

“Other Appropriate Connections”: China’s Newly Adopted Jurisdiction Ground

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1. Background

China’s newly amended Civil Procedure Law (“CPL 2024”), which came into effect on 1 January 2024, introduces several distinct and innovative changes. Among the most notable is the incorporation of “other appropriate connections” as a jurisdiction ground. Article 276 of the CPL 2024 addresses the jurisdiction of Chinese courts over foreign-related disputes where the defendant lacks domicile in China. Paragraph 1 of Article 276 lists six jurisdiction grounds, including the place of contract formation, place of contract performance, place of the subject matter, place of distrainable property, place of tort, and place of representative offices. As a supplement, Paragraph 2 provides that “notwithstanding the preceding paragraph, foreign-related civil disputes that have other appropriate connections with the People’s Republic of China may fall under the jurisdiction of the People’s Courts.” The term “other appropriate connections” represents a legal innovation not only within Chinese legislation but also on a global scale. Currently, there is no official interpretation or guidance on its precise meaning, making it essential to analyze and evaluate this jurisdiction ground and its potential implications for jurisdictional practices.

2. Legislative Purposes

Regarding the legislative purposes behind the incorporation of “other appropriate connections”, the then President of the Supreme People’s Court explained at the 38th meeting of the Standing Committee of the 13th National People’s Congress that the purpose is to “increase the types of foreign-related cases under China’s jurisdiction, expand jurisdiction grounds, better protect the rights of both Chinese and foreign parties, and effectively safeguard China’s sovereignty, security, and development interests.”[1] Additionally, the head of the Civil Law Office of the Legal Affairs Commission of the Standing Committee of the National People’s Congress, one of the principal figures involved in drafting the amendment,

emphasized that the incorporation of “other appropriate connections” is intended to “expand the jurisdiction of Chinese courts over foreign-related cases.”[2] From these official explanations, it can be concluded that the legislative purposes of incorporating “other appropriate connections” as a jurisdictional ground are threefold: (a) expanding jurisdiction over foreign-related cases, (b) protecting the rights of parties, and (c) safeguarding national and public interests.

3. Potential Function

The legislative purposes outlined in official statements are somewhat broad and indirect. However, scholarly works offer insights into the potential functions of this jurisdiction ground, which help achieve legislative purposes. These functions can be summarized as follows:

a) Filling Jurisdiction Gaps

First, “other appropriate connections” can help fill jurisdiction gaps. This is particularly relevant when the interests of Chinese individuals or companies are infringed upon in a cross-border context while none of the listed jurisdiction grounds apply.[3] Such situations are increasingly common due to rapid social developments that give rise to new types of disputes. In such cases, “other appropriate connections” can serve as a supplementary jurisdiction ground to fill the jurisdiction gaps and protect their interests.

b) Articulating Extraterritoriality Provisions

Second, “other appropriate connections” can strengthen the enforcement of extraterritoriality provisions in Chinese laws. China has introduced extraterritoriality provisions in several regulatory laws, including the Personal Information Protection Law, Anti-Trust Law, and Security Law. However, the previous Civil Procedure Law lacked corresponding provisions that granted Chinese courts adjudicative jurisdiction over related disputes. The incorporation of “other appropriate connections” addresses this gap, allowing courts to assert jurisdiction in such cases.

c) Substituting Necessity Jurisdiction

Third, “other appropriate connections” may act as a substitute for necessity jurisdiction. The CPL 2024 does not formally establish the necessity jurisdiction,

despite scholarly calls for its establishment.[4] Although the adoption of necessity jurisdiction in China remains a topic for further discussion, “other appropriate connections” may provide a mechanism for courts to exercise this type of jurisdiction when required.[5]

4. Interpretation

It is necessary to first establish the methodology for the interpretation of “other appropriate connections”. Some scholars argue that future judicial interpretations should continue to follow the enumerative approach—listing several typical jurisdiction grounds to provide a degree of legal certainty. In terms of content, it has been suggested that indirect jurisdiction grounds, as outlined in the Hague Convention on the Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters 2019, should be considered.[6] However, this approach may result in rigidity and a lack of flexibility, which have been the main criticisms of the earlier legislation. As a result, a more flexible and open approach should be adopted instead, one that provides general guidelines while allowing judges to conduct case-by-case analyses.[7]

