



# Jus Corpus Law Journal

Open Access Law Journal – Copyright © 2024 – ISSN 2582-7820  
Editor-in-Chief – Prof. (Dr.) Rhishikesh Dave; Publisher – Ayush Pandey

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## The Impact of AI on Conflict of Laws Artificial Intelligence in Conflict of Law: Navigating the Boon and Curse of Technological Justice

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Received 28 April 2024; Accepted 29 May 2024; Published 05 June 2024

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*Artificial Intelligence (AI) has emerged resulting in a revolution in various sectors including the legal system. Conflict of laws, also known as private international law, is concerned with legal disputes that arise between parties from different countries. AI has the power to alter the established guidelines and precepts of conflict of laws. Since AI systems may function and make judgements from several places, jurisdictional concerns may grow more complicated. Since AI systems may be trained to apply the laws of a certain jurisdiction, the choice of legislation may also be impacted. Furthermore, the acceptance and execution of foreign judgements may come under scrutiny if AI is used in conflict resolution<sup>1</sup>. In recent years, the impact of AI on conflict of laws has become a relatively new area of interest to many researchers. On the one hand, artificial intelligence (AI) can enhance the efficacy and precision of legal procedures, facilitating the settlement of international conflicts. However, there are certain challenges in the use of AI to resolve the problem of conflict of law especially potential possibilities of bias and discrimination, as well as the lack of accountability and transparency in AI systems. Thus, it is imperative to guarantee the equitable and just use of AI in conflict of laws, legislators, technocrats and law professionals must collaborate to create a comprehensive AI governing mechanism in the form of universally acceptable international instruments on conflict of law and allied aspects. This paper seeks to explore the*

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<sup>1</sup> Michiel Poesen, 'Private International Law and Artificial Intelligence: An EU Perspective' (2023) 31(2/3) European Review of Private Law <<https://doi.org/10.54648/erpl2023013>> accessed 10 March 2024

*numerous ways in which AI has affected conflict of laws and its potential implications for the future<sup>2</sup> with particular emphasis on three areas: jurisdiction, choice of law, and recognition and execution of foreign judgements.*

**Keywords:** *artificial intelligence, conflict of law, private international law, jurisdictional challenges, international instruments.*

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## INTRODUCTION

Technology is developing at a rapid pace, which has changed the legal environment and created challenging questions in a number of legal fields. Conflict of laws is one such area of law that has been greatly impacted by technological advancements. A legal framework called a conflict of laws also referred to as private international law, establishes which laws and jurisdictions are applicable in disputes involving parties from several nations or legal systems.

The advent of Artificial Intelligence (AI) has added complexity to the concerns of conflict of laws since AI can function independently of human interference. The field of artificial intelligence (AI) in computer science deals with creating intelligent machines that have human-like thinking and decision-making abilities. These devices have been designed to identify patterns in data, learn from them, and use them to inform choices. The judicial system is one of the many facets of society that AI technology is profoundly affecting as it develops and becomes more sophisticated<sup>3</sup>.

In the area of conflict of laws, the use of AI has brought up a number of issues and concerns. This research paper will cover how artificial intelligence (AI) affects conflicts of laws, looking at the problems at present and possible avenues to fix the problems.

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<sup>2</sup> John Villasenor, 'Soft law as a complement to AI regulation' (*Brookings*, 31 July 2020)

<<https://www.brookings.edu/articles/soft-law-as-a-complement-to-ai-regulation/>> accessed 10 March 2024

<sup>3</sup> Samriddhi Talwar, 'The CONFLICT of Artificial Intelligence with Indian Constitutionalism: A Normative Critique' (*Indian Society of Artificial Intelligence and Law*, 16 June 2020)

<<https://www.isail.in/post/the-conflict-of-artificial-intelligence-with-indian-constitutionalism-a-normative-critique>> accessed 15 March 2024

## **AI'S EFFECT ON LEGAL CONFLICTS**

Determining the proper law and jurisdiction in matters involving AI is one of the primary issues that AI presents in the realm of conflict of laws. Because AI systems may function internationally, it might be challenging to decide which jurisdiction's legal system to use in the event of a conflict. The fact that the AI system is making judgements without human input only serves to exacerbate this problem. The confusion around who should be accountable for the deeds of AI systems presents another difficulty. Liability in conventional conflicts of laws matters is ascertained by reference to the laws of the jurisdiction in which the injury transpired. However, it might be challenging to identify the relevant regulations when dealing with AI systems because the harm might not be physically present in a particular area.

