# The Integration of Civil Substantive Law and Civil Procedure Law in China

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**Abstract: The relationship between substantive law and procedural law has always been a fundamental issue that cannot be avoided in civil litigation law. Due to the disciplinary framework and legislative system, the two have long been regarded as separate departments, but the actual operation of litigation is not like this: from filing a lawsuit to the judgment, substantive elements and procedural requirements are always intertwined, and it is difficult to point out where is purely substantive and where is purely procedural. This article, based mainly on the existing research in the Chinese academic circle, sorts out the alternation of discourses in the three stages of "attachment theory", "independence theory", and "interaction theory", and attributes the basis for integration to three points - litigation as the field where the two laws act together, the two aspects of rights protection (substantive and procedural), and the requirement of uniformity in legal application for systematization. After that, the article examines the disconnection phenomena in legislation, judicial practice and academic research, and then uses four cross-cutting fields - burden of proof allocation, statute of limitations, party qualification and res judicata - to illustrate how integration unfolds at the doctrinal level. The author's basic view is: integration does not eliminate the division of labor between the two laws, but rather reconnects the nodes that should have been connected under the premise of division of labor. The ultimate measure of success or failure is very simple - whether the legal rights can be realized in a real lawsuit.**

**Keywords: Civil Procedure Law; Civil Substantive Law; Integration; Burden of Proof; Res Judicata**

## 1. Introduction

In China's civil legal system, the distinction between substantive law and procedural law has existed for a long time. The Civil Code deals with the allocation of rights and obligations, while the Civil Procedure Law deals with the steps for resolving disputes. Legislation, teaching, and research have all been conducted based on this division, gradually forming two self-contained discourses. The division did indeed bring about refined analysis, but at the cost of few people addressing the seams between the two laws. The adoption of the Civil Code in 2020 and its implementation in the following year brought this old issue back to the forefront: With such a large-scale substantive code, how exactly do its rules come into effect in court?

Zhang Weiping [1] was one of the first to notice this. He proposed that the implementation of the Civil Code requires a round of coordination and alignment with the Civil Procedure Law. Patching individual provisions is not enough; the connection must be comprehensive - from basic principles, jurisdiction, parties, all the way to evidence, judicial effect, and enforcement, all need to be reviewed again. Wang Lei [2] expressed similar concerns using the terms "civil and commercial integration" or "civil law integration": Civil law must not only confirm rights at the substantive level but also rely on procedural design to make rights work in litigation. Therefore, the connection and application of the Civil Code naturally carry both substantive and procedural aspects. Ren Zhong [3] has also examined this history of the relationship, and similarly believes that the coordinated implementation of the Civil Code and the Civil Procedure Law constitutes the key technology for "effective implementation of the Civil Code". Looking back, since the founding of the People's Republic of China, the two laws have carried the imprint of "emphasizing substantive law and neglecting procedural law"; later, each completed its systematization, but the issue of how to coordinate between them has never been truly resolved.

Practice is always slower than theory. Several

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new institutional provisions created by the Civil Code still lack appropriate procedural outlets; the two amendments in 2021 and 2023 focused on foreign-related civil litigation, but the local procedural issues triggered by the Civil Code have not been systematically addressed. At the courts, a case is often divided into substantive and procedural parts, and the procedural part is treated as a transactional operation such as acceptance and service, and its meaning for substantive rights is rarely seriously questioned. The situation in the academic community is no better, with civil law scholars and procedural law scholars adhering to separate paradigms, and few opportunities for real dialogue around common issues. The multiple tensions are passed on layer by layer, ultimately bearing down on the parties: The rights written in black and white become difficult to be fulfilled once they encounter procedural obstacles in court. This leads to three questions - what does integration mean; what constraints does it face in the Chinese context; and through what path can it be advanced. The legal provisions cited in this article are all from the currently valid laws and judicial interpretations.