This method is further illustrated by judicial practices involving “other appropriate connections”. In the first case to adopt “other appropriate connections” as the jurisdiction ground, the Supreme People’s Court addressed a jurisdictional issue arising from a dispute related to FRAND (Fair, Reasonable, and Non-Discriminatory) licensing.[8] The Court stated that whether the dispute has “appropriate connections” with China should be assessed by examining the characteristics of the case. Based on this analysis, the Supreme People’s Court identified several connecting factors that serve as additions to the jurisdiction grounds listed in the previous Civil Procedure Law. The Court concluded that if any of these connecting factors are situated within Chinese borders, the dispute will have “appropriate connections” with China.[9] This practice indicates that the primary method for interpreting “appropriate connections” involves analyzing specific cases to define additional relevant connecting factors or jurisdictional grounds.

The next question regarding interpretation is the extent of connection required by “other appropriate connections”. To clarify this, the wording used must be considered. During the legislative process, the term “appropriate connections” was specifically chosen to distinguish it from terms like “real and substantial

connections” and “minimum contacts”, which are commonly used in comparative law and academic literature. This suggests that “appropriate connections” do not necessitate a close connection to “substantial connection”, yet should not be overly broad like “minimum contacts”.^[10] However, the precise extent required remains to be determined. It appears that the necessary extent may depend on the interests at stake since the primary purpose of incorporating “other appropriate connections” is to protect China’s private and public interests. Thus, a more vital interest may necessitate a lower threshold for connection, while less vital interests may demand higher.

5. Concluding Remarks

The incorporation of “other appropriate connections” as a jurisdiction ground reflects China’s determination and ongoing efforts to enhance its foreign-related legal framework. It also provides a solid foundation for Chinese courts to actively participate in transnational governance. From the perspective of international law, Chinese practices concerning “other appropriate connections” deserve further examination, since it also serves as a supplementary rule for indirect jurisdiction (Article 301, CPL 2024) and for the allocation of enforcement jurisdiction within borders (Article 304, CPL 2024). It is fair to submit that “appropriate connections” constitutes a fundamental jurisdiction rule of China, potentially contributing to the development of international laws in corresponding fields. However, current practices and guidelines regarding “other appropriate connections” remain insufficient, highlighting the need for continual and further observation.

[1] See Zhou Qiang, ‘Explanation on the Civil Procedure Law of the People’s Republic of China (Draft Amendment)’ (*National People’s Congress of the PRC Website*, (27 February 2021) <www.npc.gov.cn/npc/c2/c30834/202112/t20211227_315637.html> accessed 13 October 2024).

[2] See Wang Qiao, ‘China’s Civil Procedure Law Completes Revision, Will Better Safeguard Parties’ Litigation Rights and Legitimate Interests - Interpretation of the Newly Revised Civil Procedure Law *People’s Court Daily* (Beijing, 2 September 2023) 4.

[3] See Shen Hongyu & Guo Zaiyu, ‘Commentary on and Interpretation of the

Revised Provisions of the Foreign-Related Part of the Civil Procedure Law' (2023) 54 China Law Review 70, 73.

[4] See Huang Zhihui, 'System Positioning and Normative Explanation of Necessary Jurisdiction System of Foreign-related Civil Litigation in China' (2022) 39 Studies in Law and Business 48, 60-61.

[5] See Huang Zhihui, 'Study on the International Civil Jurisdiction of Appropriate Connections in the Context of the Foreign-Related Rule of Law' (2023) 505 Law Science 176, 185-186.

[6] See Liu Guiqiang, The Challenges and Responses Faced by China's Counter-Sanctions Litigation Recovery System (2023) 45 Global Law Review 211, 219.

[7] See Guo Zhenyuan, Appropriate Connections Principle in Foreign-Related Civil Litigation Jurisdiction: Theoretical Explanation and Path of Application (2024) 127 Chinese Review of International Law 127, 137.

[8] *Conversant Wireless Licensing S.A.R.L. v. ZTE Corporation Ltd.*, (2019) Zui Gao Fa Zhi Min Xia Zhong No. 157 (Supreme People's Court).

[9] Similar reasoning can be seen in *Guang Dong Oppo Mobile Telecommunications Corp., Ltd., et al. v. Sharp Corporation., et al.*, in Supreme People's Court Gazette, Issue 2, 2022 (Total No. 306) p. 23-30.

[10] See Shen Hongyu & Guo Zaiyu, 'Commentary on and Interpretation of the Revised Provisions of the Foreign-Related Part of the Civil Procedure Law' (2023) 54 China Law Review 70, 73.