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Judicial Jurisdiction in Disputes Arising from International Electronic Contracts: A Comparative Study Between Iraqi and Iranian Law

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ABSTRACT

This article examines judicial jurisdiction in disputes arising from international electronic contracts through a comparative study of Iraqi and Iranian law. The expansion of electronic commerce has weakened the adequacy of traditional jurisdictional connecting factors such as domicile, place of contract formation, and place of performance, because electronic contracts are often concluded through digital platforms, automated systems, and cross-border data exchanges. The study adopts a comparative-analytical method to evaluate how Iraqi and Iranian legal systems respond to jurisdictional challenges created by electronic contracting. The article argues that although traditional rules remain relevant, they must be adapted to the realities of cyberspace. In both legal systems, jurisdiction should not be based merely on website accessibility, server location, or incidental data routing. Instead, courts should focus on substantial connection, deliberate targeting of the forum market, electronic performance, reasonable foreseeability, valid electronic consent, and protection of weaker parties. The study finds that Iranian law has a relatively clearer statutory basis for recognizing electronic communications through its Electronic Commerce Law, whereas Iraqi law requires stronger integration of electronic transaction principles into jurisdictional analysis. However, both systems still lack comprehensive and explicit rules for international electronic jurisdiction. The article concludes that Iraqi and Iranian law should develop a balanced jurisdictional framework that respects party autonomy in commercial contracts, scrutinizes unfair forum-selection clauses in consumer contracts, recognizes reliable electronic evidence, and avoids excessive assertions of jurisdiction based on purely technical digital contacts. Such reform would enhance legal certainty, improve access to justice, and support the growth of cross-border electronic commerce.

Keywords: *Judicial jurisdiction; electronic contracts; private international law; electronic commerce; Iraq; Iran; forum-selection clauses; cyberspace jurisdiction.*

Introduction

Judicial jurisdiction in disputes arising from international electronic contracts has become one of the most complex questions in contemporary private international law because electronic transactions dissolve many of the territorial assumptions on which classical jurisdictional rules were built. In traditional contractual litigation, courts usually identify jurisdiction through relatively tangible connecting factors such as the defendant's domicile, the place of contract formation, the place of performance, the location of property, or the parties' express submission to a court. These connecting factors remain central to the architecture of civil jurisdiction, and classical private international law still treats them as mechanisms for allocating adjudicatory authority between different legal systems (1). Yet international electronic contracts complicate this structure because the act of contracting may occur through a digital interface, the parties may never meet physically, the platform may be operated from a third jurisdiction, the server may be located in another country, and the performance may consist of digital delivery, online services, data processing, cloud access, or automated execution. This means that the court asked to hear the dispute must often determine jurisdiction in a contractual relationship whose legal and factual elements are fragmented across several territories. The problem is not merely technical; it affects legal certainty, access to justice, protection of weaker parties, enforcement of judgments, and the legitimacy of judicial authority in cross-border commerce.

The growth of electronic contracting has transformed the legal meaning of presence, consent, communication, and performance. In ordinary contract doctrine, the location of acceptance and the place of performance often help courts connect the dispute to a legal system, but in electronic commerce these elements are increasingly unstable. An offer may be displayed on a website accessible worldwide, acceptance may be made by clicking an electronic button, and confirmation may be generated automatically by software. The contractual relationship may therefore appear to have no single territorial center. Reed explains that Internet law repeatedly forces legal systems to reinterpret conventional categories in light of technologically mediated activity, especially where legal relationships are created through digital communications rather than physical acts (2). Murray similarly emphasizes that information technology law is not merely an extension of older legal fields but a setting in which legal institutions must respond to new forms of interaction, identity, evidence, and social organization (3). From the perspective of jurisdiction, this shift raises a difficult question: when an Iraqi or Iranian court is confronted with a dispute arising from an international electronic contract, should it rely on traditional connecting factors, adapt them, or construct new digital connecting factors such as targeting, interactivity, platform location, data flow, or the intended market?

The centrality of jurisdiction in this subject lies in the fact that jurisdiction is the procedural gateway through which substantive rights become enforceable. A party may have a valid claim under contract law, consumer law, or commercial law, but without a competent court the claim remains practically ineffective. Briggs treats jurisdiction as one of the foundational issues in transnational litigation because the first question in an international dispute is not what law applies, but which court is authorized to adjudicate the dispute (4). Hill and Chong also demonstrate that international commercial disputes frequently require a structured distinction between jurisdiction, applicable law, recognition, and enforcement, since each stage may be governed by different rules and different connecting factors (5). In electronic contracts, this separation becomes even more significant because parties may include a choice-of-law clause, a forum-selection clause, or an arbitration clause in an online form, but the enforceability of that clause may itself be contested on grounds of electronic consent, imbalance of bargaining power, lack of notice, or mandatory consumer protection. Therefore, judicial jurisdiction in international electronic contract disputes is not only a procedural question; it also reflects broader tensions between contractual freedom, state sovereignty, procedural fairness, digital commerce, and transnational legal order.

The comparative focus on Iraqi and Iranian law is significant because both legal systems belong to jurisdictions in which civil law, statutory regulation, procedural formality, and domestic sovereignty remain important legal values, while both societies also participate increasingly in electronic commerce, digital services, online trade, and cross-border transactions. Iran has enacted a specific Electronic Commerce Law, which recognizes electronic data messages and gives legal significance to electronic communications in commercial relations (6). This legislation reflects an attempt to adapt domestic law to electronic contracting, but the existence of rules on electronic validity does not necessarily resolve international judicial jurisdiction. Iraqi law, although also dealing with electronic transactions through domestic legislative mechanisms, faces similar doctrinal pressure: traditional procedural jurisdiction rules were not originally designed for digital networks, platform-based contracting, or online cross-border commercial relationships. This comparative inquiry therefore examines whether the traditional jurisdictional logic of the two systems can adequately handle electronic contracts with an international element, and whether reforms are required to ensure predictability and fairness.

The international dimension of the problem is intensified by the fact that cyberspace does not eliminate territoriality but redistributes it in legally difficult ways. Goldsmith and Wu criticize the early assumption that the Internet created a borderless legal space, arguing instead that states continue to exercise control over online activity through law, infrastructure, intermediaries, and enforcement mechanisms (7). This argument is particularly relevant to judicial jurisdiction because the claim that electronic commerce is borderless cannot mean that courts have no role; rather, it means that courts must justify why a dispute is sufficiently connected to their forum. Svantesson argues that private international law must be reconstructed for the Internet through more nuanced jurisdictional tests capable of addressing online activity without generating excessive or arbitrary jurisdiction (8). Geist also warns that Internet jurisdiction requires greater certainty because excessive reliance on accessibility alone may expose online actors to litigation in every jurisdiction where a website can be viewed (9). These insights are essential for Iraqi and Iranian law because uncritical reliance on website accessibility could either overextend national jurisdiction or leave local parties without effective remedies.

