

## Legal Shopping in Private International Relations

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### Abstract:

This study examines the phenomenon of legal shopping within the framework of private international law, with a focus on Iraq. Legal shopping, sometimes known as "forum shopping," is the deliberate choice of a legal system or jurisdiction that is thought to be best suited for a particular issue. This study examines the variables that encourage legal shopping, such as jurisdictional flexibility, regional variations in court rulings, and procedural or financial incentives that make particular jurisdictions alluring to litigants. Using a doctrinal approach, this paper examines Iraqi legislation pertaining to private international law, paying particular attention to jurisdictional standards, choice of law principles, and the adoption and application of foreign judgments. In order to determine how Iraqi law handles these concerns and where inconsistencies or ambiguity could unintentionally encourage legal shopping, comparative examination encompassing Middle Eastern and other foreign nations as well as case law is helpful. The study argues that legal shopping may jeopardize judicial consistency, fairness, and efficiency within Iraq's legal system, despite providing options for those seeking equitable outcomes. In order to maintain Iraq's private international law system's stability and equity in the face of expanding cross-border ties, the paper concludes with suggestions for legislative changes and increased judicial supervision that strike a balance between party autonomy and jurisdictional integrity.

**Keywords:** Legal Shopping, Forum Shopping, Conflict of Laws, Choice of Law.

## التسوق القانوني في العلاقات الدولية الخاصة

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### الملخص:

يعد التسوق القانوني احد اهم المفاهيم التي ثارت الجدل في العلاقات الدولية ، والذي يشير الى سلوك يقوم به احد اطراف العلاقة في النزاع الدولي الخاص حيث يقدم على اختيار القانون او المحكمة التي تتماشى مع مصالحه الشخصية من بين مجموعة من القوانين او المحاكم المختصة بالنظر في النزاع المطروح وهذا قد يؤدي الى إشكاليات قد يتضرر على اثرها اطراف النزاع الاخرين مما يقوض العدالة الدولية فقد يعتمد احد اطراف النزاع الى اختيار قانون معين يكون الحكم فيه اكثر تسهيلا او اسرع من ناحية التنفيذ او اقل من باب الكلفة او عكس ما ذكر وقد بينت هذه الدراسة مفهوم التسوق القانوني والدوافع التي تؤدي اليه والاثار السلبية والإيجابية له والموقف القانوني والقضائي له كما بينت الوسائل الوقائية منه والعلاجية بعد وقوعه والضوابط المقترحة للحد من حالات التسوق القانوني التي قد تؤدي الى المساس بالعدالة الدولية والاضرار بأحد اطراف النزاع حيث انها ظاهرة معقدة قد تؤدي الى المساس بجوهر العدالة في المنازعات ذات الطابع الدولي وقد بينا في نهاية البحث النتائج والتوصيات التي يؤدي الاخذ بها الى الوصول الى حالة التوازن بين احترام إرادة اطراف العلاقة الخاصة الدولية من جهة ومنع التحايل على القانون من جهة أخرى وبالتالي الوصول الى الحفاظ على عدالة النظام القانوني في قواعد القانون الدولي الخاص.

**الكلمات المفتاحية:** التسوق القانوني، التسوق القضائي، تضارب القوانين، اختيار القانون.

### Introduction

An introduction to the research topic: Under private international law, legal shopping, sometimes known as "forum shopping," has become a major trend in today's connected globe. Legal shopping is the process by which individuals involved in cross-border disputes choose legal systems or nations with the most beneficial laws or policies for their specific circumstances. This strategy raises complex legal, ethical, and procedural questions that compromise the integrity, fairness, and consistency of international dispute resolution even if it is usually beneficial for those seeking favorable

outcomes.

Globalization enhances the likelihood of worldwide disputes involving many legal jurisdictions. This is especially true for torts, family law cases, and business contracts, where parties are usually driven to choose the legal system that would best suit their circumstances. For instance, a company might choose a nation with lax regulations, whereas people dealing with family law issues might chose nations with better divorce or inheritance laws. This strategic choice is increasingly contained in both personal and corporate contexts, especially in nations with conflicting legal systems and inconsistent cross-border rule application.

