



NAVIGATING JURISDICTIONAL COMPLEXITIES IN CROSS-BORDER DISPUTES: A REVIEW OF THE AREAS OF THE PRIVATE INTERNATIONAL LAW IN PAKISTAN

*Yasir Munir**

ABSTRACT

This paper is a research on jurisdictional issues in international conflict in Pakistani private international law. It begins with an explanation of jurisdiction and an insistence on the fact that it is not a clear-cut concept, and may be defined in many ways depending on the context of the legal system under consideration. Globalization serves to strengthen cross-border interactions, but the complicated nature of differences in legal frameworks and etiquette poses severe challenges to Pakistan to amicably settle these agreements. The research evaluates the way, jurisdiction, choice of law, recognition, and enforcement of decisions, the four principal issues of PIL overcome these difficulties. It ascertains the special issues arising from overlapping jurisdictions, influences of international conventions, and the real issues in the method of enforcement of awards and judgments in Pakistan where the civil code is blended with the Sharia law. The effects of historical, legal, and cultural considerations that underpin jurisdictional issues in Pakistan are also brought out where and when required particularly because of the strategic location. Furthermore, it aims to offer the prescription for the enhancement of legal systems in Pakistan and offer different perspectives of different policies to

* Yasir Munir, PhD Law (Scholar) Southwest University of Political Science and Law (SWUPL), Chongqing China.

achieve justice, equity, and fairness in international relations conflict. To address issues of jurisdiction and in the long run foster cross-border business and relations the paper seeks to advocate for judicial cooperation, and adherence to international norms and outline ways of ADR. This study is relevant to those in the capacity of academics or practitioners or involved in legislative processes focusing on international legal relations and conflict settlement in the contemporary legal framework.

Key Words: Cross-Border, Private International Law, Jurisdictional Challenges, Pakistan, Dispute.

INTRODUCTION

The word “juridictio” comes directly from the Latin “juris,” which is formed of the words “jus,” which is the genitive of “jus,” which means law, and “dictio,” which means “act of saying.” Accordingly, jurisdiction is the act of stating what the law is. ‘jurisdiction is a phrase that is employed in several senses and takes the color from its context, even though its etymology is apparent.’¹ “Jurisdiction remains a notoriously slippery term,” as Park aptly puts it. Diverse statutes utilize distinct terminology and differing conceptual categorizations to arrange grounds for challenges to jurisdiction.’² Because major areas of relationships, trade, and communication are between different countries in today’s society; our societies refer other related issues to be resolved through third parties, beyond the borders of a particular state. National to national can be taken to mean that learning occurs in one country, and then in another. They give rise to questions concerning interactions as well as conflicts between various legal traditions and systems in international and transnational contexts and difficult propose solutions to such questions with the help of principles of private international law. You disclose studying the problems of transnational legal relations and considering the conflicts of jurisdictions in cases with interested Parties as far as the geographical and economic position of Pakistan as a country dissected by principal currents. It may be said that the main objective of private international law is to ascertain an appropriate resolution to conflict of national and personal interest of

¹ F. Varesis, *Private International Law and Arbitral Jurisdiction*, Routledge (2022).

² W. W. Park, *The Arbitrator’s Jurisdiction to Determine Jurisdiction 55 (21) ICCA Congress Series*, (March, 2007).

states, individuals and others where ever such conflict might arise out from transactions or disputes which are international. The general headings in private international law are: Jurisdiction, Choice of law, Recognition of the law and Enforcement of the decision. It serves as a frame work for the resolution of disputes, which may emanate from the variation in the legal systems that have been implemented in the different areas. This paper intends to consider the rationale that places Pakistan in the league of countries of the world that apply private international law due to the several legal interactions that are in the country which has a long coming of age when it comes to law. The role of jurisdictional issues cannot be ruled out while regulating disputes at the international level observed under the dome of the law in the case of Pakistan where the war has proved the fact by intermingling of the cultural, legal, and historical aspects. The progressive acceleration of the process of globalization and the technological revolutions pose serious challenges to the 'spaces' of jurisdiction and the sovereignty of territories that are pushing the change in the practice of transnational legal relations requiring the knowledge of the dynamics of this aspect. Therefore, the present research aims at identifying as well as analyzing the different facets of jurisdictional matters when it comes to international disputes with special reference to Pakistani private international law. Governed by theoretical and legal factors, this research tries to describe the process of international conflict-solving under Pakistani law through the analysis of judicial decisions and prospective operational consequences. Therefore, the present study aims to; Namely. Its work is the theoretical and intellectual approach to jurisdiction in private international law and the significance of it in the general system of international law. Secondly, this research study aims to evaluate the regulatory legal systems regarding jurisdiction in the client country, Pakistan; including the laws that govern the statutes, the precedents set by cases, and the treaties that govern the private international law in Pakistan. In addition, this research aims to explicate and analyze the design of jurisdiction function of interparty international disputes including conflicting jurisdictions and their effects such as forum shopping, and power dynamics. Therefore, in this paper to highlight the jurisprudence of jurisdictional matters and their emergence in Pakistan concerning principles

