2583-973X (Online), SJIF IF: 5.6
Website: www.theacademic.in

Algorithmic Liability across Borders: Rethinking Conflict of Laws in the Age of Artificial Intelligence

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DOI : https://doi.org/10.5281/zenodo.18941175

ARTICLE DETAILS

Research Paper

Accepted: 24-02-2026

Published: 10-03-2026

Keywords:

Algorithmic Liability, Artificial Intelligence, Conflict of Laws, Cross-Border Torts, Jurisdiction, Private International Law.

ABSTRACT

The transnational application of Artificial Intelligence (AI) framework has revealed substantial systemic limitations in traditional Private International Law. Formulated around geographic linking components, conflict-of-laws doctrines fail to regulate algorithmic operations that are decentralized, analytics-based, and simultaneously operational across multiple jurisdictions. This paper systematically examines insufficiency of classical doctrines especially lex loci delicti and territorial jurisdiction dealing with transnational harm. It determines three principal jurisprudential elements of conflict. First, the geographic identification becomes undefined when function through distributed cloud frameworks, rendering the "place of wrong" theoretically uncertain. Second, identification of responsibility is intricate by stratified architecture regulation including developers, operators, datasets providers, and ultimate recipients conflicting supervisory frameworks. Third, the invocation of the public policy exception risks fragmentation, as national tribunals may challenge validation of foreign standards that contradict with local security or normative frameworks. Through a comparative analysis of evolving regulatory frameworks, involving the European Union Artificial Intelligence Act and jurisdictional standardization initiatives under the Hague Convention on Choice of Court Agreements, this study contends that operative territorial connecting factors are theoretically

ineffective to regulate algorithmic torts. It recommends "functional nexus" framework rooted in control, predictability and locus of significant effect as a more systematic structure for allocating jurisdiction identifying appropriate legal framework. Such a method aims to balance accountability with judicial reliability in a progressively global technological system.

Introduction:

The accelerating incorporation of Artificial Intelligence (AI) into international commercial activity, governance, healthcare, and financial sector has inherently reshaped the framework of transnational activity. Unlike traditional entities functioning within recognizable geographic limits, AI system operates through decentralized systems of datasets analysis, AI-driven decision making, and cloud-based systems that automatically transcend jurisdictional boundaries. As AI-driven systems progressively establish financial reliability, medical assessments, and automated guidance, cross-border harm has developed from a hypothetical circumstance into a systematic characteristic of the digital economic system. This technological change creates substantial challenge to the jurisdictional groundwork on which Private International Law has historically been established.

Conflict-of-laws principles were created to resolve disputes emerging from geographically bounded activity. Doctrines such as lex loci delicti and legal authority in territorial presence assume that unlawful conduct and its implications can be established within a definite judicial framework. Yet data-processed operations regularly occur across diverse jurisdictions: datasets may be obtained in one state, examined in another, and create legally applicable impacts in several others. In such conditions, the "place of wrong" turns into theoretically uncertain, and traditionally associating components risk either jurisdictional overextension or theoretical limitation.

The regulatory framework demonstrates developing realization of these issues. The European Union Artificial Intelligence Act establishes an extensive risk-oriented oversight framework for AI mechanisms, while cooperation mechanisms under Hague Convention on Choice of Court Agreements aim to support cross-border judicial reliability. Nevertheless, these systems remain grounded inn jurisdictional presumptions that do not fully incorporate the obscurity, autonomy, and decentralized framework of advanced AI systems.

This study argues that the inherited mechanisms of Private International Law are limited to regulate algorithmic torts in a logical and reliable approach. It determines three systemic aspects of conflict: (i) the uncertainty of harm positioning, (ii) the division of legal accountability across transnational entities, and (iii) the destabilizing application of the public policy exemption. In response, the research proposes a "functional nexus" method rooted in regulation, predictability and significant effect as a principled foundation for establishing jurisdiction and appropriate law. By reconsidering the jurisdictional framework, this study aims to reconcile algorithmic responsibility with the basic core objectives of legal predictability and equity in an increasingly global technological framework.

