

Territorial Jurisdiction in Transition: Evaluating Its Role in Saudi Arabia's Electronic Judicial Landscape

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Abstract:

Territorial jurisdiction remains a key basis for identifying the competent court under the Saudi Law of Civil Procedure. This study examines its continued role in the era of electronic litigation, in light of the judiciary's transformation under Vision 2030. With digital platforms now used for filing, hearings, and judgments, the link between geography and venue is changing. While the traditional framework still provides procedural stability, it needs adjustment to reflect digital practice. Drawing on procedural provisions, recent administrative measures, and comparative insights, the analysis focuses on Article 47 and the policy of *ta'weem al-ikhtisas al-makani*, which signals a move toward performance-based and party-driven venue rules. The study offers strategic proposals for reform that maintain legal certainty while introducing flexibility in a gradual and balanced manner.

Keywords: Territorial jurisdiction, electronic litigation, digital judicial transformation, procedural justice, competent court.

1. INTRODUCTION

Territorial jurisdiction forms the cornerstone for determining the competent court to hear a case. The Saudi legislator has addressed this matter in the Law of Civil Procedure, outlining the general rule in Article 36, which states: "Jurisdiction shall be with the court within whose territorial jurisdiction the defendant's place of residence is located. If the defendant has no place of residence in the Kingdom, jurisdiction shall be with the court of the plaintiff's place of residence." This framework reflects a legal philosophy that seeks to uphold equality between litigants; while the claimant, as the initiating party, has the advantage of selecting the timing of the lawsuit and preparing their case, the defendant typically stands in a weaker position. Therefore, the legislator granted the defendant the priority in determining the competent court to avoid burdening them with unnecessary hardship or costs.

In practice, it has become evident that the distribution of cases among courts is influenced by population density and geographic factors. Courts in major cities experience significant caseload pressures compared to those in smaller cities. As the Ministry of Justice strives to enhance the judicial system's performance using precise performance indicators, the need to reassess the rules of territorial jurisdiction has become

increasingly apparent, especially considering the ongoing digital transformation, where litigation procedures are increasingly conducted remotely. If the system moves toward relaxing traditional territorial boundaries, it may lead to a more balanced distribution of cases among judges regardless of their court's geographic location. This development calls for thorough examination to determine whether territorial jurisdiction rules should be reformed, adapted, or maintained in their current form.

This study emerges in response to the rapid changes brought about by the technological revolution in information and communication technologies, which have had a profound impact on the judiciary sector by introducing new concepts such as e-litigation, which is an approach that many countries have already begun to adopt. The COVID-19 pandemic further accelerated this shift by creating a new reality that necessitated the adoption of electronic procedures to overcome the obstacles facing traditional justice delivery. In this context, it is crucial to reassess existing procedural laws, which may not fully align with the unique requirements of e-litigation, particularly regarding its technical and procedural dimensions.

Territorial jurisdiction rules remain a fundamental component of procedural legislation governing litigation, as they aim to prevent claimants from harassing defendants by filing lawsuits in courts located far from the defendants' place of residence. These rules protect defendants from the hardship and costs associated with travel and appearance in distant courts. However, the adoption of e-litigation procedures is poised to alleviate such burdens and introduce a significant shift in traditional litigation concepts, prompting reconsideration of whether the current rules should be retained or modified to reflect the realities of the digital age.

This study aims to examine the continued relevance of the current territorial jurisdiction rules set out in the Law of Civil Procedure, and to explore the potential for their amendment in light of digital transformation. It further proposes practical alternative solutions to develop and adapt these rules to the demands of electronic litigation. The primary objectives are to enhance the efficiency of litigation procedures, optimize the use of modern technological tools, and examine how these tools can be leveraged to reform territorial jurisdiction rules in a manner that promotes both fairness and effectiveness.

Research Objective

This study aims to examine the impact of the transition toward electronic litigation on the regulation of territorial jurisdiction rules under the Saudi Law of Civil Procedure. It assesses the extent to which these rules remain compatible with the requirements of the digital judicial environment and explores leading comparative models. The study further proposes practical mechanisms for developing the judicial framework in Saudi Arabia to align with the evolving nature of e-litigation.

Research Problem

This study addresses the extent to which the territorial jurisdiction rules set forth in the Saudi Law of Civil Procedure are compatible with the transition toward e-litigation in the Kingdom of Saudi Arabia. It examines the implications of this transition and underscores the need to restructure these rules to align with the digital judicial environment. In doing so, the study also considers the potential for a more flexible,

performance-informed model of jurisdiction, in which traditional geographic boundaries are partially relaxed in favor of party autonomy and institutional efficiency.

Scope of the Study

This study is limited to examining the impact of e-litigation on the territorial jurisdiction rules stipulated in the Saudi Law of Civil Procedure. It does not address other effects that this form of litigation may have on procedural or substantive rules more broadly. The analysis focuses on the Saudi judicial context, with reference to selected comparative experiences to identify best practices relevant to regulating territorial jurisdiction in a digital environment, particularly as it relates to the potential flexibility or decentralization in the application of jurisdictional rules in the context of digital transformation.

2. Procedural Shifts in E-Litigation: A National and Comparative Outlook

In recent years, judicial systems around the world have witnessed a profound transformation, driven by the digital revolution and rapid advancements in information and communication technologies. The concept of electronic litigation (e-litigation) has emerged as one of the most prominent manifestations of this transformation, marking a shift from the traditional framework based on physical presence and paper-based procedures to a digital environment that enables parties to conduct litigation remotely through integrated online platforms.¹ This development has become an inevitable response to the demands of the modern era, particularly regarding the need for expedited case resolution, reduced administrative burdens, and enhanced judicial efficiency and transparency.

In the Kingdom of Saudi Arabia, e-litigation has been positioned as a central pillar in the plans to modernize the judiciary and fulfill the objectives of Vision 2030. The Ministry of Justice has given special attention to establishing a robust legal and technical infrastructure that aligns with these shifts, aiming to build a modern judicial system that delivers swift justice and facilitates access to rights for all litigants.²

This section aims to provide a theoretical and analytical framework for understanding e-litigation, focusing on its definition, key characteristics, and essential components. It also reviews the legislative and regulatory efforts undertaken by the Kingdom to support this transformation, highlighting its impact on the development of the judicial system in ways that enhance its effectiveness and strengthen public confidence. This section serves as a necessary entry point for contextualizing the analysis of how e-litigation affects territorial jurisdiction rules, which constitute a fundamental element of the Saudi judicial framework.

2.1 Regulatory and Institutional Evolution of E-Litigation in the Kingdom of Saudi Arabia

The Kingdom of Saudi Arabia has prioritized modernizing its judicial system to align with developments in the digital era. This initiative reflects the strategic objectives

¹ Susskind, R. (2019). *Online courts and the future of justice*. Oxford University Press.

² Saudi Ministry of Justice. (2022). *Digital transformation report: Ministry of Justice initiatives and achievements*. Ministry of Justice.

of Vision 2030, which emphasizes digital transformation across all sectors, placing particular importance on the judiciary.¹ E-litigation stands out as one of the most prominent aspects of this transformation, with the Ministry of Justice working to develop smart courts that enable parties to carry out all litigation procedures remotely, including filing lawsuits, exchanging memoranda, attending hearings, issuing judgments, and even enforcing them electronically. This transformation has marked a qualitative leap in improving the speed of case resolution and facilitating access to justice.