of legal practice in international forums we need to use reading over-achievement of some examples of the said affair especially the latest advancement of the doctrinal systematic. The themes of this research primarily revolve around the goal of getting an insight into the issues of jurisdiction while dealing with cross-border disputes under the law of Pakistan. Thus, it would disseminate informative information to scholars, practitioners, policymakers, and any other party that may be involved in negotiating and resolving transnational conflicts. It is, therefore, the sincere wish of the author of the present work, that tries to offer a critical attempt to do an analysis of the practice area of Private International Law in Pakistan and provide for a multidisciplinary discussion on the same and along with this having attempted to follow the traditions of imprinting practice and theory and therefore, offering a practical analysis of the subject that the present piece of work may bring light over the practice issues.

BACKGROUND AND CONTEXT OF CROSS-BORDER DISPUTES

Trade and/or friendly relations between governments can lead to regional cross-border coordination and collaboration³. With trade, communication and human interaction becoming increasingly globalized, cross-border disputes are taking up a significant share of today's legal problems. These disputes revolve around a variety of issues including contracts, patents, international trade and investment, and private matters. Cross-border disputes in the framework of Private International Law present unique challenges that require the application of specific legal concepts and methods for their resolution. The growth in cross-border trade and relationships signifies how interconnected the world is now going beyond traditional notions of territorial sovereignty and jurisdictional boundaries. In an era characterized by rapid technological progress and economic integration, people, businesses as well and governments engage with one another across borders resulting in complex rules that then lead to complicated legal matters or conflicts. Different legal systems, cultural diversity, and geopolitical factors are just some of the many variables that shape the landscape within which cross-border disputes occur. Most often,

³ E. Brunet-Jailly, Cross-border cooperation: a global overview, 47(1) *Alternatives* 3 (2022).

these disputes involve parties spread over several countries each with its own body of laws customs, etc., thereby necessitating a comprehensive understanding of private international law principles that seek to harmonize. This is important in the examination of jurisdictional concerns arising from cross-border Pakistani law. Pakistan's legal system is a combination of common law, Islamic law, and statutes which makes it different from private international law practice. Moreover, how jurisdictional issues are addressed and the way cross-border disputes are resolved have been impacted by treaties, conventions, and bilateral agreements that Pakistan has entered with other states. These relationships also affect how jurisdictional rules are applied as well as the resolution of cross-border conflicts. The corpus of Pakistani jurisprudence on conflict of laws that is influenced by statutory provisions, constitutional mandates, and principles of fairness is being built up thus creating a sound basis for resolving jurisdictional disputes relating to transnational cases. Finally, analyzing variations in what determines jurisdiction in cross-border disputes given Pakistani conflict laws brings out complexities involved in global legal practice while easing mediation between neighbors over territorial boundaries too. This study looks at theoretical frameworks, legal doctrines, judicial precedents, and practical ramifications in an attempt to shed light on the intricate nature of cross-border disputes and the role that private international law plays in navigating the complexity of the modern legal landscape.

SIGNIFICANCE OF JURISDICTIONAL CHALLENGES IN PRIVATE INTERNATIONAL LAW

One crucial area of international law is the regulation of state jurisdiction⁴. The exercise of jurisdiction by states is the primary way they declare their public and sovereign power, thereby differentiating them from organizations that are subject to private laws. State's exercise of jurisdiction involves all its public authority like criminal proceedings and trials, right to compensation, trade barriers, taxes as well as other acts permitted or forbidden by international law. In Pakistan, where divergent

⁴ A. Mills, Rethinking jurisdiction in international law, 84(1) *British Yearbook of International Law* 188 (2013).

