

# Analysis on the Coordination and Connection between the Implementation of Civil Code and Civil Procedure Law

Bingjie Chen

Zhengzhou Business University, Zhengzhou 451200, Henan, China.

**Abstract :** The formal promulgation and implementation of Civil Code in 2020 marks another great progress in China's rule of law. Its implementation is of great significance. It is an important measure for China to comprehensively implement the rule of law and improve the national rule of law system. The implementation of Civil Code is a major legislative project. Only by ensuring the effective implementation of this legal document can it play its role. Among them, to ensure the effective implementation of Civil Code, the key is to solve the litigation applicability in specific controversial events. Only by ensuring its judicial applicability, can the provisions of Civil Code be connected with specific events, so as to achieve the normative role of law on human social relations and behavior. Therefore, to ensure the applicability of Civil Code, we must deal with the coordination and docking between the implementation of Civil Code and the civil procedure law, and deal with the personal and property relations of relevant civil subjects in the civil field.

**Keywords :** Civil Code; Implementation; Civil Procedure Law; Coordination; Connection

Based on the problems encountered in the promulgation and implementation Civil Code, it is necessary to start with the division of public law and private law and the importance of the promulgation of Civil Code, explain that the implementation of Civil Code needs to be completed with the help of the civil procedure law, and emphasize the importance of the coordination and connection of substantive law and procedural law. This paper expounds the basic ideas of the coordination and connection between the civil procedure law and Civil Code from the aspects of claim system, evidence system, personality right, act prohibition system and execution system.

## 1. Applicability requirements of Civil Code

To ensure that Civil Code can be effectively used in specific disputes and improve the applicability of legislation, it needs to be carried out in accordance with the corresponding legal procedures, through civil procedures and judicial judgment, so that the relevant provisions of Civil Code can truly become the judgment basis of relevant disputes. Based on the natural needs, the civil procedure law needs to maintain spiritual consistency with the civil substantive law, and the civil substantive law also needs to ensure internal consistency, so as to truly construct the legal norms of civil entities. Only by making the specific provisions and provisions of Civil Code applicable in specific cases and establishing the connection between theory and practice can we avoid the single abstraction of legal documents and ensure that the relevant provisions can be better understood and applied to practice. Because in legal documents, in addition to some clause data, many contents are more abstract text combinations. Only by ensuring its practicability in litigation, can legal documents become concrete and three-dimensional from abstraction and become a law that can be widely used to deal with real problems.

## 2. Reasons for the disconnection between civil substantive law and civil procedure law

In the actual legal world, there is a certain disconnect between China's substantive law and procedural law. The main reasons

are as follows:

Whether the consistency between civil procedure law and civil substantive law can be ensured is closely related to people's subjective understanding. If there is a cognitive deviation, it will lead to the poor coordination and connection between civil procedure law and substantive law.

The development of civil procedure law and substantive law cannot be completely synchronized. In the process of legislation, because there are differences in the legislative time of substantive law, it is often impossible to consider the coordination and connection of civil procedure law. Therefore, there will be a certain lag in the connection of civil procedure law and substantive law, which cannot achieve comprehensive coordination and connection, let alone synchronous coordination and connection. This will have a certain impact on the promulgation, implementation and effectiveness of Civil Code. In terms of civil procedure law, its most fundamental value is to realize the provisions on rights and obligations in civil substantive law. Therefore, in the implementation of the comprehensive and basic law in the civil field, there must be corresponding civil procedure law to connect and coordinate with it, so that Civil Code can be effectively implemented and the practical significance of legislation can be realized. Therefore, after the promulgation of the current civil code, the study of the coordination and connection between the civil procedure law and Civil Code has also become a key issue in the legislative research.

In the long run, the civil procedure law has been continuously improved in the use process, and has been revised for many times, and the Supreme People's Court has also carried out judicial interpretation, which makes the development of civil procedure law and civil substantive law maintain basic coordination and connection. Although there may be places where coordination and connection cannot be achieved in some details, the corresponding time dimension lags behind. In terms of the civil code, this legal document is not only the integration of multiple civil legal normative documents in the past and the judicial interpretation norms of relevant civil legal documents, but also adds some new normative contents. Therefore, the corresponding substantive law norms reflect the unity, detail and systematization. In terms of the significance of Civil Code in China's legislation, China is a society ruled by law. The promulgation and implementation of the civil code is also an ideal time to accelerate the coordination and connection between the civil procedure law and the civil substantive law. On the one hand, some new and supplementary provisions in the civil code need to be realized through the coordination and connection of the civil procedure law; On the other hand, the civil procedure law has not achieved effective coordination and docking with the civil substantive law. Therefore, this time, with the help of the implementation of Civil Code, we will carry out comprehensive treatment, realize systematic and comprehensive coordination and connection, supplement the shortcomings, and improve the synchronization of the civil procedure law and the civil substantive law.