From a legal perspective, e-litigation in Saudi Arabia is supported by a series of legislative instruments that provide the legal framework for this transformation. These include the Electronic Transactions Law², which established the legal validity of electronic documents; the Anti-Cybercrime Law³, which set out legal protections for the digital infrastructure; and the amendments introduced to the Law of Civil Procedure⁴ and the Law of Criminal Procedure⁵, which allowed judicial procedures to be documented electronically and granted them the same status as written documents. Additionally, the Implementing Regulations of the Law of Civil Procedure explicitly confirmed the permissibility of conducting procedures electronically, thereby strengthening the integration between the legal framework and practical application.⁶

This regulatory framework has been accompanied by a range of initiatives and projects launched by the Ministry of Justice to operationalize e-litigation in practice. Among the most notable is the “Najiz Platform”⁷ which provides an integrated digital environment for judicial services, as well as the National Judicial Digital Transformation Project, which focuses on developing the courts’ digital infrastructure and enhancing the capacity of judicial personnel to work with digital tools. In recent years, virtual court sessions have been widely adopted, particularly during the COVID-19 pandemic, reinforcing the conviction that strengthening the digital track is an essential part of the future of justice in the Kingdom. These efforts are part of a broader strategic vision aimed at building a smart and efficient judicial system that keeps pace with digital advancements and meets the expectations of litigants.⁸

ii. Conceptual Foundations and Legal Characteristics of E-Litigation

E-litigation represents one of the most significant manifestations of the digital transformation currently taking place in the judicial sector. The growing reliance on technology in various sectors, including the judiciary, has highlighted the need for a mechanism that keeps pace with this shift. Electronic litigation refers to the use of digital tools to manage all stages of a legal case, starting with the filing of the claim, followed by notifications and exchange of memoranda, and ending with the issuance and

¹ Tamimi & Co. (2025). *The development of the judicial system under Vision 2030*. Tamimi Law Update.

² Electronic Transactions Law, Royal Decree No. M/18, issued on 27 March 2007, Kingdom of Saudi Arabia.

³ Anti-Cyber Crime Law, Royal Decree No. M/17, issued on 27 March 2007, Kingdom of Saudi Arabia.

⁴ Law of Civil Procedure, Royal Decree No. M/1, issued on 25 November 2013, Kingdom of Saudi Arabia.

⁵ Law of Criminal Procedure, Royal Decree No. M/2, issued on 25 November 2013, Kingdom of Saudi Arabia.

⁶ Implementing Regulations of the Law of Civil Procedure, Ministerial Decision No. 39933, issued on 19 *Jumada al-Awwal* 1435 H (20 March 2014), Kingdom of Saudi Arabia.

⁷ Saudi Ministry of Justice. (2025). *Najiz: Unified judicial portal and e-litigation platform*: <https://www.moj.gov.sa/English/Ministry/Pages/NajizCenter.aspx>

⁸ Saudi Ministry of Justice. (2025). *E-Litigation service*: <https://www.moj.gov.sa/English/Ministry/Pages/eLitigation.aspx>

enforcement of judgments, all conducted without physical presence or paper documents.¹ This concept marks a qualitative shift from traditional litigation, offering a comprehensive digital environment that enables parties and judges to conduct judicial procedures through specialized online platforms, thereby simplifying procedures and reducing time and costs.

Among the key characteristics of e-litigation is its full reliance on technological infrastructure, with all litigation stages carried out via secure electronic systems. This significantly reduces paperwork and alleviates the administrative burden on the parties. E-litigation is also marked by its speed, as it shortens the time needed to resolve cases compared to traditional litigation, while enhancing judicial efficiency and allowing parties to monitor case progress anytime and from anywhere. Furthermore, e-litigation introduces cross-border flexibility, enabling parties to participate in court sessions remotely, even if they are located in different geographical regions. This raises critical questions about the traditional concepts of territorial jurisdiction and judicial authority in the digital environment.²

In addition, e-litigation promotes transparency and limits opportunities for procedural manipulation or negligence, as all procedures are electronically recorded, allowing parties to track the progress of their cases with precision. It also facilitates judicial oversight and review.³ However, this system imposes high security and technical requirements to protect judicial data and maintain confidentiality, which necessitates continuous legislative updates to ensure a balance between the advantages of e-litigation and the preservation of traditional legal safeguards.

iii. Legislative Framework and National E-Litigation Initiatives

As part of its broader digital transformation agenda, Saudi Arabia has launched a series of national initiatives aimed at strengthening the legal and institutional foundations of e-litigation. These efforts are aligned with Vision 2030, which emphasizes the modernization of public services, including the judiciary, through the adoption of advanced technologies.⁴ In this context, several legislative reforms were introduced to support the digital shift in litigation procedures. Amendments to the Law of Evidence, the Law of Criminal Procedure, and the Law of Procedure before the Board of Grievances were enacted to integrate electronic documentation, digital notifications, and virtual hearings into the judicial process.⁵ These reforms reflect a strategic approach to harmonize existing legal frameworks with emerging digital practices and to promote a more efficient, accessible, and transparent justice system.

¹ Howard, A. (2025). Listening to disputants: Changing the frame, framing the change. *Nederlands-Vlaams Tijdschrift voor Mediation en Conflictmanagement*, 28(3), 17–24.

² Asimah, D. (2021). Electronic litigation as a mean of effort to modernize litigation in the new normal era. *Jurnal Hukum Peratun*, 4(1), 31–44. <https://doi.org/10.25216/peratun.412021.31-44>

³ Arroussi, S. (2024). Legal obstacles to electronic litigation in Algeria. *Revue Académique De La Recherche Juridique*, 15(2), 598–611. <https://asjp.cerist.dz/en/article/259032>

⁴ Vision 2030. (n.d.). *An ambitious nation*. Vision 2030. <https://www.vision2030.gov.sa/ar/overview/pillars/an-ambitious-nation>

⁵ Law of Evidence, Council of Ministers Decision No. 283, 1443/5/24 H (Dec. 30, 2021), Saudi Arabia. Retrieved from <https://laws.boe.gov.sa/BoeLaws/Laws/Viewer/6031e353-a22b-48f1-8a73-ae1400c67925?lawId=2716057c-c097-4bad-8e1e-ae1400c678d5>

The amendments to the Law of Civil Procedure introduced a key provision in Article 72, which permits the electronic documentation of procedural elements such as lawsuit filings, notifications, session minutes, and case records, and grants these electronic records the same legal weight as written documents. The provision states that:

"Particulars provided in statements of claim, processes, case records, representations and the like, may be entered electronically and shall have the same legal effect as written documents in accordance with the Electronic Transactions Law."

This formulation reflects the legislator's deliberate adoption of a phased approach to the implementation of e-litigation. By framing the use of electronic documentation as permissible rather than mandatory, the text allows litigants to gradually adapt to the new procedural model, thereby balancing technological advancement with procedural accessibility. Furthermore, the reference to the Electronic Transactions Law indicates a clear legislative intent to anchor electronic procedures within a broader legal infrastructure that incorporates both technical safeguards and regulatory controls.¹ This approach not only legitimizes electronic litigation practices but also reinforces the protection of judicial data through preventive and punitive mechanisms designed to maintain the integrity and security of digital proceedings.

iv. Transformative Impact of Digitalization on Judicial Efficiency and Access to Justice

The digital transformation of the judiciary, through the implementation of e-litigation, has contributed significantly to various gains that have directly enhanced the efficiency and quality of judicial procedures. However, it has also revealed a range of challenges that still require careful attention. Among the most prominent benefits of this transformation is the acceleration and simplification of litigation procedures, where the physical attendance of parties at court is no longer essential for case follow-up. All steps in the legal process, beginning with the filing of the lawsuit and ending with the final adjudication, are now carried out electronically through dedicated digital justice platforms.² This shift has helped overcome geographical barriers, reduce financial burdens on litigants, and minimize delays and stalling tactics that previously hindered fair and timely resolution. E-litigation has also enhanced court management efficiency by reducing reliance on paper records, replacing them with electronic archiving systems that ensure rapid access to files, preserve document integrity, and limit risks of loss or tampering.