Furthermore, questions of contract recognition and enforcement are brought up by the application of AI in foreign transactions. The parties to a classic conflicts of laws issue can decide which law will apply to their contract. With AI systems, however, the parties might not be in charge of the decision-making process and the contracts might be created and carried out independently.

## **WAYS TO SOLVE THE DIFFICULTIES**

Globalization has an impact in the arena of legal filed both International and Domestic laws. Adorable development in technology has been proven a boon in several fields Nationally as well as internationally and the legal fraternity is not an exception to this. In today's tech era use of AI in resolving disputes pertaining to conflict of law has become routine practice. However, no AI is foolproof in all sense. Considering the advantages of the use of AI in resolving disputes relating to conflict of law, the disadvantages are negligible in nature.

Thus, legal experts and organisations have proposed a number of solutions to deal with the issues that AI presents when there is a conflict of laws. The creation of a unified and thorough set of guidelines and norms for the regulation of AI is one suggested remedy. This will provide

uniformity and clarity in the way laws are applied in various jurisdictions<sup>4</sup>. Adopting a 'territoriality principle,' according to which the laws of the jurisdiction in which the AI system is located would apply, is another suggested remedy. This idea would simplify the process of identifying the relevant legal framework and holding accountable actors. Moreover, there have been proposals for the establishment of an international convention or treaty that would particularly address the problems of artificial intelligence and conflict of laws. This would offer a cohesive strategy for governing AI and resolving the difficulties it presents in international conflicts.

## CONVENTIONAL APPROACHES TO CONFLICT OF LAWS

The legal discipline of conflict of laws also referred to as private international law, deals with the settlement of conflicts between parties that have different legal systems or nationalities. It entails figuring out which nation's legal system to use in a given situation. In today's globalised world, when people and corporations frequently conduct cross-border commerce and relationships, this is extremely important.

Historically, a system of laws and guidelines that have been honed over the ages has controlled conflicts of laws. These regulations are founded on the territoriality concept, which maintains that a nation's laws need to be enforced inside its boundaries. Legal systems all throughout the world have traditionally resolved disputes over laws using this method. The 'choice of law' and 'jurisdiction' approaches serve as the foundation for the conventional techniques of handling conflicts of law. While the jurisdiction approach determines which country's courts can hear a case, the choice of law approach chooses the laws of a certain nation to regulate a dispute<sup>5</sup>.

In civil law nations, where parties to a dispute may select the prevailing law in their contract or agreement, the choice of law technique is frequently employed. This permits independence and freedom in choosing the relevant legislation. This strategy does have some drawbacks, though,

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<sup>4</sup> 'AI and jurisdiction' (*Gineva Internet Platform digwatch*) <<https://dig.watch/topics/jurisdiction>> accessed 15 March 2024

<sup>5</sup> Ulrich M. Drobnig et. al., 'Choice of law' (*Encyclopedia Britannica*, 17 August 2022) <<https://www.britannica.com/topic/conflict-of-laws/Choice-of-law>> accessed 17 March 2024

since parties may select a law that better serves their objectives, which might result in forum shopping and unjust results.

Conversely, the jurisdiction technique is frequently employed in common law nations, where courts are empowered to apply their own laws in situations involving foreign parties. This method is predicated on the notion that a nation's courts are most qualified to interpret and implement its own laws as they are more familiar with its legal framework. However, as several courts may apply different laws to the same case, this might potentially result in contradictory decisions.

### **AI'S EFFECT ON CONFLICT OF LAWS**

The conventional approaches to conflict of laws are encountering new difficulties due to the quick development of technology, which includes the use of artificial intelligence (AI). Artificial intellect (AI) is the emulation of human intellect in robots that have been designed to think and behave like people. The following are some ways in which this technology may have a big influence on how conflicts of laws are resolved:

**1. Increasing cross-border transaction diversity and complexity:** Increased cross-border transactions and interactions between individuals and corporations are a result of the employment of AI technology. This has made it more challenging to ascertain which laws apply in a dispute because there are disparate legal systems, languages, and cultural norms involved. It is difficult for conventional conflict of laws methodologies to stay current and offer practical answers given this complexity and variety<sup>6</sup>.