The doctrinal challenge is therefore to distinguish between meaningful and accidental connections. A website accessible in Iraq or Iran should not automatically subject the foreign operator to the courts of those states unless there is a real connection, such as targeting local consumers, using the local language or currency, delivering goods or services into the territory, maintaining local agents, concluding repeated transactions with residents, or causing foreseeable contractual effects there. Kohl's discussion of Internet jurisdiction shows that courts and scholars have struggled to classify online activity according to degrees of interactivity, commercial targeting, and territorial effect (10). Fitzgerald similarly notes that cyberspace challenges traditional jurisdictional doctrine because the acts giving rise to liability may be distributed across networks rather than concentrated in a physical place (11). For international electronic contracts, this means that courts should not treat all online contracts alike. A business-to-business contract negotiated by email between sophisticated merchants differs from a consumer's acceptance of a standard-form contract on a foreign platform, and both differ from a contract executed by an automated system without direct human intervention at the moment of conclusion.

A further difficulty concerns electronic consent and the evidentiary status of digital communications. The UNCITRAL Model Law on Electronic Signatures seeks to facilitate legal recognition of electronic authentication and to prevent legal systems from denying validity merely because a signature is electronic (12). Although electronic signatures are primarily connected to validity and proof, they also affect jurisdiction because a court may need to decide whether a party actually agreed to a forum clause embedded in an electronic contract. Garner's legal definition-oriented approach is useful here because terms such as consent, notice, forum, domicile, and submission must retain legal precision even when applied to digital conduct (13). If an electronic forum-selection clause is hidden in unread terms, accepted through a vague click, or incorporated through a hyperlink that the user never reasonably encountered, the court may hesitate to treat the party as having knowingly submitted to a foreign jurisdiction. Conversely, if the clause is clear, accessible, and accepted through a reliable electronic process, refusal to recognize it may undermine commercial certainty.

This article is built on the premise that Iraqi and Iranian law should not reject traditional jurisdictional rules merely because contracts are electronic, but neither should they apply those rules mechanically without regard to the digital environment. The research problem is whether existing jurisdictional doctrines in the two systems can identify a competent court in international electronic contract disputes in a manner that is predictable, fair, and compatible with the needs of digital commerce. Kessedjian's early analysis of electronic commerce and international jurisdiction remains valuable because it shows that electronic transactions require a balance between technological neutrality and functional adaptation (14). Schultz's analysis of Internet jurisdiction also indicates that online disputes involve interaction between private international law and broader questions of legal ordering, because jurisdiction is not merely a procedural instrument but also a way of organizing authority in digital space (15). The objective of this article is to analyze judicial jurisdiction in disputes arising from international electronic contracts through a comparative study of Iraqi and Iranian law and to propose a coherent framework for adapting jurisdictional rules to the realities of cross-border electronic commerce.

Conceptual and Legal Foundations of International Electronic Contracts and Judicial Jurisdiction

The concept of an electronic contract refers to a legally binding agreement concluded, communicated, stored, or performed through electronic means. It may involve email negotiations, online platforms, click-wrap acceptance, browse-wrap terms, digital signatures, electronic data interchange, mobile applications, automated ordering systems, or cloud-based service arrangements. The defining feature is not that the contract concerns digital goods, but that the formation or operation of the contract is mediated by electronic communications. Reed's treatment of Internet law shows that electronic contracting is best understood as a transformation in the medium of legal interaction rather than a complete abandonment of contract doctrine (2). Schmitthoff's account of international trade law remains relevant because electronic commerce often performs the same commercial functions as traditional trade: exchange, payment, delivery, risk allocation, and dispute resolution (16). However, the electronic medium changes the factual basis on which courts traditionally identify the place of contracting, the identity of the parties, the method of consent, and the territorial center of the transaction. Therefore, the legal nature of electronic contracts must be understood through both continuity and innovation.

International electronic contracts are distinguished from purely domestic electronic contracts by the existence of a foreign element. This foreign element may arise from the nationality or domicile of the parties, the location of business establishments, the place where contractual obligations are performed, the currency of payment, the location of digital infrastructure, the law chosen by the parties, or the cross-border effects of the transaction. Fawcett and Carruthers explain that private international law is activated when a dispute contains a connection with more than one legal system, requiring courts to address jurisdiction, applicable law, and recognition of foreign judgments (1). In an electronic contract, the foreign element may be obvious, as when an Iraqi company purchases software services from an Iranian provider, or subtle, as when a consumer in one country uses a platform operated from another jurisdiction without knowing the operator's location. Hill and Chong's analysis of international commercial disputes is important because it emphasizes that cross-border commercial litigation requires systematic attention to contractual structure, party expectations, and forum allocation (5). In digital transactions, these elements are often embedded in standardized online terms rather than negotiated face-to-face.

Judicial jurisdiction is the authority of a court to hear and decide a dispute. In domestic litigation, jurisdiction is primarily allocated internally among courts according to subject matter, territory, value, or procedural rules. In international litigation, jurisdiction performs an additional function: it defines the circumstances in which the courts of one state may adjudicate a dispute connected to another state. Briggs emphasizes that civil jurisdiction in international disputes is inseparable from questions of legitimacy, since a forum must have a sufficient connection to the parties or subject matter before compelling a defendant to litigate there (4). Dicey, Morris, and Collins similarly present jurisdiction as one of the key organizing principles of conflict of laws, alongside choice of law and recognition of judgments (17). In international electronic contracts, this authority may be based on the defendant's domicile, contractual performance in the forum, express submission to the court, local harm, consumer residence, or statutory rules conferring jurisdiction over disputes connected to the forum. The challenge is deciding which of these connecting factors remains persuasive when the contractual acts are performed electronically.

The traditional connecting factors of private international law are not obsolete, but their application becomes more delicate in electronic environments. The defendant's domicile remains a strong basis of jurisdiction because it reflects personal connection, procedural fairness, and enforceability. The place of performance also remains relevant, especially where goods are delivered, payment is made, services are received, or contractual effects occur in a particular territory. Yet the place of formation is more problematic. In a postal contract, courts may identify acceptance through dispatch or receipt rules, but in electronic contracting acceptance may be instantaneous, automated, or routed through servers in multiple jurisdictions. Murray's analysis of information technology law supports the view that digital communication requires legal rules to focus on function rather than physical form (3). Dickinson's work on European conflict rules also illustrates the broader movement toward structured connecting factors that seek foreseeability and legal certainty in cross-border obligations (18). For Iraqi and Iranian courts, this suggests that the location of a server should not be treated mechanically as the place of contract formation unless it reflects a meaningful connection to the parties' legal relationship.

Party autonomy plays a central role in international commercial contracts because parties may reduce uncertainty by choosing the competent court or selecting arbitration. Forum-selection clauses are particularly important in electronic contracts because online commerce often involves parties who do not know each other and who operate across jurisdictions. Hill and Chong emphasize that commercial parties often use jurisdiction clauses as instruments of risk management, allowing them to predict where disputes will be heard (5). Zekos's work on international commercial arbitration is also relevant because arbitration clauses are frequently inserted into cross-border electronic contracts as alternatives to state court jurisdiction (19). However, party autonomy is not absolute. Courts may refuse to enforce a jurisdiction clause where consent is defective, where the clause violates mandatory law, where the dispute concerns consumers or weaker parties, or where exclusive jurisdiction belongs to another forum. In electronic contracts, the main difficulty is proving that a party had reasonable notice of the clause and manifested genuine assent through a legally reliable electronic act.