Moreover, e-litigation strengthens principles of transparency and impartiality by reducing direct interactions between litigants and court staff, thereby minimizing opportunities for favoritism or administrative corruption.³ Through secure electronic platforms, memoranda and judicial decisions are exchanged, ensuring the protection of judicial data and information. This system has also enabled the judiciary to expand its

¹ Electronic Transactions Law, Royal Decree No. M/18, issued on 27 March 2007, art. 11, Kingdom of Saudi Arabia.

² Alharbi, M. (2019). Key challenges facing online dispute resolution in Saudi Arabia. *Journal of Law, Policy and Globalization*, 76, 76–84. <https://doi.org/10.7176/JLPG/88-11>

³ Eweda, M. A. H. (2022). Experience of electronic litigation in the Saudi system as an interlocutor of legal protection in the right to litigation as a constitutional right. *Journal of Legal and Economic Studies*, 8(0), 1–24. <https://doi.org/10.21608/jdl.2022.259255>

operational scope without the need to increase the number of physical court buildings, resulting in more efficient use of resources and cost savings.

Nonetheless, this digital transformation has faced several challenges. Notably, there is a pressing need to train judicial and administrative personnel to effectively handle electronic systems and to ensure the continuous readiness of the technological infrastructure. In addition, there is a crucial need to provide robust legal and technical safeguards to prevent breaches and maintain the integrity of digital judicial transactions. Concerns have also been raised about the ability of all groups of litigants to adapt to this new mode of litigation, especially older individuals and those with limited technological familiarity.¹ This underscores the importance of developing complementary alternatives that address the needs of these groups to uphold the principle of equal access to justice.

2.2 Global Models for Regulating Digital-Age Territorial Jurisdiction

Comparative legal study is a vital research tool that enriches legal scholarship and supports the development of legislation in line with contemporary transformations. Its value lies not only in highlighting similarities and differences between legal systems but also in uncovering practical solutions that have proven effective in other jurisdictions, thereby enabling researchers to offer balanced recommendations that respect local specificities. International experiences have demonstrated that integrating e-litigation into judicial systems is not merely a procedural update; rather, it has reshaped the very structure of judicial systems and introduced new challenges regarding the suitability of traditional procedural rules to accommodate this shift.²

One of the key challenges arising in this context is the question of territorial jurisdiction. Traditional rules are based on fixed geographical criteria, which become increasingly difficult to apply when litigation takes place entirely through electronic means. As digital platforms enable participation from litigants in diverse locations, there is a pressing need to reassess these rules to maintain their effectiveness and ensure fairness within the digital judicial environment.³ Accordingly, comparative study plays a crucial role in shedding light on how other judicial systems have addressed this transformation, offering valuable insights that can inform the development of solutions tailored to the unique context of the Saudi judiciary and its ongoing digital transition.

i. UAE's Approach to Electronic Territorial Jurisdiction Reform

The United Arab Emirates presents a leading Arab example in the digital transformation of the judicial sector, having adopted a clear strategy to modernize its judiciary through the extensive implementation of electronic litigation procedures. This shift became particularly evident with the launch of the “Dubai Smart Court,” designed to provide a fully digital environment that allows litigants to carry out legal proceedings

¹ El-Din, R. A. (2024). Digitization of the judiciary: Arab experiences. *Journal of Legal and Economic Research*, 14(0), 105–199. <https://doi.org/10.21608/mjle.2024.386550>

² Al-Naimat, O., Al-Dabbas, N. A., & Maaqqbeh, M. M. F. (2021). Transition to e-litigation as a mechanism to activate e-court in Jordan: An analytical study. *Journal of Legal, Ethical and Regulatory Issues*, 24(1), Article 611.

³ Maillart, J. B. (2019). The limits of subjective territorial jurisdiction in the context of cybercrime. *ERA Forum*, 19, 375–390. <https://doi.org/10.1007/s12027-018-0527-2>

remotely, including case registration, electronic notifications, virtual hearings, and the issuance of judgments through digital means.¹

Despite this digital progress, the UAE legislature has retained the traditional rules of territorial jurisdiction as set out in Federal Law No. 11 of 1992 on Civil Procedures and its amendments.² These rules continue to link jurisdiction to the defendant's domicile or the location where the dispute arose, in line with the general principle adopted by many legal systems. At the same time, UAE judicial authorities have recognized that the digital nature of litigation introduces new requirements, prompting the development of interpretive approaches that accommodate the digital environment without immediately amending the legislative texts.³

Recent amendments to Federal Law No. 11 of 1992 on Civil Procedures introduced explicit provisions enabling remote litigation. Article 331 authorizes judges to conduct civil proceedings remotely at any stage, provided that such action facilitates litigation. Article 332 allows for remote judicial actions to be undertaken beyond the territorial jurisdiction of any Emirate, with coordination from the relevant local authority if needed. Furthermore, Article 336 affirms that judicial procedures conducted remotely may be recorded in written or electronic formats and are deemed valid without requiring the physical signatures of the parties involved.⁴ These amendments reflect a strategic effort by the UAE to modernize its judicial system while maintaining procedural safeguards tied to territorial jurisdiction.

In this regard, several UAE courts have issued procedural manuals on e-litigation that clarify how territorial jurisdiction is to be addressed under digital procedures. These manuals affirm the continued application of traditional jurisdictional rules while facilitating access for litigants via digital platforms, thereby reducing physical presence requirements and improving procedural efficiency. UAE authorities have made clear that while electronic litigation enhances access to justice, a territorial standard remains necessary to determine the competent court.⁵

This experience demonstrates that digital transformation in judicial services enhances efficiency and accessibility, but does not inherently require the elimination of territorial jurisdiction rules. Instead, it highlights the need to develop implementation mechanisms that reflect the technical realities of digital litigation. The UAE approach reflects a flexible legal model that preserves the stability of the judiciary while responding to the demands of digital transformation. It offers a valuable point of reference for Saudi legal reform efforts related to territorial jurisdiction in the context of electronic litigation.

¹ Allouzi, A. S. (2025). Procedural rules for smart trials in the UAE: Aspirations and reality. *Access to Justice in Eastern Europe*, 8(3), 1–28. <https://doi.org/10.33327/AJEE-18-8.3-a000113>

² Federal Law No. 11 of 1992 on Civil Procedures, United Arab Emirates (as amended in 2014, 2018, and 2022).

³ Allouzi, *supra* note 19.

⁴ Al Tamimi & Company. (2023, February 20). *UAE Civil Procedure Law amendments: Enhancing remote litigation and digital justice*. Lexology. <https://www.lexology.com/library/detail.aspx?g=38565b56-ba3a-459a-9687-9c2c8f37f034>

⁵ UAE Ministry of Justice. (2025). *The guideline for using remote trials*. <https://www.moj.gov.ae/ar/services/esystems/e-filing-system.aspx>

ii. Canadian Framework for Addressing Jurisdictional Challenges in E-Litigation

Canada is regarded as one of the frontrunners in implementing an electronic litigation system. It has developed a judicial infrastructure that supports the complete management of court proceedings through digital platforms, including case filing, electronic submission of pleadings, and the issuance and enforcement of judgments.¹ This move aligns with a national policy aimed at enhancing access to justice and alleviating pressure on courts, particularly in light of Canada's vast geographic expanse and the existence of multiple judicial authorities at the federal and provincial levels.