## 2. The Evolution of the Relationship between the Two Laws

People's understanding of the relationship between the two laws is not static. Huo Haihong [4] examined the civil litigation jurisprudence in China since 1949 and summarized this period as "attachment theory", "independence theory", and "interaction theory", and advocated that the alternation of these three theories reflects dual changes in cognition and institutional basis. This division is largely credible, and the following paragraphs will unfold based on this line of thought.

### 2.1 Attachment Theory: Procedural Instrumentalism

In the initial stage of legal system construction, procedural law was mostly regarded as the "tool" or "auxiliary law" of substantive law. According to this logic, rights and obligations are defined by substantive law, and the role of procedural law is only to realize them through judgments; procedural law itself does not have any independent value, and its significance is almost entirely derived from the substantive outcome. "Emphasizing substantive law and neglecting procedural law" had a specific connotation at that time: procedural norms in legislation were always one step behind substantive norms, and the success or failure in judicial practice was judged by the outcome, and procedural flaws that did not change the conclusion were generally not taken into account. This concept was commensurate with the era of scarce legislative supply and relatively simple types of disputes, but it also sowed the seeds for the persistent lack of procedural protection and the repeated occurrence of procedural violations.

### 2.2 The Independent Theory: Procedural Liberalism

After the procedural justice theory was introduced to China in the 1990s, the independent value of procedural law began to be seriously regarded. The categories such as procedural justice, procedural participation, and procedural rationality were no longer regarded as appendages of substantive law. People acknowledged that they have their own legitimacy. The position of procedural liberalism is very clear: Procedural law is not a simple means to achieve substantive justice; the justice of the procedure itself is worth pursuing. At the institutional level, the Civil Procedure Law completed the formal codification of the law, but the distance between it and civil law in terms of discipline widened accordingly. Zhang Weiping [5] warned when discussing the compilation of the Civil Code that many provisions of the Civil Code were written based on the existing civil litigation rules, and the two laws must be mutually consistent in terms of concepts and systems; if they developed independently, he warned, it would only create differences in situations where unification was supposed. The recognition of independence indeed elevated the status of procedural law, but the emphasis on "separation" also brought unexpected costs: In those places where the two laws should have intersected, they instead moved further apart, and common problems were left aside.

### 2.3 The Interaction Theory: The Rise of Integration

Entering the 21st century, both "dependence" and "parallelism" seemed insufficient, which gradually became a consensus among scholars. Litigation is a living procedural activity, where substantive norms and procedural norms are intertwined and pulled at each other, and also shape each other. Chen Gang [6] proposed the

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concept of "substantive litigation law", intending to illustrate that the Civil Procedure Law always contains a large number of substantive norms that directly allocate rights and obligations, and studying only from the procedural side is incomplete. Liu Pengfei [7] proposed a mirror-like proposition from the other end: Civil substantive law also embeds a considerable number of procedural norms, and these norms are not smoothly connected, their expressions are ambiguous, and they conflict when applied. Forcing to draw a line between substantive and procedural law only creates the fragmented language of "substantive-procedural dualism".

From dependence to independence and then to interaction, it is not a logical route of "negation of negation", but a process of gradually getting closer to the actual situation of litigation. Integration was formed at this stage. Its proposition is two-way: On the one hand, it recognizes the independent value of procedural law, and on the other hand, it refuses to deny the inseparable connection between it and substantive law. Here, "integration" and "merger" need to be distinguished. Integration does not mean one law being swallowed by another; it requires that under the condition that both laws maintain their independence, they recognize the joint efforts of both in the same litigation.

## 3. The Theoretical Foundation of Integration

### 3.1 Civil Litigation as a Commonly Operating Field

Describing civil litigation as a field where both substantive and procedural elements operate together is not merely a rhetorical emphasis. When filing a lawsuit, parties not only need to present substantive requests but also must meet the procedural conditions for filing. Without any of these, the case cannot proceed to the trial stage. After entering the trial stage, how to present claims, how to present evidence, and how to conduct the debate, all seem like litigation actions on the surface, but in reality, they are always revolving around the requisite factual elements of the claims. At the judgment stage, the court still needs to handle both aspects simultaneously: one is procedural matters such as the legality of the lawsuit, and the other is the judgment of the substantive rights and obligations of the dispute. The "synergistic implementation" as mentioned by Ren Zhongzuo, when applied to individual cases, is essentially this state - substantive and procedural elements are not applied in sequence but are mutually embedded within the same procedure.