legal systems, cultural norms, and geopolitical dynamics converge, jurisdictional concerns in private international law play an important role, especially in cross-border disputes. These challenges must be acknowledged to ensure fair and expeditious dispute resolution across borders and also master multijurisdictional practice complexities. Examining Private International Law in Pakistan. Legal Certainty and Predictability: This refers to a framework that indicates which court or legal system has the right to resolve disputes between parties from different countries. Parties' clear understanding of their rights and obligations under uniformly applied jurisdictions leads to informed choices for international dispute settlements promoting legal certainty among other things. The due process rights of the litigants are protected by jurisdictional issues, to make sure court proceedings can take place in a forum that would provide a fair decision-making process. Private international law creates jurisdictional criteria based on equitable and just standards to stop forum shopping and abuse of forum non conveniens, which helps to maintain the integrity of the legal system. Cross-border dispute resolution requires judicial resources to be both effective and efficient, avoiding duplication or contradiction. A failure or an inadequacy of the process could affect the economy and society. Jurisdictional issues play an important role in promoting judicial efficiency to consolidate related claims and streamline the legal process. When a global business dispute ends up in litigation in courts of different jurisdictions, a failure or an inadequacy of the legal process will affect the economy and society. The jurisdictional issues show the national sovereignty as well as the autonomy of the legal system in defining the boundaries of jurisdiction. In other words, by maintaining the legal system's purity, private international law helps to protect the state's national sovereignty. These initiatives could be of potential help in maintaining further uninterrupted state cooperation and mutual respect. Or, again, there will be some things that the participants are not going to be able to argue about since in one state it is legal to do certain things while in another state some things are seen as improper. There should be no repetition or inconsistency in the process and efficient use of court facilities to deal with transnational situations. Jurisdictional issues are critical in enhancing judicial effectiveness since they allow joined cases that are

similar, enhance the legal processes, and do not waste time and money on several litigation forums. In jurisdictional problems, the notion of nation-state and legal systems' independence and freedom in defining their domains of jurisdiction is underlined. Private international law safeguards national authority and laws, leading to mutual support by the nation-states. This reduces the chances of conflict as different societies have varied traditions and 'law' approaches. Thus, conversational, cooperative, and mutual relations between legal systems are promoted by jurisdictional questions, and legal provisions and procedures are facilitated and improved between jurisdictions. Civil international law fosters goodwill among nations and a single legal system throughout the world by enforcing foreign judgments, treaties, and conventions.

In other words, jurisdictional issues in private international law matter because they preserve human rights and public interest, legal clarity, judicial efficiency, national sovereignty, international business and investment flow, and legal convergence of court practices and procedures. In dealing with cross-border issues and formulating approaches for solving problems in the legal system of Pakistan, transnational legal practice has to embrace justice, equity, and reasonableness as guiding principles.

CONCEPTUAL OVERVIEW OF JURISDICTION IN PRIVATE INTERNATIONAL LAW

First, it is used in a normative or prescriptive sense to connote the right of States (to make it clear: the legislative and executive branches of States) to make laws as well as formulate regulations to be enforced within them. Second, it signifies the right to have these laws enforced. And, third, it stands for the power that naturally emanates from the first two powers; namely, the right that courts, or other peremptory or adjudicatory bodies, governmental and non-governmental alike, have to make decisions on cases they are called by the law to adjudicate⁵. The cornerstone of private international law is jurisdiction, or the power of courts and legal systems to decide on whether matters may be handled outside national borders. To address these many challenges of international

⁵ F. Varesis, *Regulating Arbitral Jurisdiction: A Private International Law Proposal*, Doctoral dissertation, 1-2 (2020).

legal practice in the field of managing disputes that transcend national borders, it is necessary to start from the rationale basis of one key pillar for virtually every branch of law: jurisdiction. In this connection, Dicey says that within any particular region, an English court is bound to answer two questions: first, if the court claims jurisdiction to hear cases of the relevant sort, then it must determine which law to apply to those cases. The wrap-up will give you well-rounded information on the jurisdiction concept in terms of private international law⁶. Jurisdiction, which grants courts and legal systems the authority to choose whether matters can be handled outside of national borders, is the cornerstone of private international law. Understanding the conceptual underpinnings of jurisdiction is essential to navigating the challenges of international legal practice in the context of cross-border disputes. Dicey states that in this particular area, an English court must respond to two inquiries: first if it is found to have jurisdiction to decide cases of the proper kind, it must select which law to apply to those cases.

Territorial Sovereignty and Jurisdictional Competence

A State's ability to use specific of its powers is known as jurisdiction. Similar to all other aspects of sovereignty, this liberty is primarily dependent on the question of entitlement⁷. Jurisdiction, which is the capacity of a state to exercise authority and control inside its borders, is intimately associated with territorial sovereignty. Within its borders, a state with territorial jurisdiction has the power to enforce laws, regulate behavior, and resolve disputes. However, in certain circumstances where it transcends territorial borders, the exercise of jurisdiction may give rise to extraterritorial jurisdiction and conflicts of laws.