**2. An increased dependence on technology to settle disputes:** Smart contracts and other AI-powered online dispute resolution platforms are being employed more and more in the dispute settlement process. This implies that disagreements can be settled without the need for courts

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<sup>6</sup> Dmitri A. Lipinsky et.al., 'The Problems of Legal Regulation of AI: A Rather Legal Research' (2020) 100 *Advances in Intelligent Systems and Computing* <[https://www.doi.org/10.1007/978-3-030-39319-9\\_47](https://www.doi.org/10.1007/978-3-030-39319-9_47)> accessed 05 April 2024

or established legal frameworks. This calls into question the viability of these conclusions as well as their effect on established dispute resolution techniques.

**3. Privacy and data security concerns:** In order to make choices, AI technology uses data and algorithms. This gives rise to worries about data security and privacy, particularly in cross-border transactions where laws and regulations vary between nations. There may be conflicts of laws when deciding which country's laws should be applied in situations involving personal data.

**4. The necessity of harmonisation and international collaboration:** An increasing number of cross-border transactions involving AI technology need international coordination and legal harmonisation. This is necessary to avoid forum shopping and inconsistent rulings, as well as to guarantee uniform and equitable results in matters using AI.

## HOW ARTIFICIAL INTELLIGENCE IS CHANGING THE CONFLICT OF LAWS?

Artificial intelligence (AI) is a technology that is becoming more and more common, having applications across many different sectors and businesses. AI is being utilised in the legal sector for a variety of activities, including document analysis, legal research, and contract evaluation. However, AI's effects on the legal industry go beyond raising productivity and efficiency. The clash of laws is one area where AI has had a major impact<sup>7</sup>.

A set of guidelines known as conflict of laws, or private international law, establishes which nation's laws should be used in a dispute involving parties from other countries. It is essential to both cross-border business and trade as well as interpersonal ties between people from other nations. The conflict of laws has changed as a result of artificial intelligence, both in terms of the problems it encounters and the answers it provides.

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<sup>7</sup> 'How Artificial Intelligence (AI) is transforming the Legal Industry?' (*matellio.com*, 19 September 2022) <<https://www.matellio.com/blog/artificial-intelligence-transforming-legal-industry/>> accessed 01 January 2024

## HOW ARTIFICIAL INTELLIGENCE IS CHANGING THE LAW?

The rise in cross-border commerce and conflicts is one-way artificial intelligence is changing the law. A growing number of businesses are participating in international trade and commerce as AI technology spreads throughout a variety of industries. Cross-border disputes have increased as a result, necessitating the use of conflict of laws concepts to ascertain the applicable legislation.

Traditional conflicts of laws and rules now face additional difficulties as a result of AI. For instance, figuring out which legislation applies in situations involving contracts or transactions created by AI might be difficult. This is due to the fact that AI systems are meant to function independently, which makes it challenging to determine the parties' intentions and the location of the contract's creation<sup>8</sup>.

Additionally, new kinds of legal relationships—like those between people and AI systems—have emerged as a result of AI. This calls into question how conflict of laws rules should be used when dealing with AI beings. For example, if a person files a lawsuit against an AI system for damages, whose nation's legal system should be used? Because of the complexity of this issue, established conflict of laws standards need to be reconsidered.

However, artificial intelligence technology has also been applied to help settle international conflicts. Online dispute resolution (ODR) services are one application of AI-powered platforms. These platforms analyse the arguments and supporting data from both sides using algorithms to provide a legally enforceable conclusion. This might completely transform the process of resolving conflicts across borders, making it more effective, affordable, and timely.

Furthermore, the application of AI technology is helping to determine which law will apply in cross-border conflicts. Artificial intelligence (AI) systems, for example, can examine the parties' contracts and identify the relevant conflict of laws to determine which law applies. This might

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<sup>8</sup> Kingley Martin, 'Artificial Intelligence: How Will It Affect Legal Practice – and when?' (*Thomson Reuters*, 27 April 2016) <<https://www.thomsonreuters.com/en-us/posts/legal/artificial-intelligence-legal-practice/>> accessed 30 March 2024

cut down on the time and expenses related to figuring out the relevant law, which is sometimes a difficult and drawn-out procedure.