Even if legal shopping occasionally gives people agency and independence, it has drawbacks. Those who take advantage of legal variances and use advantageous locations to get around more stringent legal constraints elsewhere have the potential to weaken legal systems. This leads to what some academics refer to as a "race to the bottom," in which governments may alter the legislation to produce more cases, perhaps jeopardizing justice and equity in the process.

The origins, effects, and legal frameworks of legal shopping are examined in this essay with a focus on how they may impact Iraqi law specifically. We'll look at the causes and motivations behind legal cross-border shopping, evaluate the effects it has on equality and justice, and see how other countries—including Iraq—handle this problem. Additionally, we will talk about a number of changes meant to address the issue of legal shopping, specifically in Iraqi law, in order to strike a balance between party autonomy and judicial neutrality. Through an examination of these characteristics, this essay seeks to offer a thorough grasp of legal shopping, its dangers, and its solutions, thereby contributing significantly to the field of private international law.

**The import of research:** This work is essential to comprehending the phenomenon of legal shopping within private international law and its implications for justice, equity, and legal integrity in cross-border disputes. We can better understand the motivations behind this behavior by looking at how and why parties select favorable jurisdictions, especially when doing so jeopardizes the consistency and equity of court decisions. Furthermore, this study is essential for creating strategies to address legal shopping in Iraq,

ensuring that the country's legal system is legitimate and compliant with international standards. This study aims to protect the integrity of legal processes and human autonomy by proposing modifications that would make the legal system more equitable and balanced.

- **The research problem:** This paper addresses the issue of legal shopping in private international law, in which participants in cross-border disputes purposefully choose countries with advantageous laws, therefore generating maybe conflicting and unjust consequences. This is exacerbated in Iraq by the way national legal principles interact with foreign interests. The study seeks to determine how Iraq may effectively regulate legal shopping in order to ensure fairness in international dispute settlements and thereby honor party autonomy.

1. Definition of legal shopping and its reasons:- Legal shopping, often known as "forum shopping" or "choice-of- law shopping," is the deliberate search for the most beneficial jurisdiction, legal system, or governing law for the resolution of a legal conflict or organizing of a legal arrangement. International law, private law, and commercial conflicts all include this practice when various countries provide distinct legal benefits.

**1.1. Definition of legal shopping:-** Legal shopping, also referred to in legal contexts as forum shopping, is the deliberate choice of a jurisdiction judged most advantageous for a case in terms of favorable laws, procedural advantages, or predictable outcomes. Usually arising in circumstances whereby many countries may have concurrent authority over a legal matter, this approach enables parties to pursue litigation or register contracts in areas that would maximize their possible advantages in sometimes choosing a court or legal system having jurisdiction over a subject even if it is not the most naturally applicable venue. This might involve searching for cases in locations where policies are more loose, damages are more serious, or procedures are quicker or less costly<sup>(1)</sup>. either Parties may pick laws that serve their interests, like those with less tax loads, more protective intellectual property regulations, or softer liability standards, depending on which jurisdiction's substantive law would apply to their contract or dispute. Particularly important in cross-border litigation or arbitration are those parties who would like nations that would more readily implement foreign decisions or interpret them favorably also for Parties may select nations with

beneficial substantive laws that is, those with laws that would benefit them either in terms of less regulatory obligations, favorable tax rates, or detrimental precedents or policies. Depending on those criteria, jurisdictions with faster court systems, experienced judges, or more flexible procedural guidelines may attract litigants. Moreover some nations have more permissive evidentiary rules or statutes of limitations favoring one side over the other<sup>(2)</sup>.

All things considered, legal shopping is a conscious decision of jurisdictions aimed to generate desired legal effects. Legal systems are thus sometimes obliged to pass legislation ensuring that cases be handled in the most appropriate locations even if it threatens court integrity.