The Territorial Foundations of Private International Law:

Private International Law was established as a system for assigning jurisdictional authority and defining applicable law in conflicts involving more than one sovereign statutory framework. Its system remains substantially rooted in the principle of territorial sovereignty, the assumption that each state carries out exclusive administrative jurisdiction within determined territorial limits. Conflict-of-laws principles were therefore historically developed around recognizable associations, enabling courts to attach specific jurisdiction through geographically determinable standards. The traditional rule of lex loci delicti commissi, which employs the law of the place where the tort was committed, exemplifies this jurisdictional reasoning. Influenced by the Vested Rights theory, the doctrine presumes that a cause of action forms at the moment and location of injury, thereby allowing courts to determine a singular "place of the wrong." In classical transnational conflicts, this required differentiating between the place of conduct (lex loci actus) and the place of injury (lex loci damni), differentiations that were usually manageable in a world characterized by physical actions and territorially limited outcomes.

These binding elements functioned not merely procedural operations but reflected normative obligations to certainty, sovereign equality, and inter-state comity. By linking juridical outcomes to spatially bounded occurrences, courts minimized intersecting legal claims of jurisdiction and diminished incentives for deliberate forum selection. Territorial anchoring thus provided a reliable structure within which cross-border conflicts could be determined with proportional assurance.

As cross-border action extended in scope and intricacy, however, fixed geographic principles began to disclose systemic limitations. Mechanical application of lex loci delicti sometimes created consequences that emerged detached from the significant circumstances of the conflict, specifically where action and injury were territorially dispersed or where the parties lacked substantial connection to the place of accident. In response, courts and jurists formulated more adaptable principles, including the proper Law

of the Tort and the "Most Significant Relationship" test formulated in the codification (Second) of Conflict of Laws. These frameworks aimed to identify the legal system holding the closest and most significant link to the conflict by assessing a combination of factors, such as the domiciles of the parties, the core of their relationship, and the position of substantial impacts. This development signified an attempt to balance the necessity for predictability with deliberations of equity and substantive fairness.

Yet even those additional adaptable structures remain theoretically rooted in jurisdictional presumptions. They remain to assume that significant associations can eventually be accumulated and confined within a sovereign state and that conflict can be significantly placed within a definite lawful system. The public policy exemption further demonstrates the territorial alignment of the framework. Functioning as a restorative system, it allows domestic courts to refuse the implementation of foreign law or validation of foreign decisions that violate fundamental principles of the court. While traditionally limited in scope, the principles reinforce the continuing preference of domestic doctrinal coherence. Collectively, these components demonstrate that despite doctrinal development, the intellectual framework of Private International Law continues rooted in a framework of territorially confined authority, a system progressively tested by forms of cross-border action that withstand territorial localization.

The Architecture of Algorithmic Harm:

Algorithmic damage varies in fundamental aspects from traditional tortious harm, both in its systematic arrangement and in its causal mechanisms. Classical tort principle generally assumes a comparatively sequential association between actor, action, and result. Artificial Intelligence systems, by comparison, function through multi-tiered algorithmic operations that allocate resolution across time, territory, and technological framework. AI systems are generally developed on data collections obtained from multiple jurisdictions, calibrated through algorithmic models operated on territorially dispersed cloud systems, and applied in contexts far detached from their primary formation. Consequently, the action that leads to injury cannot be limited to a one action happening within a single jurisdiction. Instead, harm develops from repetitive structure training, probabilistic deduction, and automatic outputs implemented across interconnected technological settings.

This systematic devolution creates a disaggregation of the judicially applicable components of a tort. The information accumulation phase may happen in one jurisdiction regulated by regional data privacy and protection frameworks. Model calibration and streamlining may take place in different, often through cloud-hosted systems that disperse computation across computing unit to increase effectiveness and adaptability. Deployment may occur in a third jurisdiction, where the framework interfaces with

individuals or creates resolutions affecting lawful entitlements and claims. The results of those commercial loss, discriminatory elimination, credibility-based injury, or even physical harm may occur in yet another jurisdiction. When each element of the causal sequence is territorially distinct yet technically interconnected, the traditional analysis into the "place of the Wrong" turns conceptually uncertain.