Territorial

Sovereignty Traditionally, analysis of jurisdiction has been seen as inextricably tied to the idea of sovereignty⁸. The relationship between jurisdiction and sovereignty is, for the most part, evident, unavoidable,

⁶ A. V. Dicey, *A Digest of the Law of England with Reference to the Conflict of Laws* 2 (Stevens and sons, Limited, 1896).

⁷ F. A. Mann, *The doctrine of jurisdiction in international law* 456 (1964).

⁸ F. Varesis, *Regulating Arbitral Jurisdiction: A Private International Law Proposal*, Doctoral dissertation 3 (2020).

and nearly platitudinous, since a State's jurisdiction is a necessary component of its sovereignty⁹. Territorial sovereignty is the exclusive authority granted to a state to exercise power and force inside its boundaries. It stands for the notion that each state should be allowed to manage its affairs, enact laws, and regulate behavior within its borders without interference from other parties. Territorial sovereignty, the cornerstone of international law, provides the basis for the formulation and enforcement of domestic laws. Generally speaking, jurisdiction is linked to the idea of sovereignty as well as the boundaries of a state, both internal and external¹⁰. Overall, "the idea of territorial sovereignty has evolved into a helpful metaphor for a communication system"¹¹.

In the context of cross-border conflicts, territorial sovereignty refers to the extent of a state's legal authority to make decisions and enforce laws. Courts have jurisdiction over events that occur within their boundaries, according to the norms of sovereignty, comity, and international law. Territorial sovereignty, however, may extend beyond national boundaries in certain circumstances, such as those involving extraterritorial jurisdiction or transnational actions that materially impact a state's interests.

Jurisdictional Competence:

Jurisdictional competence as a result, means the legal capacity of a given court or judicial system in the country, legislative or otherwise to make determinations on given cases and make resolutions within the jurisdictional limits as provided. The authority given to a court by force of law to hear, decide or pronounce a case is called jurisdiction. In public law it necessarily involves the capacity to resolve matters under dispute, to compel adherence to deciding on a solution and punishing compliance or non-compliance with the decision through application of a law that prescribes the process. Matters jurisdictional competence can play a very significant role, in the running of a court and to an appropriate approach of the numerous types of legal issues that arise from time to time. In

⁹ H. L. Buxbaum, Territory, territoriality, and the resolution of jurisdictional conflict, 57(3) *The American Journal of Comparative Law* 632(2009).

¹⁰ R. Y. Jennings, *General course on principles of international law*, 516 (RdC, 1967).

¹¹ H. G. Maier, Jurisdictional rules in customary international law, *Extraterritorial Jurisdiction in Theory and Practice* 64 and 67(1996).

private international law the following matter may be said to comprise the fragments of jurisdictional competence and these are; Territorial Sovereignty, Subject Matter Jurisdictione, Person Jurisdiction and Procedural standards. Gradually with the type of claim being the first criterion, the degree of connection of the parties to the jurisdiction and the location of them progressively became the second criterion for accepting the case. Also, it could be empowered or limited according to the statute treaty or the court order depending on what the legal system of the given jurisdiction supports.

Jurisdictional competence in Pakistan, like in most of the common law countries is limited and statutory as outlined in the Civil Procedure Code and other enabling statutes, rules of court, and treaties. The courts of Pakistan work in the jurisdictions stated above and with the help of principles of justice administration, justice, and due process they have got jurisdiction over the stated cases. Nonetheless, legal controls and preventive shields adhere to the sovereignty for enforcing exclusive territorial authority to prevent abuse and vindicate the rights of the plaintiff. Hence, it can be stated that in the context of private international law, the notions of territorial sovereignty and jurisdictional competence can be identified as the key principles, that influence the nature of a particular given legal authority and the determination of cross-legal conflict. It is thus advisable for one to understand some of these ideas any time that he or she faces jurisdictional matters within the umbrella of Pakistani law and those arising out of the application of International law in this country. Pakistan can efficiently navigate jurisdictional barriers in cross-border conflicts and promote the rule of law by upholding the values of sovereignty, justice, and respect for international

Bases of Jurisdiction in Cross-Border Disputes

Bases of Jurisdiction: In the context of “Jurisdictional Challenges in Cross-Border Disputes: A Study of Private International Law in Pakistan,” understanding the various forms of jurisdiction is necessary to navigate the complexities of transnational legal practice. The term “basis of jurisdiction” refers to the legal principles and norms that courts invoke

to assert their authority to resolve disputes involving parties from different jurisdictions. The relevant jurisdictional basis is described in detail below.