**1.2. Reasons for legal shopping:-** Legal shopping, often known as forum shopping, is the deliberate selection of the jurisdiction, legal system, or governing legislation by people or organizations that provides the best means of dispute resolution or agreement drafting. The main causes behind parties' lawful purchasing behavior are listed below:

- a- Parties may pick countries where the laws support their perspective. More flexible liability rules, for instance, favorable readings of contract provisions or Statutes of Limitation that span longer or more advantageous periods.
- b- Businesses or individuals may choose countries with low or nil corporation, income, or capital gains taxes where Countries with good tax treaties may reduce tax obligations on foreign transactions or Jurisdictions providing certain industry tax benefits or foreign investment tax breaks
- c- Courts with faster resolution timeframes are desirable to prevent protracted conflicts where lower legal fees and court expenses might make certain jurisdictions more appealing. Also some jurisdictions have lenient or more favorable rules on admissible evidence.<sup>(3)</sup>
- d- Often chosen are jurisdictions recognized for faithfully executing judgments or arbitration decisions under international treaties (e.g., New York Convention)<sup>(4)</sup>.
- e- Where preference for countries with robust implementation of arbitration provisions and awards is evident, e-countries seen as unbiased and friendly are selected to handle conflicts.

- f- Companies might choose countries with flexible legal systems. Operating in jurisdictions with less harsh environmental rules and choosing nations with less data protection needs helps to dodge strong labor protection legislation<sup>(5)</sup>.
- g- Parties may choose countries with a strong rule of law and consistent legal interpretations over those prone to political unrest, corruption, or ineffective courts.
- h- Litigants may avoid hostile jurisdictions, which have laws thought to be biased, have complicated bureaucracies, or be unduly protective of local parties by choosing jurisdictions that fit their ethical or business standards.
- i- i-Parties may purposefully include governing law clauses favoring jurisdictions that grant Freedom of Contract like Fewer mandatory provisions, allowing parties to negotiate favorable terms or recognition of Non-Traditional Contracts where Jurisdictions that accept new contractual arrangement (e.g., smart contracts)<sup>(6)</sup>.
- j- While Litigants may pick venues that are physically closer or more accessible, parties may choose countries where the language or culture speaks to their own<sup>(7)</sup>.

**2. Theories that define the basis of legal shopping:-** Foundational to private international law are theories guiding the determination of relevant law in circumstances involving conflicts of laws. With cross-border or multi-jurisdictional components, they seek to provide criteria for choosing the most suitable legal system to oversee a conflict. These ideas include:

**2.1. Subjective Theory:-** When determining the governing law of a legal relationship, the subjective method highlights the importance of the parties' intentions. This idea emphasizes how parties have the freedom to choose the applicable law, especially in contractual situations. It is common in cross-border agreements and international trade, improving the predictability and flexibility of legal responsibilities. The subjective theory's central claim is that each party to a legal relationship has the freedom to select the law that will apply. A clause stating that the contract is regulated by the laws of a specific jurisdiction is a common way for them to clearly define the controlling law in their agreement. If there isn't a clear provision, the parties' intentions can be deduced from their actions, the wording used, or the

transaction's affiliation with a certain jurisdiction. Additionally, the theory is based on the supposition that the selected law is accepted by both sides, making it a consensual choice that represents their interests as a group<sup>(1)</sup>.