Electronic signature law strengthens the legal infrastructure for electronic contracting by validating digital forms of identification, authentication, and consent. The UNCITRAL Model Law on Electronic Signatures reflects the principle that electronic signatures should not be denied legal effect solely because they are electronic (12). The Iranian Electronic Commerce Law similarly gives legal effect to electronic data messages and recognizes electronic communications in commercial settings (6). These instruments are not primarily jurisdictional statutes, but they influence jurisdiction because they support the evidentiary reliability of electronic agreements, including forum-selection clauses. If a jurisdiction clause is incorporated into a digitally signed contract, the court is more likely to treat it as an expression of party autonomy. If the clause is merely placed in inaccessible online terms, the court may require stronger proof of consent. Garner's legal terminology underscores that consent is not a purely technological event; it is a juridical conclusion drawn from conduct, notice, capacity, and intention (13). Therefore, the legal recognition of electronic signatures does not automatically validate every online clause, but it provides a framework for evaluating electronic assent.

The Internet's architecture creates a further challenge because accessibility does not equal targeting. A website can be accessed from Iraq, Iran, or almost any jurisdiction, but universal accessibility alone cannot justify universal jurisdiction. Geist's argument for greater certainty in Internet jurisdiction is especially relevant because if every website owner can be sued wherever the site is visible, electronic commerce becomes exposed to unpredictable global litigation (9). Kohl's analysis suggests that courts should distinguish passive online presence from active commercial engagement directed toward a forum (10). Perritt's early account of jurisdiction in cyberspace also recognized that online conduct requires courts to adapt personal jurisdiction concepts to networked communication without dissolving all limits on adjudicatory authority (20). For international electronic contracts, the relevant inquiry should be whether the trader deliberately entered the forum's market, contracted with residents there, delivered goods or services there, accepted payment from there, or otherwise created a foreseeable legal relationship with that forum.

The territoriality debate is central to this field. Some early theories of cyberspace imagined online activity as independent of state borders, but later scholarship has shown that states remain powerful actors in regulating digital commerce. Goldsmith and Wu argue that the Internet is not beyond territorial control, because states can regulate users, intermediaries, platforms, infrastructure, and enforcement points (7). Schultz adds that Internet jurisdiction involves overlapping legal orders and that courts must avoid both excessive territorial expansion and unrealistic detachment from territorial authority (15). Svantesson's modern private-international-law approach proposes that Internet jurisdiction should be evaluated through substantial connection, legitimate interest, and reasonable foreseeability rather than mere technical accessibility (8). These criteria are useful for Iraqi and Iranian law because they offer a middle path: courts should protect domestic parties and commercial order, but they should not assert jurisdiction over foreign defendants where the connection is incidental, unforeseeable, or technologically accidental.

Consumer protection adds another layer to the jurisdictional analysis. International electronic contracts often involve standard terms imposed by businesses on individual users. A consumer may accept a foreign forum clause without understanding its consequences, especially where the clause is hidden in lengthy online terms. In such situations, strict enforcement of party autonomy may undermine access to justice. Kessedjian's analysis of electronic commerce and jurisdiction recognizes that electronic transactions require special attention to weaker parties and the practical burden of cross-border litigation (14). Weber's discussion of digital environments, although focused on privacy and the Internet of Things, is relevant because digital contracting increasingly involves continuous data exchange and embedded services rather than one-time transactions (21). When a consumer purchases a connected device, subscribes to an online platform, or enters a cloud service contract, jurisdictional questions may arise not only from the initial sale but also from ongoing data-based performance. Iraqi and Iranian law must therefore distinguish commercial contracts between equal parties from consumer contracts where mandatory jurisdictional protection may be justified.

In sum, the conceptual foundation of this article rests on four propositions. First, electronic contracts are contracts, but their electronic form changes the evidentiary, territorial, and procedural context in which jurisdiction is determined. Second, internationality in electronic contracting may arise from multiple factual elements, and courts must identify meaningful rather than accidental connections. Third, party autonomy remains important, especially in commercial contracts, but electronic forum-selection clauses require careful scrutiny of consent, notice, and fairness. Fourth, Iraqi and Iranian law should adapt traditional jurisdictional doctrines through functional criteria such as targeting, foreseeability, place of digital performance, consumer residence, and substantial connection. Fitzgerald's early warning that cyberspace disrupts conventional territorial jurisdiction remains valid (11), but the more convincing modern response is not to abandon jurisdictional doctrine; it is to refine it so that courts can adjudicate international electronic contract disputes with coherence, restraint, and practical effectiveness.

Judicial Jurisdiction in International Electronic Contract Disputes Under Iraqi Law

The analysis of Iraqi law begins from the general proposition that jurisdiction in civil and commercial disputes is traditionally connected to territorial sovereignty, procedural competence, and the defendant's relationship with the forum. In disputes arising from international electronic contracts, Iraqi courts must determine whether the dispute has a sufficient connection to Iraq to justify the exercise of judicial power. Classical private international law treats the defendant's domicile or residence as a primary jurisdictional basis because it reflects fairness and enforceability (1). Briggs similarly explains that the defendant's connection to the forum is one of the most stable foundations of civil jurisdiction because it reduces the risk of arbitrary adjudication (4). In the Iraqi context, this principle means that if the defendant is domiciled, resident, or commercially established in Iraq, the Iraqi court's jurisdiction is relatively straightforward even if the contract was concluded electronically. The electronic medium does not remove the defendant's personal connection to the forum. However, if the defendant is foreign and has no physical presence in Iraq, the court must look for other connecting factors such as performance in Iraq, contractual effects in Iraq, submission to Iraqi courts, or deliberate targeting of Iraqi users or businesses.

The place of performance is particularly important in international electronic contracts because it may supply a more meaningful connection than the place of formation. A contract may be formed through an online platform or email exchange, but its practical performance may be located in Iraq if goods are delivered there, payment is made from there, services are consumed there, software is licensed to a user there, or digital content is made available to an Iraqi customer. Hill and Chong show that international commercial disputes require attention to the commercial substance of the transaction rather than formalistic labels (5). Schmitthoff's approach to international trade also supports the view that contractual obligations should be examined by reference to performance, delivery, payment, and commercial expectations (16). Applying this logic to Iraqi law, an Iraqi court should be more willing to assert jurisdiction where the foreign electronic trader has undertaken obligations directed toward Iraq. Conversely, if the only Iraqi element is that a person located in Iraq accessed a foreign website not directed to the Iraqi market, the connection may be too weak to support jurisdiction.

A major challenge for Iraqi courts is distinguishing between passive online accessibility and active commercial engagement. The mere fact that a website can be opened in Iraq should not be sufficient to establish jurisdiction over the foreign operator. Geist argues that Internet jurisdiction becomes unpredictable when accessibility is treated as a universal jurisdictional trigger (9). Kohl's distinction between different levels of online activity is useful for Iraqi courts because it encourages them to ask whether the foreign party intentionally entered the forum's market or merely maintained a globally accessible digital presence (10). For example, a foreign website that uses Arabic language options, prices goods in a currency used by Iraqi customers, ships products to Iraq, advertises to Iraqi users, or repeatedly contracts with Iraqi residents has a stronger jurisdictional connection to Iraq than a website that is merely visible from Iraq. Perritt's early analysis of cyberspace jurisdiction also supports a reasoned approach in which online contacts must be evaluated according to their legal significance rather than their technical possibility (20). Thus, Iraqi courts should develop a targeted-activity test for international electronic contracts.