Territorial Jurisdiction: As per the extensively accepted account of the emergence and decline of territorial jurisdiction, the territorial state and territorial jurisdiction first appeared in the 17th century. Based on an alleged peace treaty from 1648, territorial governments established an interlocking territorial international order known as the Westphalian order¹². Since managing state matters within one's territory is axiomatic, many academics would concur that territorial jurisdiction is the most fundamental, evident, and uncontested instance of the state exercising its authority¹³. Courts have the authority to handle cases that originate within their boundaries in line, with the principles of sovereignty and comity. The idea that a court can make decisions on matters arising within its jurisdiction is fundamental to jurisdiction. In border disputes territorial jurisdiction is determined by the physical presence of the defendant or the basis of the legal claim. Courts can exercise jurisdiction over incidents that take place within their territory guided by principles of sovereignty and comity. In Pakistan territorial jurisdiction is regulated by laws like the Civil Procedure Code, which defines the extent of court authority and procedures for initiating proceedings within Pakistan's borders. Typically cases closely linked to Pakistan—such, as agreements made or crimes committed there—are dealt with under this framework.

Subject Matter Jurisdiction: Legal disagreements, about topics like torts, contracts, family law and property can be brought before courts. Subject matter jurisdiction refers to a courts ability to handle and make decisions on cases related to claims or areas of law. In disputes the scope of subject matter jurisdiction may vary based on the type of claim such as contracts, torts, property rights, family law matters or intellectual property disputes. Pakistani courts have the authority to handle a range of matters including family issues, criminal cases, commercial disputes and civil conflicts as outlined in relevant laws and procedural rules. The

¹² P. D. Szigeti, *The illusion of territorial jurisdiction*, 52 *Tex. Int'l LJ* 370 (2017).

¹³ A. Orakhelashvili, *State jurisdiction in international law: complexities of a basic concept*, in *Research Handbook on Jurisdiction and Immunities in International Law* 23 (Edward Elgar Publishing, 2015).

jurisdictional competence of courts is determined by the nature and scope of the issue, at hand to ensure they have the necessary expertise and power to resolve cases within their limits.

Personal Jurisdiction: A court may assert jurisdiction over an individual or object based on that individual or object's actual or prospective presence within the jurisdiction, as well as their residency, consent, or other pertinent circumstances. Personal jurisdiction, also referred to as jurisdiction over the person, is the power vested in a court to impose its will on parties or individuals involved in a legal dispute. Personal jurisdiction may be established based on the defendant's location, place of agreement to jurisdiction, or other pertinent elements that generate adequate contact with the forum state. Personal jurisdiction may be established in cross-border cases where the defendant is physically present within Pakistani borders, conducts business there, engages in other activities, or voluntarily submits to the jurisdiction of Pakistani courts. If a non-resident defendant's interactions or actions within Pakistan grant Pakistani courts personal jurisdiction over them, they may do so provided that international law, due process, and equity requirements are adhered to in the exercise of that jurisdiction.

Challenges to Jurisdiction: Dominance issues can arise from cross-border disputes due to competing legal claims, inconvenient forums, and other reasons. Courts have several considerations when determining whether to grant or refuse jurisdiction over a particular dispute, some of which are the parties' convenience, the interests of justice, and the judicial economy. In addition, the principles of international comity and reciprocity, which foster harmony and respect between legal systems, serve as a framework for resolving disputes over jurisdiction.

Conflicts of Laws: One of the primary barriers to jurisdiction in cross-border disputes is conflicts of laws, when the laws of many jurisdictions may apply to the same topic. In cases where the disputing parties are subject to various legal systems, it can be difficult to determine which jurisdiction's laws should be used to settle the issue. We refer to

this as a clash of laws. Conflicts of laws may give rise to forum shopping, in which parties search for nations with favorable legal frameworks or administrative practices.

Competing Jurisdictional Claims: When many courts assert their authority to decide the same case, it can lead to legal confusion and jurisdictional problems. Competing jurisdictional claims may arise from conflicting forum selection agreements, overlapping territorial jurisdictions, or different courts' interpretations of jurisdictional rules. Competing jurisdictional claims have the potential to undermine the fairness and efficiency of the legal system, resulting in erratic rulings, drawn-out legal proceedings, and increased litigation expenses.

Forum Non-Convenience: If a court determines that another forum would be more appropriate and practical for settling the dispute, it may refuse jurisdiction over the matter under a common law principle known as forum non-convenient. The non-convenient idea of the forum is based on the principles of justice, judicial economy, and fairness. Courts may consider several factors, such as the parties' convenience, the availability of other forums, and the whereabouts of witnesses and evidence while determining whether to refuse jurisdiction on the basis that the forum is not convenient.