The Canadian judicial system is characterized by a division of jurisdiction between federal courts and provincial courts, making the regulation of territorial jurisdiction highly complex.² With the introduction of electronic litigation, new challenges emerged regarding the application of traditional territorial jurisdiction rules in the absence of the parties' physical presence, as some procedures were conducted remotely through online platforms.³

Despite the broad use of digital tools, Canadian judicial authorities have emphasized that the transition to electronic litigation does not eliminate the necessity of determining the competent court based on territorial jurisdiction. Therefore, the traditional rules that link jurisdiction to the defendant's domicile or the place where the dispute arose continue to apply, but are accompanied by flexible interpretations to prevent placing undue burdens on parties within the digital context.⁴ Several Canadian courts have issued guidance clarifying that the location of the virtual hearing does not alter the determination of the competent court; the jurisdiction remains tied to the geographic location of the court, even when proceedings are conducted electronically.⁵

This experience demonstrates that the Canadian judiciary treats electronic litigation as a technical means to facilitate procedures, without fundamentally altering the philosophy underlying territorial jurisdiction. This affirms that the introduction of digital tools does not necessarily require altering the procedural framework, but instead calls for the development of interpretive mechanisms that accommodate the characteristics of electronic procedures.⁶ This perspective offers meaningful insights for efforts to reform the Saudi judicial system.

¹ Federal Court of Canada. (2025). *E-filing*. <https://www.fct-cf.ca/en/pages/online-access/e-filing>

² Department of Justice Canada. (n.d.). *How the courts are organized*. <https://www.justice.gc.ca/eng/csj-sjc/ccs-ajc/02.html>

³ Office of the Commissioner for Federal Judicial Affairs Canada. (2023). *Virtual hearings: Operational considerations*. <https://www.fja.gc.ca/COVID-19/Virtual-Hearings-Operational-Considerations-Audiences-Virtuelles-Enjeux-Operationnels-eng.html>

⁴ *Ibid.*

⁵ Cowan, J. (2022). *Listening and responding to the future of virtual court: Nova Scotia Court of Appeal report*.

Nova Scotia Judiciary. https://courts.ns.ca/sites/default/files/editor-uploads/Virtual%20Court/Listening_and_Responding_to_the_Future_of_Virtual_Court_2022_Cowan_Report_redacted.pdf

⁶ *Ibid.*

iii. Key International Standards and Practices Related to Territorial Jurisdiction in Electronic Litigation

The European Union offers a notable example of how a supranational legal framework can respond to the challenges posed by electronic litigation in a multi-jurisdictional environment. Recognizing the rise of cross-border disputes in the context of e-commerce and digital services, the EU took early steps to establish clear jurisdictional rules capable of addressing the complexities of the digital era. In this context, the recast Brussels I Regulation¹ was adopted to provide a unified system for determining jurisdiction and ensuring the recognition and enforcement of civil and commercial judgments among member states. The Regulation establishes that jurisdiction lies with the courts of the member state where the defendant is domiciled, and it sets out additional rules that govern specific types of disputes, such as those arising from contracts or torts. Although the Regulation was originally developed for traditional legal proceedings, technological advancements and the increasing use of electronic litigation have introduced new challenges concerning the interpretation and application of these jurisdictional rules in digital and cross-border contexts.

Although this regulation was initially crafted to handle traditional disputes, the evolution of the digital environment has necessitated a reinterpretation of its provisions to reflect the unique aspects of electronic litigation.² This subsection analyzes the EU's approach by reviewing the mechanisms for determining territorial jurisdiction in digital disputes and examining how the Brussels Regulation has addressed the challenges posed by modern judicial realities, offering lessons that could inform the development of the Saudi judicial system.

The Court of Justice of the European Union (CJEU) has addressed these challenges by reinterpreting the regulation's provisions to suit the digital context. The Court has held that directing commercial or digital activity toward a particular member state is sufficient to establish jurisdiction in that state, even when services are provided remotely. This interpretation preserved the core territorial jurisdiction rule while practically expanding the concept of "targeted activity" to encompass digital operations, thereby bridging the gap between the traditional legislative framework and the realities of the digital era.³

The European experience demonstrates a prevailing tendency not to abolish territorial jurisdiction rules but to maintain them while interpreting their application in a way that fits the electronic environment. This approach reflects a strong conviction that, regardless of the flexibility and speed offered by e-litigation, a clear regulatory framework defining the competent court is essential to ensure fair case distribution and prevent parties from exploiting procedural loopholes.⁴

¹ European Parliament and Council of the European Union. (2012). *Regulation (EU) No 1215/2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (recast)*. *Official Journal of the European Union*, L 351, 1–32. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32012R1215>

² Weinzierl, J. (2021). Territoriality Beyond the State: The EU's Territorial Claims and the Search for Their Legitimacy. *German Law Journal*, 22(4), 650–672. doi:10.1017/glj.2021.24

³ Chen, Z. (2022). Jurisdiction and choice of law rules over electronic consumer contracts: The nexus between the concluded contract and the targeting activity. *Maastricht Journal of European and Comparative Law*, 29(2), 328–350. <https://doi.org/10.1177/1023263X221090352>

⁴ Szpunar, M. (2024). New technologies in the case law of the Court of Justice: Lessons learnt and lessons to be learnt. *European Public Law*, 30(1), 1–20. <https://doi.org/10.1007/s12027-024-00814-8>

This experience underscores the importance of addressing territorial jurisdiction rules in Saudi Arabia through a gradual, well-considered approach that allows for the integration of digital transformation by modifying or refining these rules without compromising the stability of judicial proceedings and procedural fairness. It also confirms that the challenges faced by the Saudi judicial system are not unique but are part of broader global challenges encountered by other advanced legal systems, providing opportunities to draw on comparative experiences when devising appropriate solutions.

3. Territorial Jurisdiction in a Digital Age: Continuity and Reform in Saudi Courts

Territorial jurisdiction represents one of the most fundamental procedural principles governing the allocation of judicial authority. It serves to regulate the course of litigation and to designate the competent court based on geographical factors, thereby ensuring procedural fairness and balancing the positions of litigants. In the Saudi legal system, territorial jurisdiction has traditionally been structured around the defendant's domicile or the place where the dispute arises, reflecting the assumptions of a conventional, physically grounded judicial model.¹ However, the shift toward electronic litigation has introduced profound changes in procedural operations, prompting renewed questions about the viability and adequacy of traditional jurisdictional rules within an increasingly digital context.

Given the importance of this issue, the present section is divided into two parts. The first addresses the traditional regulation of territorial jurisdiction under Saudi law, highlighting both the general rule and its recognized exceptions. The second examines the procedural and legal challenges posed by electronic litigation and considers potential reforms to align the existing framework with the realities of a digital judicial environment.