Forum-selection clauses create a further difficulty in Iraqi electronic contract disputes. In commercial relationships between businesses, a clause choosing Iraqi courts or a foreign court may reflect legitimate party autonomy. Dicey, Morris, and Collins treat contractual submission and jurisdiction agreements as important mechanisms in international litigation because they express party choice and promote certainty (17). Hill and Chong similarly emphasize that jurisdiction clauses allow commercial parties to allocate litigation risk in advance (5). If an Iraqi company enters an electronic contract with a foreign supplier and both parties clearly agree that Iraqi courts will have jurisdiction, an Iraqi court has a strong basis for hearing the dispute. Yet electronic consent must be examined carefully. A forum clause accepted through a signed electronic document differs from a clause hidden in online terms that the user did not reasonably see. The UNCITRAL Model Law on Electronic Signatures is relevant because it supports functional equivalence between handwritten and electronic signatures where the electronic method reliably identifies the signatory and indicates approval (12). Therefore, Iraqi law should not reject electronic jurisdiction clauses merely because they are electronic, but should require reliable proof of notice and assent.

Consumer contracts require a more protective jurisdictional approach. Where an Iraqi consumer contracts electronically with a foreign business, a foreign forum clause may effectively deprive the consumer of access to justice by forcing litigation abroad. Kessedjian's work on electronic commerce and jurisdiction highlights the importance of balancing commercial certainty with protection against unfair jurisdictional burdens (14). Reed's analysis of Internet law also shows that digital standard-form contracts often create asymmetries because terms are drafted by platforms and accepted by users without negotiation (2). In the Iraqi context, courts should be cautious about enforcing foreign jurisdiction clauses against consumers if the trader deliberately targeted the Iraqi market. The stronger the foreign trader's commercial engagement with Iraq, the stronger the argument that Iraqi courts should protect local consumers and allow litigation in Iraq. This does not mean that all consumer claims must be heard in Iraqi courts, but it does mean that jurisdictional clauses in electronic consumer contracts should be subject to fairness review.

The location of servers, data centers, or digital infrastructure should not be treated as a decisive jurisdictional factor under Iraqi law unless it corresponds to a real contractual connection. Electronic communications may pass through servers in jurisdictions unrelated to the parties' expectations. Murray's discussion of information technology law shows that digital processes often involve technical architectures that are invisible to users and legally incidental to the relationship (3). Svantesson also argues that Internet jurisdiction requires attention to substantial connection and reasonable foreseeability rather than arbitrary technological factors (8). Therefore, if an electronic contract between an Iraqi party and a foreign party is processed through a server in a third state, that server location should not determine Iraqi jurisdiction or exclude it. Iraqi courts should instead ask where the parties are established, where obligations are directed, where performance is received, where payment is made, and whether the defendant could reasonably foresee litigation in Iraq. This approach avoids both overextension and underprotection.

Electronic evidence is closely connected to jurisdiction because a court cannot determine whether it has jurisdiction without examining the contract, the communications, the forum clause, the parties' identities, and the place or mode of performance. Garner's definitions of legal concepts such as evidence, signature, notice, and consent remind us that procedural determinations depend on legally cognizable proof rather than technological assumptions (13). If a claimant in Iraq alleges that a foreign party consented to Iraqi jurisdiction through an online contract, the court must examine the electronic record, authentication method, platform design, timestamp, IP-related information, and the wording of the jurisdiction clause. The UNCITRAL approach to electronic signatures supports the idea that electronic records can perform legal functions if they are reliable and accessible (12). In Iraqi litigation, this requires procedural openness to electronic documents and technical expertise. Without such evidentiary capacity, courts may either reject legitimate electronic contracts or accept unreliable digital materials, both of which would harm legal certainty.

The problem of enforcement also affects jurisdictional policy. A court may have jurisdiction in theory, but if the defendant has no assets in Iraq and the judgment must be enforced abroad, the practical value of jurisdiction depends on recognition and enforcement in the relevant foreign state. Briggs emphasizes that jurisdiction and judgments must be understood together because the effectiveness of litigation depends on whether the resulting judgment can operate beyond the forum (4). Fawcett and Carruthers similarly show that private international law links adjudicatory authority to recognition and enforcement mechanisms (1). In international electronic contracts, this issue is particularly serious because online businesses may serve Iraqi customers without assets or offices in Iraq. Iraqi courts should therefore consider not only whether jurisdiction is formally available, but also whether the assertion of jurisdiction will produce an enforceable and commercially meaningful result. This consideration may encourage recognition of valid forum clauses, use of arbitration in business-to-business contracts, and cooperation with foreign judgment systems.

From a comparative and reform-oriented perspective, Iraqi law would benefit from clearer statutory or judicial criteria for electronic jurisdiction. Schultz's analysis of Internet legal orders suggests that courts should develop principled jurisdictional limits in order to avoid chaotic overlap between states (15). Svantesson's framework of substantial connection, legitimate interest, and reasonableness offers a useful model for digital jurisdictional reform (8). Iraqi law could adopt criteria such as deliberate targeting of the Iraqi market, habitual electronic dealing with Iraqi residents, performance or receipt of digital services in Iraq, express electronic submission to Iraqi courts, and consumer-protective jurisdiction where a professional trader directs activity toward Iraq. At the same time, Iraqi courts should avoid jurisdiction based solely on technical accessibility, server location, or incidental data transmission. Such reform would preserve sovereignty while aligning Iraqi jurisdictional doctrine with the practical realities of cross-border electronic commerce.

The Iraqi position can therefore be summarized as one in which traditional jurisdictional principles remain usable but require functional adaptation. Defendant domicile, place of performance, forum selection, and submission remain relevant, but their application must be refined for digital contracting. The court should not ask only where the website is located or where the electronic message passed; it should ask whether the contractual relationship has a meaningful connection with Iraq. Goldsmith and Wu's rejection of borderless Internet mythology supports the continuing role of Iraqi courts where online actors enter Iraqi legal and commercial space (7). Fitzgerald's account of cyberspace jurisdiction also supports the conclusion that digital commerce does not eliminate jurisdiction, but it requires courts to rethink territorial contacts in light of networked transactions (11). Accordingly, Iraqi law should move toward a balanced model that protects domestic parties, respects party autonomy, avoids excessive jurisdiction, and treats electronic contracting as a legitimate mode of legal engagement rather than an exceptional zone outside ordinary adjudication.