International Comity: The notion of international comity concerns the mutual respect and cooperation among sovereign states in the formulation of legislation and the resolution of disputes. To preserve international comity, courts must honor the interests of other jurisdictions and abstain from unnecessarily interfering with their jurisdictional power. Courts may decline to hear a case or submit to the jurisdiction of foreign courts by the standards of international comity, especially in situations where the case includes cross-border issues with significant international implications.

Recognition and Enforcement of Foreign Judgments: Act of 2011 rules will no longer govern enforcement; instead, the Code of Civil Procedure (CPC) shall be used. Pakistan may carry out a foreign judgment

by the guidelines in section 44-A of the Criminal Procedure Code¹⁴. The legal framework of private international law ensures that decisions made by courts in one nation are followed by courts in other nations by controlling the reception and application of foreign judgments. The principles of comity, reciprocity, and procedural fairness, which promote respect for one another's decisions in sister courts and international cooperation in the administration of justice, serve as the foundation for the recognition and enforcement mechanism. Understanding the conceptual framework of jurisdiction in private international law is necessary to navigate the complexities of transnational legal practice and resolve jurisdictional difficulties in cross-border disputes in Pakistan. By elucidating the concepts of territorial sovereignty, bases of jurisdiction, party autonomy, challenges to jurisdiction, and recognition of foreign judgments, this conceptual overview provides a solid foundation for analyzing the jurisdictional landscape within the Pakistani legal system and its implications for the resolution of cross-border disputes.

Jurisdictional Challenges in Cross-Border Disputes

Cross-border disputes provide unique challenges in the area of private international law, particularly with regard to jurisdictional issues. Like in many other places, Pakistani law, international treaties, and court rulings must all be thoroughly understood in order to navigate these issues. The goal of this research is to examine, within the context of Pakistani private international law, the complexity of jurisdictional concerns in international conflicts.

Complexity of Jurisdictional Rules: Cross-border disputes sometimes entail multiple jurisdictions, each with its own set of rules and regulations. Choosing the appropriate venue for a dispute can be challenging when there are differences in the parties' nationalities, locations, and contractual obligations.

Conflict of Laws: A situation when there are conflicting rules and regulations from multiple jurisdictions about legal concerns is called a

¹⁴ M. Afzal, S. A. Mushtaq, & Z. M. K. Shaerwani, The doctrine of international comity: issues Law of Recognition and Enforcement of foreign Judgments in the context of Pakistan, 5(2) Journal of Law & Social Studies, p. 263.

conflict of laws. Pakistani courts struggle to decide which laws should apply in a certain scenario and to reconcile conflicting legal principles.

Territorial and Subject Matter Jurisdiction: Territorial jurisdiction is the area that a court has the authority to adjudicate cases within. Deciding which territory has authority over events or activities that occur across multiple jurisdictions becomes complicated. Subject matter jurisdiction refers to the kind of cases or legal matters that a court has the authority to hear and decide. It can be challenging to determine which court has subject matter jurisdiction over cross-border disputes, particularly when there are complex corporate transactions or difficulties involving international trade.

Personal Jurisdiction: Personal jurisdiction is the power a court has over the parties involved in a dispute. Establishing personal jurisdiction in cross-border issues often requires intricate assessments of the defendant's relationships to the jurisdiction, including place of residence, commercial activity, and assent to jurisdiction. Establishing personal jurisdiction over foreign defendants in Pakistani courts can be challenging, especially if the defendants don't live in Pakistan but yet participate in transactions or activities that fall under the jurisdiction's purview.

Forum Shopping and Forum Non-Convenience: "Forum shopping" is the term for when parties consciously select the legal jurisdictions they think will best suit their needs. Arguments about jurisdiction and delays in the legal procedure might arise from forum shopping. A court may refuse to hear a case under the basis of forum non-convenient if it would be more appropriate and practical to resolve it in another forum. Pakistani courts are required to balance efficiency, fairness, and convenience while applying the forum's non-convenient notion.

International Treaties and Conventions: International treaties and conventions are necessary in order to settle jurisdictional disputes in cross-border conflicts. Two examples of treaties that provide frameworks for the international recognition and enforcement of judgments and arbitral

awards are The Hague Convention on the Recognition and Enforcement of Foreign Judgments and the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards. Pakistan's adherence to international treaties and conventions influences the allocation of jurisdiction and promotes mutual comprehension and cooperation in resolving conflicts across international borders.