3.1 Normative Foundations and Doctrinal Scope of Territorial Jurisdiction in Saudi Law

Territorial jurisdiction refers to determining the competent court based on its geographical location or territorial scope. It signifies the authority granted to a specific court from among courts of equal rank to hear and resolve disputes that arise within a specified geographical area. This is commonly referred to as the territorial scope of the court's jurisdiction and is regarded as one of the most crucial types of judicial jurisdiction, as it delineates the geographic area within which the court exercises its authority over cases brought before it.²

The significance of territorial jurisdiction lies in ensuring a balanced geographical distribution of cases among courts, facilitating access to justice, saving time and effort for litigants, and reducing delays caused by filing cases before courts lacking territorial jurisdiction. Moreover, territorial jurisdiction maintains a balance between the plaintiff's

¹ Article 36 of the Saudi Law of Civil Procedure establishes that a lawsuit must be filed before the court located in the jurisdiction where the defendant resides. This general rule reflects a territorial model of jurisdiction based on geographical proximity, which is traditionally considered essential to procedural fairness and to maintaining balance between litigants. Law of Civil Procedure, Royal Decree No. M/1, issued on 25 November 2013, Kingdom of Saudi Arabia.

² Williams, R. C. (2018). Jurisdiction as power: A theory of disagreement in personal jurisdiction. *University of Chicago Law Review*, 85(3), 835–882.

right to choose the timing of filing the lawsuit and the defendant's right to have the case heard before the court nearest to their domicile. This is based on the procedural presumption that a person bears no liability until evidence establishes otherwise, which justifies placing the burden of initiating litigation on the claimant in the defendant's court of residence, and thus the burden of pursuing legal action lies with the claimant at the defendant's place of residence.¹

In line with these foundational objectives, the Saudi legislator has codified the rules governing territorial jurisdiction under the Law of Civil Procedure. The law defines the criteria for determining the competent court in a manner that promotes fairness and efficiency in the allocation of cases. The subsequent section examines the core provisions and principles set forth in the current legal framework.

i. Core Doctrines and Historical Rationale Behind the General Rule

Across most legal systems, the general rule of territorial jurisdiction dictates that the competent court is the one in the area where the defendant resides. This principle has deep historical and doctrinal roots, grounded in the notion that the defendant should not bear the burden of defending a case in a distant forum. Instead, the claimant, as the initiating party, is expected to bring the case before the court nearest to the defendant's domicile. This approach safeguards procedural fairness, minimizes the risk of forum shopping, and reflects the foundational presumption that a person is not liable unless proven otherwise.²

The Saudi legislator has adopted this rule, as set out in Article (36/1) of the Law of Civil Procedure, which states that the competent court is the one within whose jurisdiction the defendant's domicile is located. An exception is provided when the defendant has no domicile within the Kingdom, in which case jurisdiction lies with the court of the plaintiff's domicile. The law further clarifies that the city, governorate, or center in which the court is located constitutes its territorial jurisdiction. Where multiple courts exist in the same location, the Supreme Judicial Council defines the territorial boundaries for each. The law also addresses situations where no local court exists by assigning jurisdiction to the court of the nearest town within the same region, unless the Supreme Judicial Council decides otherwise. In the event of a territorial jurisdiction dispute, the matter is escalated to the Supreme Court for determination.³

Jurisdiction is fundamentally linked to the concept of domicile, understood as a person's habitual place of residence.⁴ If neither party resides within the Kingdom of Saudi Arabia, the plaintiff may initiate the case before any court in any Saudi city. In cases involving multiple defendants, jurisdiction is determined based on the location where the majority of them reside. If the defendants are equally distributed across different jurisdictions, the plaintiff has the option to file the case before the court in the area where any one of them resides.⁵

¹ Steinman, A. N. (2018). Access to justice, rationality, and personal jurisdiction. *Vanderbilt Law Review*, 71(5), 1401–1470.

² Jacobs, C. J. (2021). In defense of territorial jurisdiction. *University of Chicago Law Review*, 88(4), 1153–1200.

³ Law of Civil Procedure, (Royal Decree No. M/1), Article 40

⁴ Law of Civil Procedure, (Royal Decree No. M/1), Article 9

⁵ Law of Civil Procedure, (Royal Decree No. M/1), Article 36

Lawsuits filed against government agencies must be brought before the court located in the jurisdiction of the agency's head office. However, if the subject matter of the case relates to the operations of a specific branch, the court situated in the area of that branch may also have jurisdiction.¹ This same principle applies to legal disputes involving companies, associations, or private institutions. Whether the entity is active or undergoing liquidation, and regardless of whether the claim is initiated by or against the entity or among its members, jurisdiction lies with the court in the area of the main administrative office. If the dispute arises from the activities of a particular branch, the court in that location may also be competent to hear the case.²

The Implementing Regulations provide detailed provisions for determining territorial jurisdiction in civil proceedings. They affirm that jurisdiction is linked to the domicile of the principal party, rather than their legal representative or attorney.³ If the defendant's place of residence changes after the case is filed, the court originally seized of the matter retains jurisdiction.⁴ Moreover, when the defendant resides in one location but works in another and habitually stays there during workdays, jurisdiction may also lie with the court located in the workplace.⁵

The regulations further recognize the plaintiff's right to bring a case in any jurisdiction where the defendant has an established place of residence.⁶ If the parties have contractually agreed to litigate in a specific location, that agreement is binding unless mutually modified.⁷ Additionally, special jurisdictional provisions apply to certain categories of litigants: when a party lacks legal capacity, the competent court is determined based on the domicile of the guardian.⁸ In cases involving (*waqf*), jurisdiction is tied to the domicile of the trust administrator.⁹

As for disputes involving companies, associations, or private institutions they are to be filed before the court where the main administrative office is located, provided the defendant is officially registered with the entity.¹⁰ If the defendant is not registered, jurisdiction reverts to the court in the area of the defendant's domicile.¹¹

ii. Statutory Exceptions and Jurisprudential Applications

Following the explanation of the general rule of territorial jurisdiction and its legal foundations, an important question arises concerning the extent to which this rule is flexible, and whether certain exceptions can be made to ensure a balanced relationship between litigants and to accommodate specific circumstances that justify departing from the norm. The Saudi legislator has addressed this by introducing explicit legal provisions

¹ Law of Civil Procedure, (Royal Decree No. M/1), Article 37

² Law of Civil Procedure, (Royal Decree No. M/1), Article 38

³ Implementing Regulations of the Law of Civil Procedure (Ministerial Decision No. 39933, 19/5/1435H), Article 36/7

⁴ Implementing Regulations of the Law of Civil Procedure, Article 36/1

⁵ Implementing Regulations of the Law of Civil Procedure, Article 36/2

⁶ Implementing Regulations of the Law of Civil Procedure, Article 36/4

⁷ Implementing Regulations of the Law of Civil Procedure, Article 36/3

⁸ Implementing Regulations of the Law of Civil Procedure, Article 36/6

⁹ *Ibid.*

¹⁰ Implementing Regulations of the Law of Civil Procedure, Article 38/1

¹¹ *Ibid.*

that allow for exceptions to the general rule, based on considerations of fairness and the need to facilitate access to justice.