Judicial Jurisdiction in International Electronic Contract Disputes Under Iranian Law

Iranian law provides an especially important field for studying jurisdiction in international electronic contract disputes because Iran has expressly recognized electronic commerce through statutory regulation, while its general jurisdictional structure remains grounded in traditional civil procedure and private international law. The Electronic Commerce Law of the Islamic Republic of Iran recognizes the legal effect of electronic data messages and supports the validity of electronic communications in commercial transactions (6). This recognition is significant because jurisdictional disputes in electronic contracts often begin with the preliminary question of whether the electronic agreement, electronic signature, electronic notice, or digital record has legal value. However, recognition of electronic communications does not by itself answer the question of which court has jurisdiction over an international dispute. Iranian courts must still connect the dispute to Iran through accepted jurisdictional bases such as the defendant's domicile, place of performance, contractual submission, or other meaningful links. The result is a dual structure: electronic commerce law validates the digital form of the transaction, while procedural and private-international-law principles determine adjudicatory competence.

As in Iraqi law, the defendant's domicile or place of establishment remains a strong basis for jurisdiction in Iranian disputes. Classical conflict-of-laws doctrine supports jurisdiction where the defendant is sufficiently connected to the forum because such jurisdiction is generally foreseeable and procedurally fair (17). Fawcett and Carruthers also emphasize that private international law must identify connecting factors that justify the forum's involvement in a dispute with foreign elements (1). Therefore, if the defendant in an international electronic contract is domiciled or commercially established in Iran, an Iranian court has a strong jurisdictional basis even if the contract was concluded through a website, email, or electronic platform. The electronic medium should not weaken the court's authority where the defendant's personal connection to Iran is clear. The more difficult situation arises where a foreign defendant contracts electronically with an Iranian party without having physical presence in Iran. In that case, Iranian law must determine whether the defendant's conduct created a sufficient connection with Iran.

The place of contractual performance may provide a meaningful basis for Iranian jurisdiction, especially where the electronic contract is directed toward Iranian users, businesses, or consumers. Hill and Chong show that international commercial disputes must be analyzed through the practical structure of the transaction, including obligations, performance, and risk allocation (5). In electronic contracts, performance may occur through delivery of goods into Iran, provision of online services to users in Iran, licensing of software to an Iranian company, operation of a digital platform for Iranian customers, or receipt of payment from Iran. Reed's discussion of Internet law supports the view that legal systems should not be distracted by the immaterial form of online transactions, since electronic conduct can produce concrete legal consequences within a territory (2). Thus, Iranian courts should not treat an international electronic contract as territorially irrelevant merely because the service is digital. If the foreign party performs obligations for an Iranian recipient or deliberately commercializes activity in Iran, the Iranian forum may have a legitimate jurisdictional interest.

The concept of targeting is particularly useful for Iranian law because it provides a principled method for distinguishing real jurisdictional connections from mere accessibility. A foreign website may be accessible in Iran, but that fact alone should not automatically subject the operator to Iranian jurisdiction. Geist's critique of uncertain Internet jurisdiction demonstrates the danger of treating global accessibility as a universal basis for litigation (9). Kohl's analysis of Internet jurisdiction helps refine this point by distinguishing passive online presence from active engagement with a forum's market (10). In the Iranian context, indicators of targeting may include Persian-language marketing, pricing or payment mechanisms designed for Iranian users, delivery or service provision in Iran, repeated transactions with Iranian customers, local advertising, or customer support directed toward Iran. Svantesson's emphasis on substantial connection and reasonable foreseeability provides a modern theoretical foundation for this approach (8). If a foreign business deliberately structures its electronic activity to attract Iranian customers, it becomes more reasonable for Iranian courts to assert jurisdiction over disputes arising from those contracts.

Forum-selection clauses in Iranian electronic contracts require careful analysis because they implicate both party autonomy and procedural fairness. In business-to-business electronic contracts, a clearly expressed jurisdiction clause may promote certainty and reduce litigation over forum. Briggs emphasizes that civil jurisdiction rules often give legal effect to party submission because voluntary submission can establish a legitimate foundation for adjudication (4). Hill and Chong similarly show that jurisdiction agreements are common instruments in international commercial contracting because they allow parties to predict litigation costs and procedural strategy (5). The Iranian Electronic Commerce Law's recognition of electronic data messages supports the enforceability of electronic agreements where the parties' consent can be established (6). The UNCITRAL Model Law on Electronic Signatures further reinforces the principle that electronic authentication may satisfy legal requirements of signature and approval when it performs equivalent functions reliably (12). Therefore, an Iranian court should generally recognize an electronic forum clause in a commercial contract where the clause is clear, accessible, and accepted through a reliable electronic process.

However, Iranian courts should be more cautious when forum-selection clauses appear in standard-form consumer electronic contracts. Online consumer contracts are often contracts of adhesion in which the consumer has no practical ability to negotiate forum, governing law, limitation of liability, or evidence clauses. Murray's analysis of information technology law emphasizes the broader social and institutional implications of digital legal relations, including the risk that technology may intensify asymmetries between platforms and users (3). Kessedjian's discussion of electronic commerce and international jurisdiction also highlights the need to prevent electronic jurisdiction rules from imposing unreasonable burdens on weaker parties (14). If an Iranian consumer buys goods or services from a foreign platform that deliberately targets Iran, a clause requiring litigation in a distant foreign court may be unfair or practically prohibitive. Iranian law should therefore evaluate such clauses through standards of notice, transparency, consent, and substantive fairness. Party autonomy should remain important, but it should not become a tool for excluding judicial protection.

Electronic evidence is central to Iranian jurisdictional analysis because the court must determine the existence, content, and validity of the electronic contract before deciding whether it has jurisdiction. The Iranian Electronic Commerce Law gives legal recognition to electronic data messages, which is essential for proving online contracts and electronically incorporated terms (6). Garner's legal definitions of signature, notice, evidence, and consent are relevant because electronic records become legally meaningful only when they satisfy juridical standards of reliability and attribution (13). An Iranian court examining jurisdiction may need to review electronic logs, timestamps, digital signatures, platform records, confirmation emails, IP-related information, payment evidence, and the design of the contracting interface. The UNCITRAL Model Law on Electronic Signatures provides a useful functional approach because it does not privilege paper formalities but asks whether the electronic method identifies the party and indicates approval (12). This approach enables Iranian courts to accept electronic jurisdiction clauses while still rejecting unreliable, hidden, or manipulated records.

The location of digital infrastructure should be treated with caution in Iranian law. Servers, cloud systems, content delivery networks, and payment processors may be located in jurisdictions unrelated to the parties' expectations. Weber's discussion of connected digital environments indicates that modern digital transactions often involve distributed networks and continuous data flows rather than simple bilateral exchanges (21). Svantesson similarly warns that jurisdiction in Internet cases should not be based on arbitrary technological contacts lacking substantial connection (8). Therefore, the fact that a server is located in Iran may sometimes support jurisdiction if the server forms part of a local commercial operation, but it should not be decisive where the server location is merely technical. Likewise, the fact that a foreign server processes an Iranian user's transaction should not automatically exclude Iranian jurisdiction if the contract is targeted at Iran and performed for an Iranian party. The better test is functional and relational rather than purely technological.

