

# The Interplay between Connecting Factor Formulas and Private International Law Theories

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## Abstract

The *connecting factor formula* is a distinctive concept in private international law and serves as a universal rule for resolving conflicts of laws. This paper examines the influence and role of private international law theories in the formation and development of connecting factor formulas by analyzing different stages of doctrinal evolution and representative scholarly perspectives. The study aims to provide a theoretical foundation for understanding and applying these formulas.

**Keywords:** connecting factor formula; statute theory; seat of legal relation theory.

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## I. The Connotation of Connecting Factor Formulas and Private International Law Theories

The *connecting factor formula* is a "universal rule" in private international law for resolving conflicts of laws. [1] Simply put, when different legal systems provide conflicting regulations for the same case, a criterion is needed to determine which law should apply—this criterion is the connecting factor formula.

Private international law theories are scholars' systematic summaries of various theoretical and practical issues in the field, including the object of regulation, fundamental principles, and conflict rules. These theories reflect the developmental state of private international law at a given historical stage.

## II. The Role of Private International Law Theories in Shaping and Developing Connecting Factor Formulas

### (1) Early Theories Laid the Foundation for Connecting Factor Formulas

Early private international law theories provided the theoretical groundwork for connecting factor formulas. For instance, the 13th-century *statute theory* classified laws into *personal statutes* and *real statutes*, establishing the basis for classic formulas such as Personal law and property law. Thus, the statute theory became one of the earliest theoretical origins of connecting factor formulas.

### (2) Modern Theories Enriched and Refined Connecting Factor Formulas

In the modern era, seminal private international law doctrines significantly advanced the development of connecting factor formulas. For example, the *seat of legal relation theory*, proposed by the German scholar Savigny in the 19th century, marked a milestone in private international law. It posited that every legal relationship has a definitive "seat," and the applicable law should be determined by the nature of that relationship. This theory provided a framework for further evolution, giving rise to formulas such as the *law of the most significant relationship*.

### (3) Contemporary Theories Drive Innovation in Connecting Factor Formulas

In recent years, the emergence of new legal relationships—such as those involving e-commerce and digital intellectual property—has rendered traditional connecting factor formulas inadequate. Consequently, novel formulas have been developed, reflecting both the realities of modern cross-border civil and commercial practice and the guidance of contemporary private international law theories.

<sup>1</sup> Li Shuangyuan: "On the Softening Treatment of Legal Conflict Norms", China Law Journal, Issue 2, 1989.

### **III. The Reciprocal Influence of Connecting Factor Formulas on Private International Law Theories**

#### ***(1) The Limitations of Formulas Prompt Theoretical Reflection and Development***

In practice, when traditional connecting factor formulas fail to resolve complex issues—such as cases requiring the application of multiple legal systems or balancing competing national interests—scholars critically re-examine these formulas, identifying potential shortcomings and proposing refinements.

#### ***(2) The Evolving Demands of Formulas Spur Theoretical Innovation***

As international civil and commercial relationships grow more intricate, connecting factor formulas must adapt. For instance, traditional formulas may prove insufficient in areas like cross-border bankruptcy, international product liability, or transboundary environmental disputes. Research into these emerging fields necessitates the formulation of tailored formulas or principles of application, thereby advancing private international law scholarship.