Although the general rule provides that the competent court is the one within whose jurisdiction the defendant's domicile is located, the law allows for several exceptions intended to reduce hardship, ensure procedural balance, and save the time and effort of litigants. Among the most notable of these exceptions are:

- First: Alimony claims, where jurisdiction lies with the court covering the domicile of either the defendant or the claimant. An exception applies, however, in cases seeking to cancel or reduce alimony; these claims must be brought before the court with jurisdiction over the defendant's domicile. Moreover, if the defendant is a woman and the claim relates to custody or visitation rights, the case must be filed in her place of residence, that is, before the court within whose jurisdiction her domicile falls.¹
- Second, in claims filed by women involving marital issues, custody, visitation, or cases where a guardian refuses without justification to arrange her marriage (*adhl*), the law permits the case to be filed either before the court located in the woman's domicile or that of the defendant. This flexibility facilitates procedural access and reinforces a woman's ability to assert her legal rights.²
- Third: Claims arising from traffic accidents, whether related to private or public rights, where the law allows the plaintiff to file the case either before the court covering the defendant's domicile or before the court within whose jurisdiction the accident occurred. This exception is based on practical considerations, as adjudicating such cases may require hearing witnesses to the accident or conducting on-site inspections, making the court in the location of the incident better suited to rule on the matter and ensure justice is served.³

3.2 Territorial Jurisdiction Objections

The court's territorial jurisdiction is defined by the defendant's domicile, which serves as a procedural safeguard protecting the defendant's position. This rule helps ensure that the lawsuit is filed in a reasonable location, avoiding unnecessary burden on the defendant by requiring filings at courts distant from their residence. Because territorial jurisdiction benefits the defendant, the court should not raise it on its own; instead, the defendant must expressly invoke this objection if they wish to contest it.

An objection based on lack of territorial jurisdiction is considered a procedural defense rather than a matter of public policy. Consequently, only the defendant may raise it. The law mandates timeliness: if the defendant fails to raise this objection before presenting any request or defense, the objection is forfeited and the court retains territorial jurisdiction, even if it would otherwise lack it. This approach is affirmed by the Saudi Law of Civil Procedure, which provides that any objection to the validity of the statement of claim, lack of territorial jurisdiction, or a request to transfer the case due to a prior or

¹ Law of Civil Procedure, (Royal Decree No. M/1), Article 39/1

² Law of Civil Procedure, (Royal Decree No. M/1), Article 39/2

³ Law of Civil Procedure, (Royal Decree No. M/1), Article 39/3

related claim pending before the same court must be raised before submitting any other request or defense. Failure to do so results in the forfeiture of such objection.¹

On another note, the defendant may waive the right to object to territorial jurisdiction, whether expressly or implicitly. An express waiver occurs when both parties agree, via a contract or agreement, to designate a specific court to hear any disputes that may arise between them, even if that court would not ordinarily have territorial jurisdiction.² For example, an agreement might stipulate that the case be filed in the plaintiff's jurisdiction instead of the defendant's. The defendant's acceptance of such a clause constitutes an explicit waiver of their right to object.

An implicit waiver occurs when the defendant refrains from raising the objection for lack of territorial jurisdiction and proceeds with the case by submitting substantive requests or defenses. Such conduct is deemed an implicit acceptance of the court's jurisdiction, thereby forfeiting the defendant's right to raise the objection at a later stage.³ This highlights the nature of the objection for lack of territorial jurisdiction as a personal right conferred solely for the defendant's benefit, allowing them to invoke it or waive it, whether expressly or implicitly.

This legal framework strikes a balance between protecting the defendant from the burden of litigating in a distant court and preserving procedural stability by limiting late-stage objections. The rule on territorial jurisdiction serves as a key procedural safeguard, guiding the flow of litigation. But its effect depends on being raised at the proper time and under the conditions the law requires.

3.3 Emerging Issues and Legislative Needs for Jurisdictional Adaptation in the Digital Realm

The introduction of electronic litigation has led to significant qualitative developments that have transformed the practical application of territorial jurisdiction rules, compelling these rules to confront a reality markedly different from the one for which they were originally designed. While judicial systems, including that of Saudi Arabia, continue to regulate territorial jurisdiction based on well-defined geographical criteria, the implementation of these rules in an electronic litigation environment raises new questions about their effectiveness and suitability for the current era.⁴ The challenges now extend beyond the mere identification of the competent court to include practical issues such as how objections for lack of territorial jurisdiction are handled, and how to strike a balance between the ease of digital access to courts and the preservation of procedural safeguards that prevent misuse or abuse of the right to litigate.

In this context, the subsection reviews the key transformations that have shaped the litigation environment in the digital era, analyzes the challenges facing the application of territorial jurisdiction rules, and highlights areas requiring legislative or interpretive

¹ Law of Civil Procedure, Royal Decree No. M/1, Article 75

² Law of Civil Procedure, (Royal Decree No. M/1), Article 28

³ Law of Civil Procedure, *Supra* note 58.

⁴ Al-Shaibani, M. N. (2022). Remote litigation in the Kingdom of Saudi Arabia. *International Journal for Court Administration*, 13(2), 1–12. <https://doi.org/10.36745/ijca.512>

development to ensure judicial stability and the responsiveness of the system to digital realities.

i. Operational Gaps in Traditional Jurisdiction Rules amid Technological Shifts

Building on the earlier discussion of traditional territorial jurisdiction rules, the increasing reliance on electronic litigation has exposed a range of operational gaps within these frameworks. Historically, territorial jurisdiction was justified by the need for parties to appear physically before the court, which made geographic distribution of cases a practical necessity to reduce hardship and litigation costs. However, the rise of electronic litigation has fundamentally altered the relationship between litigants and courts.¹ Parties can now complete all litigation procedures remotely, without attending court in person, thereby weakening the original rationale for maintaining territorial jurisdiction in its conventional form. This shift has raised new practical questions about the continued suitability of these rules and highlighted the need to revisit their application in light of the digital judicial environment.

This transformation presents real challenges for legislators and the judiciary alike, not only at the level of statutory texts but also regarding the broader judicial infrastructure. It is insufficient to merely adopt technological tools for conducting litigation unless accompanied by a comprehensive reassessment of the adequacy of current territorial jurisdiction rules and their compatibility with the realities of electronic litigation. The expansion of digital systems also raises concerns about how to effectively regulate and determine territorial jurisdiction when the geographic location of the parties has minimal practical impact on the litigation process.²

Accordingly, it is essential to analyze the challenges posed by this new reality on multiple interconnected levels:

- First, at the legislative level, lawmakers face the challenge of updating procedural rules to align with the framework of electronic litigation. Territorial jurisdiction, historically linked to the defendant's domicile or the location of the dispute, now requires a reimagined approach that considers the fact that litigation procedures are conducted through online platforms with no tangible geographic connection.³ This necessitates exploring new frameworks that define the relationship between the court and the electronic case, ensuring procedural rigor without imposing outdated constraints on litigants.
- Second, at the institutional level, challenges relate to the judiciary's capacity to manage this transformation efficiently. Courts must restructure their administrative and technical systems to meet the demands of electronic litigation while upholding fundamental principles of justice such as the right to defense, the

¹ Alsolami, A. (2024). The relationship between the principle of public hearings and remote litigation in the Kingdom of Saudi Arabia. *Journal of Legal and Economic Studies*, 10(3), September.