Iranian law must also address the relationship between judicial jurisdiction and arbitration in international electronic contracts. Many cross-border electronic commercial contracts include arbitration clauses, especially where parties seek neutrality and enforceability. Zekos's treatment of international commercial arbitration shows that arbitration is a significant alternative to state jurisdiction in international commercial disputes (19). In electronic contracts between sophisticated commercial actors, arbitration clauses may be efficient, particularly where the parties operate across jurisdictions and enforcement of arbitral awards may be more predictable than enforcement of court judgments. However, arbitration clauses in electronic consumer contracts raise similar concerns to forum-selection clauses. If the clause is hidden, non-negotiated, costly, or procedurally burdensome, it may undermine access to justice. Iranian courts should therefore distinguish between negotiated commercial arbitration and imposed consumer arbitration. This distinction is consistent with the broader logic of private international law, which recognizes party autonomy but limits it where mandatory protection or procedural fairness requires intervention (1).

The comparative position of Iranian law reveals both strengths and gaps. Its statutory recognition of electronic commerce is a strength because it provides a legal basis for treating electronic contracts, signatures, and data messages as legally effective. However, the jurisdictional framework remains largely dependent on traditional procedural principles, which may not clearly resolve questions such as website targeting, electronic forum clauses, digital performance, online consumer protection, and platform-based transactions. Schultz's analysis of Internet jurisdiction suggests that legal systems must avoid fragmented and inconsistent responses to digital disputes by developing coherent jurisdictional principles (15). Dickinson's work on structured conflict rules also illustrates the importance of predictability in cross-border obligations (18). For Iranian law, reform should therefore focus not on replacing traditional jurisdiction but on clarifying how traditional connecting factors operate in electronic contracts. Clear rules on targeting, digital performance, electronic consent, and consumer jurisdiction would improve both domestic judicial practice and international commercial confidence.

Iranian law can also benefit from comparative doctrinal development in relation to foreseeability. Goldsmith and Wu's account of state control over the Internet shows that online businesses cannot assume that digital activity is detached from territorial legal systems (7). At the same time, Perritt's analysis of cyberspace jurisdiction warns against unlimited exposure to litigation based solely on network accessibility (20). A foreseeability-based test would ask whether the defendant could reasonably anticipate being sued in Iran because of its electronic contractual conduct. This would be satisfied where the foreign trader intentionally contracts with Iranian parties, delivers goods or services into Iran, collects payment from Iranian customers, or includes contractual terms referring to Iran. It would not be satisfied where the connection to Iran is accidental, technical, or created solely by the unilateral action of the claimant. Such a test would align Iranian jurisdiction with fairness, commercial predictability, and the realities of online contracting.

Overall, Iranian law is better positioned than a purely traditional system because it contains statutory recognition of electronic commercial communications, yet it still requires a more explicit jurisdictional doctrine for international electronic contracts. The Iranian Electronic Commerce Law gives courts a foundation for accepting electronic evidence and electronic consent (6), while international scholarship provides analytical tools for determining when digital activity is meaningfully connected to a forum (8). The proper Iranian approach should combine traditional jurisdictional bases with digital adaptation. Defendant domicile, place of performance, forum selection, and submission remain important, but they should be interpreted through targeting, foreseeability, reliability of electronic consent, and fairness in consumer relations. This approach would allow Iranian courts to protect domestic parties without asserting excessive jurisdiction over foreign actors and would place Iranian law within the broader movement toward technologically informed private international law.

Comparative Evaluation of Iraqi and Iranian Law in Light of International Electronic Jurisdiction Principles

The comparative analysis of Iraqi and Iranian law reveals that both systems face the same structural problem: traditional jurisdictional rules were designed for territorial, documentary, and physically situated transactions, while international electronic contracts are often decentralized, instantaneous, standardized, and platform-mediated. Both legal systems therefore need to adapt rather than abandon classical jurisdictional concepts. Fawcett and Carruthers' account of private international law shows that the fundamental task remains the identification of a legally sufficient connection between the dispute and the forum (1). Briggs's analysis of civil jurisdiction similarly confirms that adjudicatory authority must rest on principled grounds rather than mere convenience or unilateral assertion (4). In this respect, Iraqi and Iranian law share a common foundation: the defendant's domicile, place of performance, and party submission are still important. The difference lies in the degree to which each system has developed explicit electronic-commerce concepts that can support jurisdictional analysis. Iranian law has a clearer statutory basis for electronic commercial communications through its Electronic Commerce Law (6), while Iraqi law must rely more heavily on general procedural and doctrinal adaptation unless specific electronic transaction provisions are integrated into jurisdictional reasoning.

A central similarity between the two systems is their continued dependence on territorial connecting factors. This is not inherently problematic because territoriality remains indispensable in private international law. Goldsmith and Wu persuasively argue that the Internet has not abolished territorial legal authority, since states continue to regulate online actors through users, platforms, infrastructure, and enforcement mechanisms (7). The difficulty is that territoriality must be reconstructed in a functional way. In both Iraqi and Iranian law, a court should not ask only where a contract was electronically accepted or where a server is located. It should ask whether the contractual relationship is meaningfully connected to the forum through market targeting, performance, payment, delivery, consumer residence, business establishment, or express jurisdictional agreement. Svantesson's modern approach to Internet-related private international law is useful because it replaces mechanical territoriality with substantial connection, legitimate interest, and reasonableness (8). If Iraqi and Iranian courts adopt this type of reasoning, they can preserve territorial jurisdiction without allowing technical factors to produce arbitrary outcomes.

The two systems also share a need to distinguish between accessibility and targeting. An electronic platform may be accessible from both Iraq and Iran, but accessibility alone should not establish jurisdiction. Geist's search for greater certainty in Internet jurisdiction directly addresses this concern by warning against jurisdictional theories that make every online actor vulnerable to litigation everywhere (9). Kohl's analysis further supports a distinction between passive online availability and active commercial engagement with a forum (10). This distinction should become a central component of both Iraqi and Iranian jurisdictional doctrine. A foreign trader that merely maintains a website should not automatically be subject to Iraqi or Iranian courts. However, a trader that advertises to Iraqi or Iranian customers, uses local language, enables local delivery, repeatedly contracts with residents, or designs services for those markets should reasonably expect possible litigation there. Fitzgerald's discussion of cyberspace jurisdiction also supports this functional approach because it recognizes that online contacts must be legally evaluated rather than simply identified technically (11).

The role of party autonomy represents another major point of comparison. Both Iraqi and Iranian law should recognize that international electronic contracts, especially commercial contracts between sophisticated parties, often require forum-selection clauses to ensure predictability. Hill and Chong show that jurisdiction clauses are a core component of risk allocation in international commercial disputes (5). Dicey, Morris, and Collins similarly treat submission to jurisdiction as a recognized basis for adjudicatory authority in conflict of laws (17). In electronic contracts, however, the enforceability of jurisdiction clauses depends on the validity of electronic consent. The UNCITRAL Model Law on Electronic Signatures supports functional equivalence between electronic and handwritten signatures where the method used is reliable and indicates approval (12). Iranian law has an advantage here because its Electronic Commerce Law expressly recognizes electronic data messages and thus provides domestic statutory support for electronic contractual proof (6). Iraqi law should similarly ensure that electronic jurisdiction clauses are not rejected solely because of their form. In both systems, the decisive issues should be clarity, accessibility, notice, and reliable assent.