Before the promulgation and implementation of Civil Code, the academic circles also had some research on the civil procedure law and the connection of Civil Code, but the relevant research was more carried out from the perspective of the civil procedure law, and the research was the solution to the problem of one-way connection between the civil code and the civil procedure law, because the formulation of Civil Code had not been carried out at that time. Therefore, scholars hope that relevant constitutional departments should be fully taken into account in the formulation of Civil Code, so as to maintain the comprehensiveness and comprehensiveness of legislation. It can be seen that the research at that time focused on how the formulation of Civil Code can connect and coordinate with the civil procedure law in the natural form or development form. We should not only pay attention to the civil procedure law, but also take advantage of this opportunity to accelerate the progress and development of the civil procedure law.

### **3. Thoughts on coordination and connection between Civil Code and civil procedure law**

To ensure the effective implementation of the civil code, we must do a good job in the coordination and connection between Civil Code and the civil procedure law.

Firstly, under the premise of comprehensively considering the previous substantive law norms, Civil Code has added many new systems and provisions. These new systems and contents must have the norms of civil procedure law to coordinate and connect their procedural systems. In addition to the above two macro aspects, the connection between Civil Code and the civil procedure law is also reflected in the specific system. Civil Code is not only the integration of the original system, but also the emergence of new systems and new substantive claims. Then, for these new substantive claims, whether the original ordinary procedure and summary procedure can apply to these new substantive claims, Professor Zhang takes the claim for the prohibition of personality rights as an example and puts forward a unique solution, that is, to establish a separate expedited procedure and do not support appeal and retrial, which is to be convenient and fast, because it does not involve the amount and facts of infringement, only to determine whether it is necessary to prohibit it according to the current situation.

With the opportunity of the promulgation and implementation of Civil Code, the civil procedure law can achieve systematic and

comprehensive coordination with the civil substantive law. In the specific coordination and connection, we need to consider many aspects. On the one hand, we need to clarify how the civil procedure law should be unified with the legislative spirit and principles related to Civil Code, so as to ensure a high degree of spiritual consistency with Civil Code in these aspects; On the one hand, at the specific system level, we should also ensure the consistency between the civil procedure law and Civil Code. For inconsistent procedural systems, we need to do an effective coordination and connection work; In addition, effective post-processing work is carried out for the civil procedure law and civil code to supplement the missing parts. In the process of implementing comprehensive coordination and connection, taking the litigation system (subject and object), injunction system, evidence system and execution system as examples to explain the disposal methods or ideas of coordination and connection.

#### 4. Conclusion

Civil Code must consider the four corners of the civil procedure law and the point of view of the civil procedure law. The promulgation and implementation of Civil Code cannot move forward alone, because it can't go far alone. The formulation of Civil Code should be regarded as a new driving force to drive the already backward civil procedure law forward, and the current civil procedure law can't be regarded as a shackle for us to dance, Dare to get out of it. Specifically, the formulation of Civil Code is more like an opportunity to clean up the door and the disunity and contradiction between our two families. We should use this opportunity to carefully clean up where the terms used in the civil law are inconsistent with the civil procedure law, and the development of the civil procedure law and civil law is inconsistent, so we need to clean up. Through the implementation of Civil Code and the comprehensive coordination and connection of the civil procedure law, we can really accelerate the improvement of China's legislative system, promote the improvement of legislative practice, and provide necessary guarantee for China's rule of law.

#### References

- 
1. Zhang G, Zhang X. Reconciliation between civil code and Civil Procedure Law——Taking litigation system, trial procedure and evidence system as an example. *Legal System Expo* 2021; (25): 81-82.
  2. Wang X. Fast realization the all-round systematic connection between civil procedure law and civil code——An exclusive interview with Zhang Weiping, President of Civil Procedure Law Research Society of China Law Society. *People's Procuratorate* 2020; (15): 19-22.
  3. Zhang W. Connection and integration of Civil Code and Civil Procedure Law——On the compilation of civil code from the perspective of civil procedure law. *Legal Research* 2016; 38(1): 22-36.
  4. Zhang W. Focusing on the development of the times, civil judicial research has entered a new stage——A summary of civil procedure law research in 2020. *People's Procuratorate* 2021; (2): 29-34.
  5. Zhang W. Coordination and connection between the implementation of Civil Code and civil procedure law. *Social Science Abstracts* 2020; (9): 66-68.