However, there are also worries about the lack of accountability and transparency in AI decision-making when it comes to the application of AI in legal conflicts. The increasing complexity of AI systems makes it increasingly difficult for humans to comprehend how these systems make judgements. Parties have a right to know the thinking behind any decision that impacts their legal rights, hence this is a crucial problem in the conflict of laws.

### **AI'S ADVANTAGES AND DIFFICULTIES IN LEGAL CONFLICTS**

Artificial intelligence (AI), in the quickly developing technology world of today, is becoming a ubiquitous force in nearly every area of our lives. Artificial Intelligence can completely change the way we interact with the environment, from self-driving cars to personalised suggestions on streaming platforms. But AI's influence extends beyond sectors that deal directly with consumers; it has also made great advancements in the legal domain, notably in the area of conflict of laws<sup>9</sup>.

A subset of law called conflict of laws, or private international law addresses legal conflicts involving many nations. An efficient and effective means of resolving legal problems has become increasingly crucial as cross-border transactions and globalisation of trade grow. This is where artificial intelligence (AI) may help, as it provides a number of advantages that can expedite and enhance the settlement of these intricate legal cases.

There are difficulties with using AI in legal disputes. Similar to any novel technology, apprehensions exist regarding its dependability, partiality, and influence on the legal industry. This essay will examine the advantages and difficulties of artificial intelligence in legal disputes as well as its possible effects on the legal system<sup>10</sup>.

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<sup>9</sup> Arjun Panesar, 'What Is Artificial Intelligence' (2019) Machine Learning and AI for Healthcare <[https://doi.org/10.1007/978-1-4842-3799-1\\_1](https://doi.org/10.1007/978-1-4842-3799-1_1)> accessed 10 February 2024

<sup>10</sup> Micheal Chukwube, 'AI and The Law: Navigating Legal Challenges In AI Development, eLearning Industry' (*eLearning Industry*, 24 February 2022) <<https://elearningindustry.com/ai-and-the-law-navigating-legal-challenges-in-ai-development>> accessed 14 February 2024



## AI'S ADVANTAGES IN CONFLICT OF LAWS

- 1. Accuracy and Efficiency:** Processing enormous volumes of data quickly and reliably is one of AI's main advantages in conflict of laws. To ascertain which laws, apply in a given case, solicitors and judges must manually go through a large number of court cases and legal papers in a typical legal context. This is a labour-intensive and human error-prone technique. Contrarily, artificial intelligence (AI) can quickly and efficiently analyse enormous volumes of data, greatly cutting down on the time and effort needed to settle a conflict of laws argument<sup>11</sup>.
- 2. Uniformity and Forecast ability:** The capacity of AI to produce consistent and predictable results is another benefit in cases of legal conflict. Human biases frequently impact legal decisions, resulting in different interpretations of the same legislation. AI systems, on the other hand, are designed to make conclusions based on impartial information and algorithms, lowering the possibility of bias and guaranteeing consistency in judgements.
- 3. Economical:** AI in conflict of laws has the potential to save costs for both people and corporations. AI can minimise legal expenses by expediting the settlement process and so cutting down on the time and resources required to resolve conflicts of law. Small companies and people who might not have the funds to participate in drawn-out and costly legal disputes would especially benefit from this.

## AI'S LEGAL CONFLICT CHALLENGES

- 1. Trustworthiness:** Reliability is one of the key issues with AI in legal conflicts. The quality and completeness of the data given into the system determines how fair and accurate AI choices are. Unreliable results may result from biased or insufficient data utilised to train the AI. This substantial obstacle must be overcome in order to guarantee the effective application of AI in legal conflicts.

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<sup>11</sup> Igor Ponkin et al., 'Artificial Intelligence from the point of view of law' (2018) 22(1) RUDN Journal of Law <<https://doi.org/10.22363/2313-2337-2018-22-1-91-109>> accessed 25 March 2024

**2. Human Supervision:** Artificial intelligence (AI) can expedite and enhance the conflict of laws procedure, but it cannot completely replace human intervention. For AI choices to be reasonable and fair, human monitoring is required. This begs the concerns of who is in charge of AI judgements and how to hold them accountable for biases or mistakes.