Nevertheless, party autonomy must be limited where electronic contracts involve consumers or weaker parties. Kessedjian's analysis of electronic commerce and international jurisdiction remains important because it emphasizes that jurisdictional rules must not allow stronger parties to impose unfair litigation burdens through standard-form terms (14). Reed's analysis of Internet law also shows that online contractual environments often involve mass terms presented on a take-it-or-leave-it basis (2). Iraqi and Iranian courts should therefore treat business-to-business electronic contracts differently from consumer electronic contracts. In commercial contracts, clear forum clauses should generally be respected because the parties are presumed capable of assessing litigation risks. In consumer contracts, especially where a foreign business targets the Iraqi or Iranian market, clauses requiring litigation abroad should be reviewed for fairness. The consumer's residence, the place where digital services are received, and the trader's targeting conduct should all be relevant. This approach would harmonize party autonomy with access to justice.

The treatment of digital performance is also crucial. Traditional contract jurisdiction often relies on place of performance, but electronic performance may include software access, cloud storage, data processing, online education, streaming, digital consulting, platform intermediation, or continuous service provision. Weber's discussion of connected technologies demonstrates that modern digital transactions increasingly involve ongoing relationships and data flows rather than isolated exchanges (21). Murray's information technology law framework similarly shows that digital interactions often generate legal consequences through systems and networks rather than through single physical acts (3). Iraqi and Iranian law should therefore interpret performance broadly in electronic contracts. If an online service is supplied to users in Iraq or Iran, the place where the service is received or used may be more relevant than the location of the provider's server. If a digital platform continuously serves local users, collects data from them, or processes their payments, the forum's jurisdictional interest becomes stronger. This interpretation would make jurisdiction responsive to the economic reality of electronic commerce.

The location of servers should be treated as a secondary and non-decisive factor in both legal systems. In some cases, server location may have evidentiary or operational importance, but it should not become the primary connecting factor for judicial jurisdiction. Svantesson criticizes arbitrary Internet jurisdiction based on technical contacts that do not reflect meaningful legal relationships (8). Schultz also warns that Internet jurisdiction must be structured in a way that avoids fragmented assertions of authority based on incidental network connections (15). For Iraq and Iran, the danger of relying on server location is twofold. First, it may deny jurisdiction where local parties are clearly affected by a foreign trader whose server is abroad. Second, it may create jurisdiction where the server is locally located but the dispute has little substantive connection to the forum. A better approach is to treat server location as one factual indicator among many, relevant only when it reflects business establishment, operational control, or intentional service provision.

Another comparative issue concerns the interaction between judicial jurisdiction and arbitration. International electronic contracts often include arbitration clauses, particularly in commercial contexts involving software, licensing, technology services, and cross-border trade. Zekos's work on international commercial arbitration indicates that arbitration serves as a major alternative to litigation where parties seek neutrality and enforceability (19). Both Iraqi and Iranian law should recognize the value of arbitration in electronic business-to-business contracts, especially where parties clearly agree to it through reliable electronic means. However, arbitration clauses should not automatically override judicial protection in consumer or adhesion contracts. The same concerns that apply to foreign forum clauses apply to arbitration clauses: lack of notice, excessive cost, procedural distance, and imbalance of bargaining power. Therefore, the comparative standard should be that electronic arbitration clauses are enforceable when consent is real, informed, and commercially reasonable, but they should be scrutinized when imposed on weaker parties.

The comparative evaluation also shows that electronic evidence is a practical precondition for effective jurisdictional adjudication. A court cannot determine whether a party targeted a market, accepted a forum clause, or performed obligations in the forum without examining digital records. Garner's legal terminology highlights the importance of evidentiary concepts such as authentication, notice, and signature (13). The UNCITRAL Model Law on Electronic Signatures supports a functional approach to electronic proof, requiring attention to identification and reliability rather than paper form (12). Iranian law's recognition of electronic data messages is therefore an important advantage (6). Iraqi law should likewise ensure that courts have clear authority and technical capacity to assess electronic records. Both systems need procedural rules or judicial guidelines for screenshots, server logs, digital signatures, email headers, platform records, timestamps, and electronic payment evidence. Without such mechanisms, jurisdictional doctrine will remain abstract and difficult to apply.

In light of international scholarship, the best comparative model for Iraq and Iran is a balanced jurisdictional framework based on substantial connection, foreseeability, party autonomy, and protection of weaker parties. Dickinson's work on structured conflict rules shows the importance of predictable legal criteria in cross-border obligations (18). Schmitthoff's international trade perspective supports commercial certainty and respect for transaction planning (16). At the same time, Kessedjian's analysis requires attention to fairness in electronic commerce (14). A coherent Iraqi-Iranian comparative model should therefore recognize jurisdiction where the defendant is domiciled in the forum, where contractual performance is directed to or received in the forum, where the defendant deliberately targets the forum's market, where the parties clearly choose the forum, or where consumer protection requires local access to justice. It should reject jurisdiction based solely on website accessibility, incidental data routing, or purely technical server contacts. This model would preserve judicial restraint while preventing foreign electronic traders from avoiding accountability in markets they intentionally serve.

The reform implications are clear. Iraqi and Iranian law should develop explicit rules for international electronic contract jurisdiction, either through legislative amendment, judicial interpretation, or specialized guidance. These rules should define electronic targeting, validate reliable electronic jurisdiction agreements, protect consumers from unfair foreign forum clauses, clarify the evidentiary status of electronic records, and coordinate jurisdiction with recognition and enforcement of judgments. Perritt's early analysis of cyberspace jurisdiction showed that legal systems must respond to digital networks without losing jurisdictional discipline (20). Svantesson's later work confirms that the field now requires refined private international law standards rather than broad metaphors about cyberspace (8). For Iraq and Iran, the objective should be neither unrestricted national jurisdiction nor passive submission to foreign platforms. The objective should be a predictable, fair, and technologically informed jurisdictional system capable of supporting international electronic commerce while safeguarding domestic legal interests.

Conclusion

Judicial jurisdiction in disputes arising from international electronic contracts cannot be understood as a merely technical branch of civil procedure. It is a central issue in the legal governance of digital commerce because it determines whether contractual rights can be enforced, whether weaker parties can obtain practical remedies, whether businesses can predict litigation risks, and whether national courts can respond effectively to transnational digital activity. The comparative study of Iraqi and Iranian law shows that both legal systems continue to depend on traditional jurisdictional concepts, especially domicile, place of performance, party submission, and territorial connection. These concepts remain valuable, but they require functional adaptation when applied to electronic contracts. The fact that a contract is concluded online should not remove it from ordinary legal analysis; at the same time, the electronic nature of the contract changes how courts must identify consent, connection, performance, and foreseeability.

The first major conclusion is that traditional jurisdictional rules are not obsolete. Courts in Iraq and Iran can still use established connecting factors to determine jurisdiction in disputes arising from international electronic contracts. If the defendant is domiciled or commercially established in the forum, jurisdiction is generally justified. If contractual obligations are performed in the forum, or if goods, services, software, or digital content are directed to parties located there, jurisdiction may also be legitimate. If the parties clearly select the forum through a valid jurisdiction clause, party autonomy should ordinarily be respected. However, these traditional criteria must not be applied mechanically. In electronic contracts, the place of formation may be ambiguous, server location may be incidental, and website accessibility may be too broad to serve as a reliable basis of jurisdiction. Courts must therefore identify meaningful legal connections rather than accidental technological contacts.