Further intricacy emerges from the obscurity and semi-autonomous operation of many AI mechanisms. Machine algorithmic frameworks, especially those deploying advanced neural systems, often function through internal analysis operations that are not readily comprehensible, even by their developers. From a conflict-of-laws framework, this opacity obstructs allocation of legally applicable action. Perhaps obligated actors may encompass the network architect, the organization that complied or contributed training data, the corporation that implemented the model in commercial operations, or the operator who relied upon its outcome. These actors are often incorporated, domiciled, or operational in diverse jurisdictions, each bound to separate obligation frameworks and administrative standards. The diffusion of liability across cross-border distribution networks challenges the presumption that liability can be logically confined within a single sovereign statutory framework.

Moreover, algorithmic damage often lacks a distinct chronological moment of happening. Unlike traditional incidents, AI-driven damage might arise progressively through recurring automatic resolutions, such as prejudiced financial rating, discriminatory suggestion, or structurally distorted risk evaluations. Harm may develop progressively, yet its consequences can be reiterated immediately and at a scope across legal systems. This sequential decentralization challenges the use of associating components that rely upon determining a definite point in time of injury or a clearly confined development.

The framework of AI-driven systems thus undermines the foundational principles upon which jurisdictional dispute was created. When action is decentralized, attribution stochastic and effect multi-jurisdictional, the attempt to fix a conflict within a single territorial point becomes continuously stressed. The consequent unpredictability is not merely procedural but systemic, creating fundamental issues regarding the appropriateness of established principles in resolving transnational algorithmic injury. These conflicts materialize in particular legal liability areas, injury confinement, fragmentation of obligation, and difference in societal regulation, which require detailed analysis.

Structural Points of Friction in Cross-Border Algorithmic Torts:

While the preceding examination the technical framework of AI-driven mechanisms, the present section shifts to legal outcomes that architecture within Private International Law. The first and foremost pressing conflict concerns the positioning of injury. Traditional tort conflict-of-law doctrines often depend on lex loci damni, the law of the place where harm takes place, as the principle associating component. This principle presupposes that harm can be territorially positioned within a definite geographic area. In algorithmic conflicts, however injury often emerges through dispersed digital operations that do not align to a singular physical incident. Economic detriment, exclusionary marginalization or credibility deterioration created by algorithmic mechanisms may be perceived in one territory while the operational procedures leading to that effect were performed across several others. The action to determine a single site of injury in such cases jeopardizes structural conceptualization, as the harm is the collective outcome of transnational algorithmic operations rather than a geographically restricted action.

A second aspect of conflict arises from the propagation of accountability across various stakeholders involved in the planning, development, and implementation of AI systems. Traditional conflict-of-laws analysis assumes that a legally applicable action can be assigned to a determinable agent within a specific jurisdiction. In the context of machine learning mechanisms, however, outputs often arise from recurring development, data interrelations and flexible adjustments that go beyond the control of any individual member. Developers may formulate framework system in one jurisdiction; data distributors may operate in another framework operations may be made in yet different jurisdiction. Each of these participants may be governed to different obligation criteria ranging from rigid to fault-based systems or statutory protection. This choice of operative law therefore contains significant consequences for the distribution of accountability. Without a reasoned associating component, courts face either mandating cross-border statutory norms or conceding to frameworks that provide proportionally constrained obligation.

These challenges are further increased by deviation in domestic statutory frameworks to AI administration. As legal systems specify differing limits for accountability, interpretability, risk analysis and safety adherence, the public policy exception (ordre public) obtains reinforced importance. Domestic courts may be predisposed to reject the use of foreign legislation that falls under domestically recognized standards of security, especially where AI-driven decisions involve fundamental rights or consumer protections. While acts as essential guarantee of constitutional coherence, its amplified application in technologically complicated conflicts may lead to statutory division. The concurrence of globally

integrated AI frameworks with geographically distinct normative standards creates conflict between standardization and sovereign autonomy.

Taken together, the uncertainty of damage identification, the distribution of responsibility across cross-border actors, and the difference of Pubic Policy systems expose the systemic limitations of geographically rooted conflict principles in resolving algorithmic torts. These conflicts emphasize the insufficiency of geographic congruence as the sole structuring standard for jurisdiction and relevant statute. If AI-driven damage cannot be logically established within an individual geographic connection, then Private International Law requires a realigned structure qualified of accounting for decentralized cause and transnational consequence. It is in response to this obligation that the functional nexus method is proposed in the next section.