. Along with the previously mentioned, the ability of parties to tailor legal restrictions to their particular needs facilitates the advancement of efficiency and justice in cross-border commerce. The risk of disputes is reduced, and the smooth operation of international trade is enhanced by the ability to select the most relevant or familiar legal system. Additionally, parties can avoid potential biases of one jurisdiction by selecting a neutral legal system that neither party has a vested interest in. This is achieved by selecting the applicable law. The subjective theory enables the modification of legal frameworks to align with the complexity of international relationships. Nevertheless, there are five aspects of this theory that may necessitate consideration. The first aspect is that in contracts where one party possesses significant bargaining power, such as employment or consumer agreements, the weaker party may be coerced into accepting unfavorable choice-of-law provisions. The second aspect is that the selected law may contradict the public policy of a jurisdiction involved in the dispute, potentially leading to the invalidation or rejection of the selected law. The third aspect is that parties may exploit the theory to circumvent mandatory legal provisions in jurisdictions that would otherwise apply, such as labor laws or environmental regulations. The fourth aspect is that if no express choice of law is made, courts may encounter difficulties in interpreting the implied will of the parties, resulting in additional disputes. The fifth aspect is that some legal systems restrict the application of foreign laws in certain cases, particularly when mandatory rules or public policy considerations are at stake<sup>(8)</sup>.

**2.2. Objective theory:-** In private international law, the objective theory is a method of ascertaining the relevant law depending on the objective connections of a legal relationship instead of depending on the subjective intention or purpose of the parties. This theory gives the actual facts of the case, such as the location performance or subject-matter of the legal relationship top priority in order to identify the most suitable legal system either the law of the jurisdiction with the closest and most significant connection to the legal relationship governs the case or where the



determination of the applicable law is independent of the parties' intentions and relies just on objective criteria. This guarantees a fair and unbiased approach, especially in situations when party autonomy might lead to imbalances or misuse and the idea attempts to implement a legal system that is intrinsically linked to the issue, avoiding arbitrary or irrelevant rules. Whereas the subjective theory is mostly employed in contractual conflicts, the objective theory is used in a wider spectrum of legal interactions, including torts, family law, and property conflicts, where An important method that gives impartiality and the closest link between the legal relationship and the jurisdiction top priority is the objective theory in deciding the relevant law. Although it guarantees impartiality and lowers the possibility of manipulation, its rigidity and little regard of party autonomy may sometimes produce results that might not entirely represent the interests of the parties. In reality, the subjective theory usually complements it to provide a fair and balanced settlement of worldwide legal conflicts<sup>(9)</sup>.

**3. Legal shopping in Iraqi law:-** Under the Iraqi Civil Code, contracting parties may elect to apply the law of a specific jurisdiction to their agreement, provided this choice does not contravene public order or mandatory provisions of Iraqi law. Article 25 permits parties to designate the governing law of their contractual obligations when foreign elements are present. However, such selections must adhere to the Iraqi Law on Civil Procedure (No. 83 of 1969), which governs the recognition and enforcement of foreign judgments and arbitration awards. Additionally, Iraqi law addresses conflict-of-law issues primarily through Articles 17 to 33 of the Iraqi Civil Code, which pertain to cases involving foreign laws. These sections delineate criteria for ascertaining the applicable jurisdiction's laws in circumstances involving various legal systems. The selection of the governing law may be determined by the parties involved or by the court, which will be the focus of our subsequent discussion:

**3.1. Parties' choice of applicable law:-** Article 25 of the Iraqi Civil Code addresses the law applicable to contracts, thereby stating: "Contractual obligations will be regulated by the law of the state in which the parties have their common domicile if they share a domicile. Unless the parties have agreed otherwise or it is evident from the facts that another law was meant to apply, the law of the state in which the contract was executed must apply in