The second major conclusion is that targeting should become a central criterion in international electronic contract jurisdiction. A foreign trader should not be subject to Iraqi or Iranian jurisdiction merely because its website can be accessed from those countries. Such an approach would produce excessive and unpredictable jurisdiction. However, where the trader deliberately enters the Iraqi or Iranian market, concludes repeated electronic contracts with local residents, uses local language or commercial arrangements, delivers goods or services into the territory, receives payment from local customers, or designs its platform for local users, the assertion of jurisdiction becomes more reasonable. Targeting links jurisdiction to intention, foreseeability, and commercial benefit. It prevents arbitrary exposure to litigation while ensuring that foreign actors cannot profit from a market and then deny the authority of that market's courts when disputes arise.

The third conclusion concerns electronic consent and forum-selection clauses. International electronic contracts often contain clauses choosing a competent court or excluding the jurisdiction of other courts. These clauses are essential for commercial certainty, especially in business-to-business transactions. Iraqi and Iranian law should generally recognize electronic jurisdiction clauses when they are clear, accessible, and accepted through a reliable process. Electronic form alone should not invalidate consent. Yet courts must distinguish genuine consent from formal or fictional consent. A clause hidden in lengthy online terms, imposed without reasonable notice, or accepted through an unclear interface should not automatically bind the weaker party. Judicial analysis should focus on whether the party had a meaningful opportunity to know the clause, whether the acceptance mechanism clearly indicated agreement, and whether the clause imposes an unreasonable procedural burden.

The fourth conclusion is that consumer electronic contracts require special protection. In many online transactions, the consumer has no real bargaining power and cannot negotiate jurisdictional terms. A foreign forum clause may effectively deny access to justice if it requires a consumer in Iraq or Iran to litigate in a distant jurisdiction. Therefore, Iraqi and Iranian courts should be cautious when enforcing foreign jurisdiction clauses against consumers, especially where the foreign business targeted the local market. Consumer residence, place of receipt of services, language of the platform, local advertising, delivery arrangements, and payment mechanisms should all be relevant. The goal is not to eliminate party autonomy but to prevent it from being used as a tool for procedural exclusion. A balanced legal system should protect commercial certainty in negotiated contracts while preserving access to justice in consumer and adhesion contracts.

The fifth conclusion is that server location and technical infrastructure should not dominate jurisdictional analysis. Digital transactions often pass through servers, platforms, data centers, and payment processors located in multiple jurisdictions. These technical elements may be relevant as evidence, but they rarely reflect the real center of the contractual relationship. If a server is located in a state merely because of technical routing, that fact should not create jurisdiction by itself. If a server forms part of a local commercial operation, it may support jurisdiction, but only as one factor among others. The more reliable approach is to examine the parties, the market targeted, the place where services are received, the contractual obligations, the payment flow, and the reasonable expectations of the parties. This prevents both overextension and artificial denial of jurisdiction.

The sixth conclusion is that electronic evidence is indispensable for effective jurisdictional decision-making. Courts must be able to examine electronic contracts, digital signatures, timestamps, platform records, confirmation emails, payment evidence, user interfaces, and electronic communications. Without procedural capacity to assess these materials, jurisdictional rules cannot operate effectively. Iraqi and Iranian law should therefore strengthen rules on the admissibility, authentication, preservation, and evaluation of electronic evidence. Judges should also have access to technical expertise where necessary, especially in disputes involving automated contracting, digital platforms, cloud services, and cross-border data systems. The legitimacy of jurisdictional decisions increasingly depends on the ability of courts to understand the technological context of the transaction.

The seventh conclusion is that arbitration remains an important alternative to judicial jurisdiction in international electronic contracts, especially in commercial disputes between sophisticated parties. Arbitration clauses can reduce uncertainty, provide neutrality, and facilitate enforcement. However, arbitration should not be treated as automatically valid in all electronic contracts. The same standards of notice, consent, fairness, and accessibility that apply to forum-selection clauses should apply to arbitration clauses. In commercial contracts, valid electronic arbitration agreements should generally be respected. In consumer or adhesion contracts, courts should examine whether arbitration imposes excessive cost, procedural hardship, or practical denial of remedies. The relationship between judicial jurisdiction and arbitration should therefore be structured around real consent and procedural fairness.

The eighth conclusion is that Iraqi and Iranian law require clearer legislative or judicial standards for electronic jurisdiction. Existing traditional rules can provide a foundation, but they do not fully resolve the distinctive problems of international electronic contracts. Both legal systems would benefit from explicit recognition of digital connecting factors, including targeting, electronic performance, reliable digital consent, and consumer protection. Clear standards would reduce uncertainty for businesses, improve access to justice for users, and strengthen judicial consistency. Such rules should also coordinate jurisdiction with applicable law and recognition of judgments, because jurisdiction is only one stage in the broader life cycle of international litigation.

In comparative terms, Iranian law has a stronger statutory foundation for electronic commerce because it expressly recognizes electronic data messages and electronic commercial communications. This gives Iranian courts a clearer basis for accepting electronic evidence and electronic contractual form. Iraqi law, by contrast, should more clearly integrate electronic transaction principles into jurisdictional analysis. Nevertheless, both systems face the same central gap: neither can rely solely on traditional territorial rules without adapting them to digital transactions. The difference between the two systems is therefore one of degree rather than kind. Both need a jurisdictional model that is technologically informed, commercially realistic, procedurally fair, and compatible with international electronic commerce.

The final conclusion is that judicial jurisdiction in international electronic contract disputes should be based on a balanced test combining substantial connection, reasonable foreseeability, party autonomy, and protection of weaker parties. Courts should assert jurisdiction where the defendant has a meaningful connection with the forum, where the contract is performed or directed there, where the parties clearly choose the forum, or where local protection is necessary to prevent denial of justice. Courts should decline jurisdiction where the connection is accidental, merely technical, or based only on website accessibility. This balanced approach allows Iraqi and Iranian law to preserve the authority of national courts while avoiding excessive jurisdictional claims. It also provides a coherent path for modernizing private international law in response to the realities of electronic contracting.

The study ultimately shows that the problem of jurisdiction in international electronic contracts is not a problem of replacing law with technology. It is a problem of translating legal principles into a technological environment.

Domicile, performance, consent, fairness, and sovereignty remain central legal ideas, but they must be interpreted through the practical realities of online contracting. Iraqi and Iranian law can meet this challenge by developing clear criteria for electronic targeting, validating reliable electronic consent, protecting consumers from unfair jurisdiction clauses, treating server location cautiously, and strengthening electronic evidence rules. Such reforms would enhance legal certainty, support cross-border electronic commerce, and ensure that digital transactions remain subject to effective and fair judicial control.

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Authors' Contributions

All authors equally contributed to this study.

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The authors of this article declared no conflict of interest.

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Transparency of Data

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