Enforcement of Foreign Judgments and Arbitral Awards:

About cross-border contractual relationships, the 1958 New York Convention on the Enforcement and Recognition of Foreign Awards has given multinational companies and foreign investors a platform to engage in international agreements with the assurance that their rights will be upheld and that fair awards will be made. To date, 169 states have ratified the Convention. It was first put into effect in Pakistan in 2005 through an ordinance, and it was subsequently renewed in 2006, 2007, 2009, and 2010 until being ratified by a parliamentary act in 2011. Due to Pakistani courts' inability to adjust to the drastic changes in the law, foreign awards were not recognized or enforced promptly, rendering them obsolete, or conflicting rulings were made that conflicted with the law¹⁵. Pakistan has recently updated its legislation about arbitration as well as the acceptance and enforcement of judgments and agreements made in foreign arbitrations. These changes concern investment and international commercial arbitration¹⁶. The enforcement of foreign judgments and arbitral awards presents jurisdictional challenges in cross-border conflicts. Pakistani courts must ensure international rulings are in line with local legal standards before implementing them. The New York Convention can help make international arbitral verdicts easier to enforce, but if the awards conflict with Pakistani law or public opinion, there might be problems.

Conflicting Jurisdictional Claims Among States

- Competing jurisdictional claims across nations present significant challenges for cross-border conflicts in the framework of private international law and should be properly studied. Comprehending these

¹⁵ K. Sarwar, Pitfalls in the Domestic and International Commercial Arbitration in Pakistan, 6 (2) Pakistan Journal of International Affairs 544 (2023).

¹⁶ A. A. Ghouri, *Law and practice of foreign arbitration and enforcement of foreign arbitral awards in Pakistan* (Springer Science & Business Media, 2012).

conflicting claims is crucial to managing jurisdictional disputes in Pakistan. A complete list of the states' conflicting jurisdictional claims is shown below:

- When acts or events take place concurrently in several jurisdictions, territorial jurisdiction disputes can result. Disputes over which state courts have the jurisdiction to hear cases pertaining to disputed territory can arise from competing claims to territory.
- Conflicting claims to subject matter jurisdiction may arise when different states assert jurisdiction over the same legal matter based on their respective laws and regulations.
- States may assert subject matter jurisdiction over disputes involving specific types of legal matters, such as contracts, torts, property rights, or family law issues.
- Conflicts over personal jurisdiction occur when several states contend they have jurisdiction over persons or organizations engaged in cross-border conflicts.
- When parties have relations to more than one jurisdiction—for example, through domicile, citizenship, commercial dealings, or contractual agreements—conflicting claims to personal jurisdiction may arise.
- States can claim jurisdiction over non-resident persons under long-arm jurisdiction based on their interactions or activities within the state.
- Disputes over which state's laws apply might result from parties engaging in transactions or activities that have linkages to various jurisdictions, giving rise to conflicting claims to long-arm jurisdiction.
- Forum shopping is the deliberate selection of legal forums by parties that believe them to be in their best interests.
- Forum shopping, in which parties look for jurisdictions with rules, practices, or judges they believe will be more favorable to their case, can lead to conflicting claims to jurisdiction.

- The concept of international comity pertains to the reciprocal regard and collaboration between independent nations in the enactment of legal measures.
- Tensions and conflicts over the exercise of jurisdiction can result from states asserting their jurisdiction over issues that affect the interests of other states. This can give rise to conflicting claims of jurisdiction.
- When foreign courts or arbitral tribunals issue rulings, competing jurisdictional claims may surface. States may contest the validity and applicability of foreign decisions on the grounds of divergent interpretations of legal principles, public policy reasons, or jurisdictional regulations.
- States may be required by international treaties and conventions to comply with certain jurisdictional requirements, such as acknowledging and upholding judgments rendered abroad or arbitral awards. When governments interpret treaty duties differently or when treaty terms contradict with domestic laws or constitutional principles, competing jurisdictional claims may result.
- Competing jurisdictional claims may arise from cross-border transactions involving several jurisdictions. When parties participate into contracts, conduct business, or perform tortious acts that are connected to numerous jurisdictions, it can result in conflicting claims to jurisdiction. These disputes can center on which state's laws apply and which court has the jurisdiction to decide the matter.

Recommendations:

- To promote cross-border trade and dispute settlement, policymakers should endeavor to align jurisdictional laws and legal standards with global standards and best practices.
- Increasing judicial collaboration and mutual support between jurisdictions might facilitate the enforcement of arbitral awards and foreign judgments while also assisting in the more efficient handling of jurisdictional issues.
- Promoting the use of arbitration or mediation as a means of resolving cross-border conflicts can assist minimize jurisdictional concerns, lower the expense of litigation, and hasten the resolution process.