the absence of a common domicile." Emphasizing party sovereignty and, in the lack of an express decision, utilizing linking elements like the common domicile or the site of contract completion, this article offers a framework for deciding the appropriate law in contractual affairs. Generally reflecting ideas of contractual freedom, Iraqi law supports the parties' choice of relevant law . The Iraqi Civil Code upholds the idea of party autonomy, therefore enabling parties to specifically pick the legislation relevant to their agreement. Article 25 reflects this: it notes that the parties' agreement on the controlling law comes first. Usually include a choice of law phrase in their contract, for instance "The parties hereby agree that this contract shall be governed by and construed in accordance with the laws of (Country/State)" expresses intent to pick the appropriate legislation. By clearly clarifying the parties' decision, this paragraph guarantees clarity and helps to prevent disagreements on the relevant law. It has to be done so freely and not against public policy or required clauses of the relevant legislation. When the parties do not clearly indicate their preferred law in the contract, their purpose may be deduced from the conditions of the agreement, therefore expressing will in selecting the relevant law . If the contract refers to particular laws or uses terminology typical of a particular legal system, this may imply an intention to apply that system's laws or if the contract is concluded or intended to be performed in a particular country, this may suggest an intention to apply that country's laws. This inferred choice is recognized under legal principles, including in the Iraqi Civil Code. concurrently Should the parties have a same nationality or residence, their intention might be assumed to coincide with the legal system of their affiliation. Under Article 25 of the Iraqi Civil Code, the inferred will of the parties is regarded as subordinate to clear agreement. When purpose is not obvious, the relevant legislation turns to the linking elements such as the place of common residence or the site of contract conclusion. As if it were a contract between two people with references to EU trade rules and a clause stating conflicts would be settled in Paris.. It might be concluded that French law or EU law was meant to control the contract even without a stated choice of law provision. Modern international private law is based mostly on the idea that the intent of the parties determines the relevant law in international economic transactions in a significant and decisive manner. National laws, treaties, and international

agreements endorsing certainty, flexibility, and autonomy in cross-border trade help to uphold this notion. Modern contract law and international business law are based on the view that the will of the parties is holy in the framework of selecting the relevant legislation. Party autonomy is the foundation of this principle since it respects and upholds the freedom of people or entities to structure their legal and commercial relationships as they see fit where Parties are presumed to know their interests best and are allowed to shape their legal obligations accordingly also. Highly prized in both local and international spheres, this autonomy is seen as an extension of human liberty and By letting individuals choose the relevant law, one lessens confusion over which legal framework would control their rights and duties; in this case, the selected law refers to the guidelines of conflict of laws But following the federal choice of law rule, one judge English dissenting, that by referring to "English law" in their contract, the parties meant to invoke solely English intramural (municipal) law, rather than English law of conflict of laws<sup>(10)</sup>.

**3.2. Choice of applicable law by the court:-** Iraqi law acknowledges the notion of party autonomy, allowing contracting parties to choose the governing law for their contract. Courts will uphold a legitimate choice of law clause, as long as it does not violate public policy, required sections of Iraqi law, or essential concepts such as morality and justice. In the absence of a selected relevant law by the parties, Iraqi courts implement particular regulations to ascertain the controlling law. These regulations are predicated on the paramount relationship to the contract, and according to Article 25 of the Iraqi Civil Code, in the absence of a choice of law provision, the court must apply the law of the jurisdiction most intimately linked to the contract. Factors taken into account include:

- a. Joint nationality of contractors: When the parties to a contract possess a common nationality, their shared national law may govern the contract, contingent upon its alignment with their intentions or an applicable legal framework. The assumption is that parties of the same nationality are acquainted with their shared national law, rendering it a rational choice for regulating their contractual obligations. Contracts frequently contain a governing law clause. If the parties share a common nationality, they may explicitly select their shared national law to

govern the contract. In the absence of a governing law clause, courts or arbitral tribunals may default to the law of the common nationality. Furthermore, the application of common national law may correspond with public policy considerations, especially if one party resides in their mutual home country. Nonetheless, the principle of common nationality must demonstrate a significant link to the contract. For instance, if the contract is executed wholly in a different jurisdiction, the law governing the place of performance may prevail. In cases where the parties possess substantial connections to an alternative legal system, that system may take precedence over the law of common nationality. Furthermore, even when the law of common nationality is applicable, mandatory regulations from the forum state or another jurisdiction closely linked to the contract may supersede its stipulations<sup>(11)</sup>.