² Schultz, T. (2008). Carving up the Internet: Jurisdiction, legal orders, and the private/public international law interface. *European Journal of International Law*, 19(4), 799–839. <https://doi.org/10.1093/ejil/chn040>

³ See, Saudi Ministry of Justice *Supra* note 10.

public nature of hearings, and the confidentiality of case data.¹ This shift also calls for continuous training programs to equip judges and court staff with the skills needed to operate digital systems effectively.²

- Third, from a technical perspective, courts face challenges in establishing secure digital environments capable of receiving and managing cases efficiently, while safeguarding judicial data from cyber threats. Although territorial jurisdiction may appear to be a purely legal matter, its regulation within the digital environment requires a technical infrastructure that can accurately and securely document the litigants' information and places of residence, preventing potential misuse of the flexibility offered by electronic litigation.³
- Fourth, at the level of the litigants, challenges arise from their varying ability to navigate electronic litigation, especially among those with limited familiarity with digital tools. This shift affects how territorial jurisdiction functions, as geographic distance is no longer the only obstacle to access. The digital divide has become a new barrier that must be addressed to maintain equality between parties.⁴

This analysis underscores the importance of developing a new conceptual framework for territorial jurisdiction that addresses these challenges holistically. It is essential to redefine the relationship between the court and the electronic case in a manner that reflects the unique digital nature of modern litigation, setting clear parameters that prevent parties from exploiting procedural loopholes while eliminating unnecessary burdens in light of the capabilities offered by today's advanced technologies.

ii. Reassessing the Viability of Geographic-Based Jurisdiction in E-Litigation

The Kingdom of Saudi Arabia has undertaken significant efforts to modernize its judicial system by integrating digital technologies. These initiatives align with broader goals to enhance access to justice and improve the efficiency of legal proceedings. Among the most impactful developments is the transition toward electronic litigation, where claims can be filed, pleadings exchanged, hearings conducted, rulings issued, and judgments enforced through digital platforms. These procedures now hold the same legal status as traditional methods and have become widely adopted in practice.⁵

Despite this transformation, the territorial jurisdiction rules under the Law of Civil Procedure remain unchanged. This prompts important questions about whether geography-based jurisdiction continues to be effective in a setting where most litigation processes no longer depend on the physical presence of parties or the location of the court. Traditionally, territorial jurisdiction served as a procedural safeguard for the defendant, requiring the plaintiff to bring the claim in the court nearest to the defendant's residence.

¹ Bannon, A., & Adelstein, J. (2020). *The impact of video proceedings on fairness and access to justice in court*. Brennan Center for Justice. <https://www.brennancenter.org/our-work/research-reports/impact-video-proceedings-fairness-and-access-justice-court>

² UNESCO. (2024, September 5). *Survey uncovers critical gaps in AI training among judicial operators*. <https://www.unesco.org/en/articles/unesco-survey-uncovers-critical-gaps-ai-training-among-judicial-operators-0>

³ *Ibid.*

⁴ Bannon & Adelstein, *supra* note 57.

⁵ Ministry of Justice, *supra* note 56.

This rule aimed to prevent strategic manipulation by plaintiffs and to ensure fairness by minimizing travel burdens on defendants.

With the rise of electronic litigation, many of the justifications for these geographic restrictions have weakened. Courtrooms now mostly operate virtually, and the litigants' physical presence is no longer required in most stages of the process. As a result, some legal scholars argue that territorial jurisdiction rules may no longer serve a meaningful purpose and could be reconsidered.¹

Yet this perspective overlooks a crucial reality. Despite the digital shift, litigation still takes place within the framework of established courts that are geographically defined. These courts retain administrative authority over cases and provide institutional structure for the judicial process, whether proceedings occur in person or online. Certain procedures still require action in specific locations, such as enforcement or site-based expert assessments.² As such, territorial jurisdiction continues to play a foundational role in organizing the litigation system, preserving procedural clarity, and ensuring legal certainty.

What may appear on the surface to be legislative inertia could instead reflect a deliberate transitional approach. The continued application of territorial jurisdiction rules does not necessarily indicate a failure to adapt. Rather, it may signal a measured strategy that allows digital procedures to expand while preserving the stability of the existing court structure.³ Within this context, Saudi Arabia has begun to adopt flexible administrative practices that improve judicial efficiency without discarding the territorial framework entirely. A key example is the decision by the Board of Grievances to lift territorial constraints on appellate filings, a policy internally referred to as *ta'weem al-ikhtisas al-makani*. This administrative shift allows appeals to be digitally distributed across appellate panels based on availability and workload rather than geographic origin. The result has been a measurable increase in case resolution rates and procedural efficiency,⁴ illustrating that jurisdictional innovation is already underway within the bounds of existing legal structures.

This shift indicates that Saudi Arabia is gradually adopting a more flexible and responsive approach to territorial jurisdiction. While comprehensive legislative reforms have not yet taken place, recent administrative innovations, such as lifting territorial constraints on certain appellate procedures, demonstrate a clear move toward procedural adaptability. For now, territorial jurisdiction remains a foundational element, not as a remnant of outdated practice, but as a stabilizing force within a judicial system undergoing digital transformation. As legal infrastructure and procedural standards continue to evolve, the system may eventually embrace a model less tied to geography.

¹ Szigeti, P. D. (2016). The illusion of territorial jurisdiction. *Texas International Law Journal*, 52(3), 369–417.

² Law of Evidence (Royal Decree No. M/43), Article 108 (2021). Kingdom of Saudi Arabia.

³ Osztovits, A. (2023). Right to a modern trial: A new principle on the horizon of the digital age. *Hungarian Journal of Legal Studies*, 64(3), 377–390.

⁴ Lifting territorial restrictions on administrative appeals led to a 28% increase in resolved cases and a higher volume of digital hearings, reflecting the efficiency gains from redistributing cases across appellate circuits. See, Board of Grievances. (2025, May 28). After one year of *ta'weem al-ikhtisas al-makani*: 28% increase in accomplished cases in administrative appeal courts. Retrieved August 5, 2025, from <https://www.bog.gov.sa/MediaCenter/news/Pages/news-10365.aspx>.

Until that point, territorial jurisdiction will likely remain a necessary anchor for maintaining procedural clarity and institutional coherence.

3.4 Strategic Proposals for Digitally Compatible Jurisdictional Rules in Saudi Judiciary

With the gradual expansion of electronic litigation in Saudi Arabia, it has become increasingly important to revisit the foundations of territorial jurisdiction in a way that aligns with the digital environment while preserving core procedural safeguards. Although the traditional rule based on the geographic location of the court remains relevant for now, technological advancements are reshaping the landscape of litigation and call for new jurisdictional concepts that reflect the growing prevalence of online disputes.¹ This evolution should not be understood as a complete departure from the territorial model but rather as an effort to enhance flexibility in how courts and litigants interact across both physical and digital settings. One proposal involves developing a parallel framework for digital jurisdiction that complements rather than replaces traditional territorial criteria. Such a framework would require precise and predictable rules to resolve disputes that have no direct geographic link, such as those arising from digital contracts or online transactions. In these cases, jurisdiction could be determined based on factors like the location of the digital server or the registered domicile of the platform operator, treating geographic location as a supporting rather than exclusive basis for determining venue.

At the institutional level, coordination between judicial bodies and technical authorities is essential for the smooth implementation of new jurisdictional mechanisms. This cooperation must be governed by clear policies that preserve the confidentiality of judicial data and prevent any breach of litigants' privacy. Embedding strict data governance requirements in any integration agreements ensures that efficiency gains do not come at the expense of procedural guarantees.²

While these structural and technical measures provide the foundation for reform, one of the clearest indications of flexibility in how territorial jurisdiction is applied appears in Article 47 of the Saudi Law of Civil Procedure. This article allows a court to hear a case even if it falls outside its territorial jurisdiction, provided that both the plaintiff and defendant appear before the court voluntarily and request that it proceed with the litigation.³ The provision reveals that territorial jurisdiction is not an immutable rule but rather a procedural tool designed to protect litigants. When both parties choose to waive this protection, the court is permitted to proceed. This signals that geographic limitations are not intended to restrict justice, but to facilitate it in a way that protects the rights and convenience of the parties involved.

In light of this, and especially considering the widespread adoption of electronic litigation, it is worth exploring how this flexibility could be expanded to enhance user choice and system efficiency. If courts or the Ministry of Justice were to make

¹ Woods, A. K. (2016). Against data exceptionalism: An argument for relevance of location in internet jurisdiction. *Stanford Law Review*, 68(4), 729–774.