- By offering legal experts, judges, and practitioners training and capacity-building programs, they can better comprehend the tenets of private international law and strengthen their capability to handle jurisdictional difficulties in international conflicts.
- Creating precise guidelines and procedural standards to handle jurisdictional issues in cross-border conflicts can give parties to international transactions and litigation clarity and predictability.
- Raising knowledge and teaching interested parties about the ramifications of jurisdictional issues in international disputes can assist parties in making defensible choices and implementing preventative measures to lessen risks and uncertainty.

Pakistan can establish a more equitable and harmonized international legal system, encourage trade and investment, and improve its legal framework for cross-border dispute resolution by putting these suggestions into practice and taking a proactive stance when it comes to resolving jurisdictional issues.

Recommendations for Promoting Fairness, Equity, and Access to Justice in Cross-Border Disputes

- In the framework of Pakistani private international law, promoting justice, equity, and fairness in cross-border conflicts necessitates careful examination of procedural guidelines, institutional frameworks, and legal concepts. The following suggestions aim to improve justice access, equity, and fairness in international disputes:
- Create transparent and unambiguous jurisdictional guidelines to assist parties in comprehending the standards used to establish jurisdiction in international disputes. The legal process is made more equitable and predictable when jurisdictional norms are clear.
- Ensure compliance with international norms and agreements, such as The Hague Convention on Jurisdiction and the Recognition of Foreign Judgments, pertaining to jurisdictional matters. Adherence to global standards fosters fairness and uniformity in the settlement of disputes between nations.

- Ensure procedural justice in international dispute settlement procedures, including the right to a trial by jury, access to legal counsel, and the chance to submit arguments and supporting documentation. Equitable processes are necessary to guarantee equitable results.
- Offer judges, attorneys, and court employees specific training and educational programs on jurisdictional issues and private international law principles. Increased proficiency among attorney's fosters impartiality and consistency in the decisions made by judges.
- As an alternative to conventional litigation, urge parties to investigate alternative conflict resolution procedures such as arbitration, mediation, and conciliation. ADR procedures provide parties with adaptability, privacy, and the chance to create customized solutions, which supports justice and equity.
- Increase the number of people and organizations involved in cross-border disputes who have access to legal aid and support, especially those with low financial means or who face obstacles to legal representation. Legal aid programs guarantee equitable access to justice for all parties, irrespective of their financial capabilities.
- To effectively address jurisdictional difficulties and facilitate the enforcement of foreign judgments and arbitral awards, it is recommended to foster cross-border judicial cooperation and mutual assistance structures. Cooperation between courts promotes equity and guarantees the protection of parties' rights in different jurisdictions.
- Increase accountability and openness in the legal system by making sure that decisions are grounded in precedents and legal principles and by giving a justification for jurisdictional decisions. Transparency encourages justice in the courts and fosters public confidence in the legal system.
- Using outreach initiatives, educational campaigns, and information distribution initiatives, raise public knowledge and comprehension of jurisdictional concerns and legal rights in international disputes. Parties with more knowledge are better able to handle jurisdictional issues and successfully enforce their rights.

By putting these suggestions into practice, Pakistan may improve the legal foundation for resolving disputes across international borders, advance justice, fairness, and equity, and support a more cohesive and equitable international legal system.

CONCLUSION

To sum up, Pakistan's examination of jurisdictional concerns in cross-border disputes under the ambit of private international law exposes a world marked by complexity, nuance, and shifting legal dynamics. A careful analysis of notable cases, legal precedents, and practical applications identifies several key themes. To begin with, jurisdictional disputes encompass a broad variety of issues, such as subject matter jurisdiction, execution of judgments delivered in other nations, personal jurisdiction, and territorial sovereignty. These challenges draw attention to the intricate relationships that exist when determining which forum is most appropriate for resolving disputes between national laws, international agreements, and judicial decisions. Second, the real-world implications of jurisdictional disputes highlight the importance of justice, predictability, and clarity in the legal system. Successful resolution of cross-border disputes requires adherence to international norms, promotion of alternative dispute resolution processes, and enhancement of judicial cooperation amongst jurisdictions. The suggestions for settling disputes over jurisdiction also emphasize how crucial it is to have unambiguous legal principles, support procedural fairness, increase access to justice, and abide by international standards. By embracing transparency, accountability, and cross-border collaboration, Pakistan may improve its legal framework for settling cross-border conflicts and contribute to the development of an equitable and consistent international legal system.

In essence, the analysis of jurisdictional concerns in international conflicts emphasizes the significance of private international law in giving Pakistan access to fair, efficient, and convenient dispute resolution procedures. The establishment of trust, collaboration, and justice in cross-border transactions and litigation is reliant on the settlement of jurisdictional challenges, especially as the country continues to be involved in international affairs.

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