- b. Common domicile of the contractors: The law of common domicile governs a contract when the contracting parties have the same domicile, which is considered the most relevant or suitable legal framework for their contractual connection. This principle is acknowledged in private international law and is frequently employed to ascertain the applicable law in the absence of an explicit selection by the parties, wherein the law of common domicile pertains to the legal framework of the location where both parties permanently reside or maintain their principal establishment. If parties have a common domicile, that legal system may regulate their contract. A shared domicile often signifies a mutual legal, economic, and cultural context, making it a rational option for settling contractual issues. The parties may expressly choose the law of their shared abode as the controlling law. In the absence of a controlling law provision in the contract, courts or arbitral tribunals may resort to the law of the common domicile based on considerations of closest relationship or inferred purpose. The primary rationale for Implementation of the Common Habitat Act The use of the law of common domicile ensures predictability and equity, since parties are generally acquainted with its regulations and processes. A shared domicile signifies exposure to a same legal and regulatory framework, hence diminishing the probability of divergent interpretations<sup>(12)</sup>.

c. Place of conclusion of the contract: In private international law, the location of conclusion of a contract is a linking element used to decide the law applicable to an international contract. It is still important in some situations where Contemporary legal systems, including international conventions (e.g., the Rome I Regulation) and the Hague Principles on Choice of Law, prioritize the parties' explicit choice of law, even if its relevance has diminished in modern legal frameworks that give the parties' choice of law or the closest connection to the contract top priority. Still, the location of conclusion remains a backup criteria in the lack of such a decision or where there is no clear ruling rule where Although the site of conclusion may be where the accepting party delivers the message or where the offeror gets it, the contract is finalized where the acceptance is shared to the offeror<sup>(13)</sup>.

**4. Restrictions on the will of individuals when legally shopping:-** When it comes to private international law, the purpose of placing limitations on the autonomy of the will in contracts is to strike a balance between the concept of party autonomy and the requirements of justice, protection of weaker parties, and the maintenance of public order. Some of the most significant limitations are as follows:

**4.1. Public Order:-** Public order denotes the essential values of morality, justice, and public policy that form the foundation of a state's legal framework. These values are deemed so fundamental that they cannot be compromised, especially in situations involving foreign entities. Public order functions as a protective mechanism in private international law, serving as an essential instrument to ensure that the application of foreign laws or the recognition of foreign judgments does not undermine the fundamental legal and ethical principles of the forum state. While it promotes fairness and justice, its careful and limited use is necessary to maintain the balance between respecting international legal diversity and defending domestic legal principles. Contracting parties frequently have the power to select the relevant governing law for their agreement under private international law. There are restrictions on this choice, most notably the public order exception<sup>(14)</sup>. The court may decline to apply a foreign law selected by the parties if doing so would contravene the forum state's core values of justice, morality, or public policy<sup>(14)</sup>. Numerous international legal systems, like the

Iraqi Civil Code, which reads in Article 32 that: " If the terms of the Foreigner Law outlined in the earlier articles are against Iraqi morality or public order, they may not be implemented. " An additional illustration is found in Article 21 of the Rome I Regulation (EU Law), which permits a law to be rejected if it is "clearly incompatible with the public policy (ordre public) of the forum." The fact that the forum might refuse to apply a selected law if it goes against public policy is recognized in article 11 of the Hague Principles on Choice of Law in International Commercial Contracts. A key premise of private international law is the liberty of the parties to choose the governing rules. However, the public order exception makes sure that this autonomy does not violate the basic principles or values of the forum state. The maintenance of domestic public policy and the interests of international legal concord are both served by its cautious and restricted implementation<sup>(15)</sup>.