² Levy, K. E. C., & Issa, A. (2024). *Judicial Informatics: Data Governance and the Rise of Legal Tech*. SSRN.

³ Law of Civil Procedure, (Royal Decree No. M/1), Article 47

performance indicators publicly available, including clearance rates, average case resolution times, and the volume of pending cases, litigants would gain access to valuable information that could guide their choice of forum. Since most court sessions are now held online, geographic proximity no longer serves as a major constraint. Instead, litigants seeking timely outcomes may prioritize factors such as efficiency and speed of adjudication.¹

This transparency could empower litigants to choose courts based on performance rather than geography, particularly in situations where both parties agree to submit their case to a court outside its default jurisdiction. The existence of Article 47 already accommodates such consensual choice, and integrating performance data into platforms like *Najiz* would give this provision practical value in the digital age.

This approach would also serve broader judicial policy objectives. By encouraging litigants to choose courts with lighter caseloads or more efficient processing times, it could facilitate a more balanced distribution of cases across the judiciary. Courts that demonstrate higher efficiency would, in turn, attract more filings, creating an environment where institutional performance is rewarded.² Over time, this dynamic may promote constructive competition among courts, ultimately enhancing the overall quality and responsiveness of judicial services.

In this way, territorial jurisdiction would evolve from a rigid geographic rule into a flexible, performance-informed mechanism that respects party autonomy while remaining rooted in the legal structure. Rather than requiring a full legislative overhaul, this shift could take place within the existing legal framework. It would be anchored in the text of Article 47 and supported by the deliberate integration of digital infrastructure and transparent access to court performance data.

4. Conclusion

This study reaffirms that territorial jurisdiction is a central pillar of procedural justice, ensuring that disputes are distributed among courts in a way that preserves balance and fairness between litigants. The rationale behind these rules lies in safeguarding the defendant from undue hardship and in preventing the misuse of procedural tools to create strategic or geographic disadvantages. By anchoring jurisdiction to the defendant's location, the legal system upholds accessibility and supports the fair exercise of rights and defenses.

The expansion of electronic litigation in Saudi Arabia has introduced a new procedural landscape that challenges the traditional foundations of territorial jurisdiction. While many aspects of litigation are now conducted online, the institutional structure of the judiciary remains tied to geographic boundaries, and several procedures continue to

¹ World Bank. (2020). *Comparative international study of court performance indicators: A descriptive and analytical account* (Report No. 55153). World Bank.
<https://documents1.worldbank.org/curated/en/373641468769467659/pdf/multi-page.pdf>

² Judicial competition theory suggests that when courts improve performance in order to attract more cases, this leads to higher efficiency and better outcomes for litigants. The idea is that when courts compete based on transparency and procedural quality, the entire judicial system benefits from enhanced fairness and user trust. See Glover, J. (2015, October 12). *Judicial competition for case filings in civil litigation*. Courts Law Jotwell.
<https://courtslaw.jotwell.com/judicial-competition-for-case-filings-in-civil-litigation/>

require physical action. Within this transitional phase, territorial jurisdiction still serves an essential function, offering procedural stability and reinforcing legal certainty.

At the current stage, maintaining territorial jurisdiction rules remains appropriate. They continue to protect litigants and ensure predictable judicial organization. However, this should not prevent a forward-looking approach that prepares the legal system for deeper digital integration. As courts become more fully digital and the need for physical presence diminishes, it will be both logical and necessary to revisit the jurisdictional framework and update it in a way that reflects the operational realities of modern litigation.

The reform of territorial jurisdiction should be seen not as a marginal adjustment, but as a structural requirement that must be addressed carefully and systematically. This involves rethinking jurisdiction as a flexible procedural instrument that can respond to different litigation contexts while continuing to safeguard procedural integrity. The future model must incorporate clear regulatory criteria, robust data governance, and transparent case distribution systems. It should also make use of existing flexibilities within the current legal framework, such as the mechanism in Article 47, and expand the use of performance-based indicators to guide litigants in choosing between competent courts.

In this light, territorial jurisdiction should not be dismissed as an outdated formality. It remains one of the most delicate components of judicial procedure, directly affecting the legitimacy and stability of litigation. Any reform in this area must proceed with care and balance, ensuring that modernization efforts support rather than disrupt the core values of the justice system. This is key to building a digital judicial model that is efficient, accessible, and legally sound.

Findings

This study finds that territorial jurisdiction rules in Saudi Arabia are grounded in a fundamental procedural principle designed to protect the defendant's legal position. By requiring the claimant to initiate proceedings before the court geographically linked to the defendant, the system promotes fairness and prevents the imposition of undue burdens on either party. This structure continues to serve as a key safeguard in ensuring equitable access to justice.

The analysis confirms that the objection to territorial jurisdiction is a procedural right primarily available to the defendant. Its legal classification, however, varies depending on the nature of the dispute. In private law matters, it is not considered a matter of public order and must be raised in a timely manner. By contrast, in administrative cases, the rules of territorial jurisdiction are treated as part of public policy and can be invoked by the court independently of the parties.

The study also reveals that the shift toward electronic litigation has diminished the practical significance of a court's geographic location. As parties can now file claims and attend hearings remotely, some of the logistical justifications for rigid territorial rules have weakened. Nonetheless, physical jurisdiction remains institutionally embedded in the court system and continues to structure the judicial process.

It is further established that the Saudi judiciary is undergoing a transitional phase in which digital and traditional practices coexist. This hybrid context necessitates the temporary preservation of existing jurisdictional rules to ensure procedural continuity and protect the legitimacy of litigation. While electronic platforms have made notable advancements—particularly in the areas of filing, notification, and appellate review—the territorial framework has yet to be comprehensively updated. This suggests an intentional and cautious approach to reform, allowing digital transformation to proceed in stages that align with institutional readiness.

Finally, the findings underscore the need for a gradual and well-structured evolution of jurisdictional rules. Future adaptations should aim to accommodate the operational realities of digital justice while preserving core procedural safeguards. Only through such a balanced path can the legal system respond effectively to technological developments without compromising the stability and reliability of judicial procedures.

Recommendations

Based on the findings of this study, a set of recommendations is proposed to guide the development of territorial jurisdiction rules in Saudi Arabia in line with the ongoing transformation of the judicial system, while preserving essential procedural safeguards. The proposed recommendations are as follows:

- Begin drafting a phased legislative framework to reassess existing territorial jurisdiction rules, aiming to strike a balance between procedural stability and the operational demands of electronic litigation.
- Redefine territorial jurisdiction to include specific digital components by introducing legal provisions that clarify jurisdiction in electronic cases and disputes arising in cyberspace.
- Introduce new criteria for identifying the competent court in digital disputes, including the location of digital servers and the registered address of the platform provider, alongside traditional geographic factors.
- Improve procedural tools for raising jurisdictional objections within electronic litigation platforms, ensuring that defendants can assert this right efficiently and within timelines appropriate to digital proceedings.
- Promote coordination between judicial authorities and technical institutions by establishing operational protocols that verify the accuracy of data submitted during electronic filings, reducing risks of jurisdictional abuse.
- Develop governance policies that protect the confidentiality of judicial data and the privacy of litigants, especially as digital systems expand inter-agency integration.
- Emphasize the need for periodic review and revision of territorial jurisdiction rules to maintain alignment with technological developments, supported by active monitoring and assessment tools.
- Invest in ongoing training for judges and court staff to build the legal and technical capacity needed to address jurisdictional issues in a digital litigation environment.

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