**3. Effect on the Practice of Law:** Concerns are also raised concerning the influence AI will have on the legal profession when it comes to conflicts of legislation. There's concern that as AI systems get more powerful and sophisticated, human judges and solicitors may eventually be replaced by them, creating job losses. The standard of legal services and the position of solicitors in the legal system may also be impacted by this.

**The Prospects of Artificial Intelligence and Conflict of Laws:** Artificial Intelligence (AI) is drastically altering the legal field as well as many other areas. Its ability to make choices, analyse data, and automate operations has made it an invaluable tool in the legal industry. But as AI develops, questions regarding how conflict of laws may play out in the future are being raised. A legal framework called the conflict of laws also referred to as private international law, establishes which laws should be implemented in situations when there is disagreement between many states. The necessity to address how artificial intelligence (AI) will affect conflict of laws in the future is growing as its use increases<sup>12</sup>.

## AI'S EFFECT ON LEGAL CONFLICTS

In recent years, the legal business has been using artificial intelligence (AI) more and more. It has been used for a number of legal tasks, including document analysis, legal research, and contract assessment. AI is becoming a more appealing tool for attorneys and law firms due to its capacity to handle massive volumes of data and make algorithmic choices. However, there are worries about how AI may affect conflict of laws when it replaces people in duties that were previously completed by humans.

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<sup>12</sup> Sarah Kreps and Adi Rao, 'How To Systemically think about AI Regulation' (*Brookings*, 06 November 2023) <<https://www.brookings.edu/articles/how-to-systemically-think-about-ai-regulation/>> accessed 12 March 2024

The potential for artificial intelligence to lead to legal problems is one of the key worries. Because AI systems are built to make judgements based on data and algorithms, it's possible that they won't always take into account how different rules and regulations apply in various countries. This might result in conclusions that are at odds with one another, particularly when the laws of several countries diverge. The lack of accountability and transparency in AI decision-making is another issue. Determining the reasoning behind a choice can be difficult in AI systems as they might be intricate and tricky to comprehend. There may be possible legal problems as a result of this lack of openness in identifying which laws were implemented and how.

### **AI'S FUTURE AND LEGAL CONFLICTS**

It seems inevitable that AI will have a big influence on the conflict of laws as it develops. AI will be used more and more in legal procedures as the legal system becomes increasingly interwoven with it. This will necessitate a deeper investigation into how AI will impact legal issues and how it may be applied to settle disputes. The creation of worldwide AI standards is one potential remedy. Transparency, accountability, and consistency in AI decision-making are the goals of these principles. This would create a uniform framework for the use of AI across countries, therefore reducing the possibility of legal problems.

Moreover, legal professionals need to have a deeper comprehension of AI and its potential. It is crucial for judges and solicitors to have a fundamental grasp of artificial intelligence (AI) and its possible effects on conflict of laws as AI becomes more and more common in the legal sector. They will be able to recognise possible conflicts and decide wisely in situations involving artificial intelligence thanks to this.

### **INTERNATIONAL INSTRUMENTS GOVERNING CONFLICT OF LAW AND USE OF AI IN RESOLVING DISPUTES PERTAINING TO CONFLICT OF LAW**

In the field of private international law, a number of international instruments have been created to resolve conflict of law concerns. These tools offer structures and protocols for identifying relevant legislation, jurisdiction, and the acceptance and implementation of rulings in international conflicts. Here are a few important global tools:

## **I. The Hague Conference on Private International Law (HCCH) Convention**

Many treaties addressing different facets of private international law have been created by the Hague Conference:

In 2019, the Hague Convention was established to recognise and enforce foreign judgements in civil and commercial matters. By establishing a standard framework for judgement recognition and enforcement amongst member nations, this convention hopes to lower legal ambiguity and promote cross-border litigation.

*A. The Hague Convention on Choice of Court Agreements (2005)* encourages the use of forum selection provisions, also known as choice of court agreements, in international contracts. By doing so, it guarantees that the courts of choice have jurisdiction over the parties involved and that the rulings of those courts will be enforceable across member nations.