**4.2. Cheating towards the law:-** In the context of international private law, fraud is defined as the use of deceit by one or more parties to avoid compliance with a certain set of laws or regulations. In order to acquire an unfair advantage, dodge responsibilities, or take advantage of loopholes, it entails selecting or creating links to a legal system. In such cases, courts frequently refer to the principle of "fraus omnia corrumpit" (fraud corrupts everything) to refuse the application of the chosen law or the enforcement of contractual terms. If fraud is clearly present, the court may instead apply the law of the forum (lex fori), which is the law of the jurisdiction that is most directly related to the dispute. For instance, a contract governed by a foreign law that was chosen to avoid stricter environmental regulations in the forum could have its choice invalidated. Also, some international legal systems deal with fraud in private international law<sup>(15)</sup>. For example, article 3 of the Rome I Regulation (EU Law) states that the chosen law cannot be in conflict with the mandatory rules of the forum or another state that has a close relationship to the contract. Another example is the New York Convention on Arbitration, which states that awards rendered by arbitral panels can be denied recognition if there is clear evidence of fraud in the selection of the governing law or manipulation of the procedures. Fraud in private international law finally hurts the trustworthiness of legal systems and contracts. Courts make sure that people don't cheat to get around rules that

they have to follow by checking the choice of law for real links and fair purpose. They protect justice, fairness, and public order by throwing out schemes that aren't what they seem to be<sup>(16)</sup>.

**5. Legal effects of legal shopping:-** There are two sides to the coin when it comes to legal shopping in private international law. In spite of the fact that it improves flexibility, efficiency, and autonomy, it nevertheless has the potential to result in unfair practices, increase legal ambiguity, and diminish consistency. It is vital to have a balanced strategy that combines regulatory protections and international collaboration in order to take advantage of its advantages while simultaneously finding solutions to its problems. Depending on how it is applied, it may have both positive and negative effects on private international law. The following is a breakdown of these effects' constituent elements:

**5.1. Legal shopping's benefits for private international law:-** Legal shopping can assist parties in selecting a jurisdiction with stable and predictable legal frameworks, reducing the possibility of disputes and facilitating more smooth international transactions. This is the first benefit. By selecting jurisdictions known for their effectiveness and impartiality, parties can also resolve conflicts more swiftly and amicably. Jurisdictions also aim to attract businesses and individuals by improving their legal systems by passing more open, efficient, and equitable legislation. However, lawful shopping encourages trust in international trade by giving participants the freedom to select fair and reputable venues for their transactions. Additionally, jurisdictions with advantageous legal regimes attract overseas investors, which speeds up economic growth and development<sup>(2)</sup>.

**5.2. Negative Effects of Legal Shopping in Private International Law :-.** The second concern is the negative impacts of lawful shopping, which, when abused or taken advantage of, can have serious negative repercussions. Richer parties frequently have the means to choose jurisdictions that suit their needs, which disadvantages less fortunate parties. Particularly in adhesion contracts, legal shopping can lead to "choice of law" clauses or dispute resolution agreements that impose unfair terms on weaker parties<sup>(9)</sup>. Overlapping jurisdictional claims brought forth by legal shopping could make disputes more complex and add inefficiencies to the judicial system. On the other hand, this technique can lead to inconsistent legal application



among nations, which would compromise the stability and predictability of international law. In private international law, legal shopping can lead to fraudulent conduct, as people or organizations take advantage of jurisdictional differences to avoid paying taxes or obtaining unfair advantages. In order to avoid complying with stricter laws in their native country, parties may choose countries with loose or nonexistent restrictions<sup>(2)</sup>. To weaken the implementation of necessary regulations, parties may violate the fundamental principles or public policy of another jurisdiction by, for example, establishing entities in tax havens or engaging in forum shopping to evade labor laws, environmental safeguards, or tax duties. and Particularly in contracts with unequal negotiating power, parties may use legal shopping to select laws that disproportionately benefit one side. On the other hand, dishonest legal shopping could lead to disputes about the laws of the relevant jurisdiction, prolonging legal proceedings and raising costs. Furthermore, deliberate breaking of some laws could weaken the legal system and make it more difficult for other organizations to foresee legal repercussions. Illegal financial transactions can be concealed by taking advantage of countries with little financial oversight. Although it might provide flexibility and autonomy, the misuse of legal shopping can undermine justice, legal clarity, and international cooperation. It is crucial to strike a balance between upholding the autonomy of the parties and avoiding taking advantage of them in order to lessen the negative impacts of legal shopping in private international law. Implementing strong legal frameworks and international agreements may make it easier to solve these challenges effectively<sup>(5)</sup>.