Toward a Functional Nexus Approach:

Territorially grounded associating factors are progressively insufficient to regulate transnational AI-related torts. Relinquishing the fundamental obligations of Private International Law judicial predictability, sovereign uniformity and structured judicial determinations would, nevertheless, risk more significant uncertainty. A theoretical restructuring is essential: one that incorporates decentralized influence while maintaining territorial consistency. The "functional nexus" structure provides such a different approach, redirecting the focus from territorial correspondence to systematically substantial associations between an AI mechanism and a jurisdiction.

Jurisdiction under this framework is defined by three interconnected standards: Control, predictability and Substantial impact.

Control determines the locus of operative decision-making power over the artificial intelligence system's structure, development, adjustment, and implementation. Jurisdictions in which actors apply substantial impact over danger framework through dataset choice system, configuration specifications, safety standards or operationalization determinations hold a persuasive justification to statutory authority. Unlike data server location, or incidental information transfer, which are technically conditional, authority signifies the functional capacity to prevent modify or minimize injury, coordinating judicial liability with oversight authority rather than technological chance.

Foreseeability assesses whether transnational consequences were rationally anticipated or deliberately focused within a specific legal system. This corresponds with "directing" principles in technological commercial jurisprudence: when AI frameworks are formulated for a particular market calibrated for a

delineated user base, or developed on domestically sourced information, ensuing injuries cannot be considered as jurisdictionally incidental. Incorporating foreseeability assures responsibility and prevents actors from encountering unpredictable legal accountability.

Significant impact maintains jurisdictional justifications are equitable. The damage within the court must be substantial, and lawfully actionable. While AI frameworks may operate transnationally, their most consequential, such as threats to economic stability, consumer rights or labour frameworks, typically accumulate in recognizable legal systems. Mandating substantiated impact obstructs limitless assertions while acknowledging the centralized gravity of technological injury.

Collectively, these standards recalibrate jurisdiction with functional reality, maintaining certainty and equity without depending on simulated geographic alignment. The functional nexus framework reduces inducements for statutory arbitrage, alleviates overreach, and provides a systematic model for harmonizing AI-driven obligation with the enduring purposes of organized coexistence between supreme judicial structures.

Conclusion:

The emergence of artificial intelligence has challenged the geographic groundwork upon which Private International Law was established. For over a century, the domain functioned on the assumption that tortious action might be confined within a singular identifiable jurisdiction. As this research has illustrated, the dispersed framework of algorithmic mechanisms defined by decentralized data streams, obscure operation systems, and diffused links of influence results in established associating components such as lex loci delicti progressively simulated. Attempts to restrict transnational algorithmic code within geographically rigid systems have generated organizational conflict emerging in territorial uncertainty, segmented responsibility and the increasing application of public policy exemptions that risk more segmenting the worldwide technological framework.

The functional nexus method developed in this study provides a reasoned modification rather than a normative disruption. By redirecting the systematic orientation from territorial concurrence to associative standards - control, foreseeability, and substantial impact – the structure coordinates with the functional conditions of technological control. It maintains the discipline’s basic obligations to certainty and sovereign uniformity while recognizing that supervisory justification in the digital era arises from significant administration ability and concrete communal outcome.

Significantly, this model does not support unlimited cross-border jurisdiction. Its organized standards restrict territorial overreach and reduce incentives for supervisory regulatory evasion. At the same time, it lowers the imposed structure of cloud based territorial anchoring and provides courts with a systematic procedural discourse for confronting decentralized injury. In doing so, it places Private International Law within the organizational conditions of digitally structured interaction without relinquishing jurisprudential coherence.

The future of transnational adjudication in the period of artificial intelligence will rely on the discipline's capacity to progress without relinquishing its essential standards. Territorially once functioned as a credible proxy for supervisory authority. In the AI-driven era, that substitute no longer holds. A supranational model based in operational linkage rather than territorial coincidence provides a mechanism to harmonizing transnational technical consolidation with liable legal oversight. By fixing accountability in operative control, deliberate participation and substantial effect, Private International Law can continue not only significant but influential in determining the parameters of algorithmic liability across boundaries.

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