*B. The 1986 Hague Convention on the Law Relevant to Contracts for the International Sale of Goods* This convention provides cross-border transactions with predictability and clarity by establishing guidelines for identifying the relevant law to international sales contracts.

## **II. The Rome Regulation (European Union)**

In order to handle conflicts of law within its member states, the European Union has created a number of regulations:

*A. The Rome I Regulation (EC No. 593/2008)* In order to promote legal uniformity and predictability, this regulation lays forth guidelines for deciding which law applies to contractual commitments in civil and commercial disputes inside the EU.

*B. Rome II Regulation (EC No 864/2007)* This regulation establishes guidelines for deciding which law applies in civil and commercial cases involving non-contractual duties, such as torts and delicts, inside the EU.

*C. Brussels I Regulation (Recast) (EU No 1215/2012)* This regulation facilitates cross-border legal processes and guarantees that judgements are enforceable amongst member states. It addresses jurisdiction as well as the recognition and enforcement of judgements in civil and commercial cases inside the EU.

### **III. The United Nations Convention on Contracts for the International Sale of Goods (CISG)**

With regard to matters like contract formulation, party obligations, and remedies for violation of contract, the CISG offers a unified legal framework for international sales transactions. Although it deals mostly with substantive law, by establishing default standards for applicable law in the event that parties are unable to agree, it also affects conflict of law concerns.

### **IV. Emerging Guidelines and Ethical Framework**

A number of organisations are creating standards and moral frameworks as AI develops to guarantee its proper application in legal contexts:

*A. The 2019 OECD AI Principles* These guidelines support AI that upholds democratic ideals, respects human rights and is inclusive. They can direct the incorporation of AI into global legal frameworks.

*B. The 2019 Ethical Guidelines for Trustworthy AI from the European Commission* These recommendations, which place a strong emphasis on openness, responsibility, and equity in AI systems, can be used to guarantee the morality and dependability of AI-driven solutions for legal conflicts.

### **V. International Telecommunication Union (ITU) and AI for Good**

The AI for Good programme of the ITU investigates how AI might be used to advance the Sustainable Development Goals (SDGs) of the UN, particularly those related to justice and the legal system. In order to overcome conflicts of law, this project can offer frameworks and insights on how AI can be incorporated into private international law.

## **CONCLUSION**

The regulation of the increasingly complicated and linked globalised society is greatly aided by tort law. The probability of tortious acts increasing as individuals and corporations participate in cross-border operations is also increasing. As a result, having a thorough awareness of the fundamentals and practical applications of tort law in a global setting is vital.

Transnational tort litigation has significantly increased as a result of the globalisation of tort law. This has brought up a number of difficulties, including questions of jurisdiction, choice of law, and judgement enforcement. However, these difficulties have been lessened and a more uniform framework for settling cross-border tort claims has been provided by the creation of international treaties and the harmonisation of laws.

The role of tort law in holding multinational businesses responsible has also gained attention due to its rise and effects on human rights and the environment. Courts are holding firms more accountable for their international conduct as the concept of corporate social responsibility has gained currency. This pattern emphasises the necessity of a more organised and successful approach to international tort law, which includes the creation of international tribunals or courts to handle issues involving transnational torts.

Additionally, as technology and the internet have advanced, new types of torts – such as cyber-torts and data privacy breaches – have appeared. Tort laws must be continuously reviewed to address these issues and stay up to date with the rapidly evolving fields of technology and international trade.

In a globalised society, acknowledging cultural and socioeconomic variations is a crucial component of tort law. Diverse nations have diverse legal systems and cultures, which can significantly affect how tort law is applied. As such, it is imperative to achieve a balance between preserving cultural distinctions and advocating for an international norm of fairness and responsibility.

Tort law is a dynamic and intricate field of law in today's globalised society. Staying abreast of advancements in this subject is crucial for legal professionals, governments, and companies to properly handle the possibilities and difficulties posed by a globalised society. The implementation of tort law should be guided by the values of justice, fairness, and accountability while also taking into consideration the distinctive features of various legal systems and cultural contexts. The law of torts will always be essential to encouraging responsibility and addressing injury in a global setting as the globe grows increasingly linked.