### **Conclusion**

We came to the following conclusions and recommendations at the conclusion of our study, Legal Shopping in Private International Law:

**First – Results :-** Legal shopping, sometimes referred to as forum shopping, is a phenomena in private international law that has been extensively studied to assess its impact on international dispute resolution, legal predictability, and judicial systems. The investigation's conclusions regarding this phenomenon can be summarized as follows:

- 1- When people attempt to exploit legal system discrepancies, it demonstrates how difficult it is to adhere to the proper conflict-of-law norms.
- 2- Since court decisions typically reflect the national policies of chosen nations, legal shopping may lead to conflicting outcomes for comparable situations, eroding trust in international legal systems and producing disparate legal interpretations.
- 3- Richer parties typically benefit from legal shopping because they can afford to litigate in jurisdictions that have favorable outcomes, whereas less-resourced litigants typically suffer from this practice, exacerbating the disparity in access to justice.
- 4- Increased use of jurisdiction and choice of law clauses in business contracts to lessen legal uncertainty. Although pre-agreed terms give businesses greater assurance, they may nonetheless reveal a power imbalance.
- 5- Some jurisdictions handle more cases than others because of their favorable laws and efficient legal systems. This influx could strain local courts and affect the way family disputes are settled.
- 6- For both contractual and non-contractual duties, the European Union's Rome I and Rome II Regulations, as well as the Hague Principles on Choice of Law in International Commercial Contracts, have been crucial in attempting to unify legal frameworks.
- 7- In cases of improper forum selection, courts are increasingly employing this doctrine to decline jurisdiction. This is due to the fact that courts are adopting more stringent approaches to uphold contractual agreements on jurisdiction and regulating law.
- 8- Legal shopping may damage the image of countries seen to be unduly liberal or biased; thus, we support worldwide norms to make sure that legal shopping does not compromise public policy goals or the rule of law.
- 9- Businesses encounter heightened expenses and risks stemming from the uncertainty linked to forum shopping, which has fostered the view of courts as competing "markets," resulting in the commoditization of legal systems.

**Second – Proposals:-** In private international law, we on "legal shopping" have suggested a number of ways to lessen its harmful effects while still allowing parties some degree of choice. With these suggestions, we want to find a middle ground in international conflict resolution that is both fair and efficient. Here are some important suggestions:

1. Encourage the implementation of harmonized regulations through international instruments, including the Hague Conventions (e.g., Choice of Law in Commercial Contracts), the UNCITRAL Model Law on Arbitration, and the Rome I and Rome II Regulations for EU member states that are required to comply and establish uniform procedural guidelines for transnational litigation and arbitration to mitigate discrepancies between jurisdictions.
2. Advocate for courts to implement the forum non conveniens doctrine with greater strictness, rejecting jurisdiction in favor of a more fitting forum. Additionally, establish explicit criteria for assessing when a forum is more appropriate, including the relevance of the dispute to the jurisdiction and the convenience for both parties involved.
3. Encourage cooperation between courts in different areas to avoid inconsistent decisions and make sure fair results. One way to do this is to increase international deals for the acceptance and execution of foreign rulings. This will make venue shopping less appealing.
4. To avoid imposing one party's preferences on another, make sure courts and arbitration panels uphold pre-agreed jurisdiction and governing law terms in contracts and promote equitable drafting of these agreements.
5. Transparency in arbitral processes and standardized arbitration provisions that define neutral locations and governing laws might reduce perceptions of bias in favor of big entities.
6. Impose restrictions on the autonomy of parties in selecting applicable laws, particularly in situations involving vulnerable parties such as consumers and employees. Additionally, enhance public policy exceptions to avert the enforcement of laws that contravene essential principles of justice.

### Footnotes

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