The basis of the claim right determines the objects of trial and judgment, while the extent to which a right can be realized depends on the space left by the procedural rules. Without substantive law, there is no even the possibility of pointing; without procedure, the substantive rights brought to the court only have the power of declaration. The empirical basis relied upon by integration, most intuitively, lies at this level.

### 3.2 The Dual Dimensions of Rights Protection

Rights protection must be considered from both ends. Substantive law is responsible for confirming the types, scope, and exercise methods of rights, while procedural law provides the channels for relief when rights are infringed. Only with confirmation but without relief, rights remain on paper; conversely, a set of procedures that are decoupled from substantive rights cannot be said to be anything but a formality.

It should also be noted that the procedure does not merely passively wait for substantive rights to activate it; it is also simultaneously shaping substantive rights in the opposite direction. How the burden of proof is allocated determines whether the claim can stand when the truth of the facts is unclear; once the statute of limitations has expired, the obligor gains an argument, and the realization of the right is restricted; the objective scope of res judicata is how it is defined, which determines to what extent this dispute is truly concluded. These effects on the substantive level are not merely technical issues. Therefore, rights protection from the starting point is a proposition jointly borne by substantive and procedural elements, and without one side, the other side is also difficult to truly hold.

### 3.3 The Systemic Requirement of Uniform Application of Law

The legal system takes internal uniformity as the basic requirement. The Civil Code has completed the systematization of substantive law, but the self-consistency of the civil legal system cannot be limited to the internal of substantive law; substantive and procedural elements also need to mutually correspond. Once there is a conflict between the two, the one caught in the middle is the judge, and the damage is to the authority of the law itself. From the perspective of legal methods, integration is almost the inherent

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meaning of system interpretation. Judging whether a party is qualified cannot merely identify who is the subject of the substantive legal relationship; litigation status and other procedural rules must also be taken into account; allocating the burden of proof cannot merely dissect the structure of substantive norms but must follow the evidence rules. Putting the two laws into the same interpretation process will lead to reliable conclusions. Zhang Weiping's so-called "systematic connection", its methodological significance lies here.

## 4. The Disconnection at Present

### 4.1 Legislative Displacement

The displacement of legislation occurs in two directions simultaneously. One is that the Civil Code has advanced while procedural law has not kept up: the Civil Code has established a number of new rights and systems, but what type of lawsuit should these rights rely on and which procedures should be applied to hear them, the Civil Procedure Law and its judicial interpretations do not clearly state everywhere. The second is that the revision of the Civil Procedure Law itself did not take this connection as the main thread. As mentioned before, the two revisions in 2021 and 2023 mainly responded to the needs of foreign-related procedures, and the local procedural issues triggered by the Civil Code were not systematically addressed.

The gap in the intersection area is the most glaring. How to connect the interruption of the statute of limitations with the filing and withdrawal of lawsuits, and between the two laws, there is a lack of coherent arrangement; in the allocation of the burden of proof, there is also a gap between the structural norms of the substantive law and the procedural evidence rules. Ren Zhong [3,8] summarized this as the failure of "transformation" in collaborative implementation: the liability attribution principles and the basis of the claim in substantive law failed to smoothly transform into the rules of the litigation subject and the burden of proof.

### 4.2 Fragmentation in Judicial Application

When the gaps in legislation fall into the judicial practice, it becomes fragmented judicial practice. One common tendency is to separate the substantive trial from the procedural trial: procedural issues are simplified into technical operations such as acceptance and service, and no one questions what impact it has on substantive rights. The allocation of the burden of proof is particularly affected. Some judgments do not analyze the structure of substantive norms and directly apply the cliché "who asserts, who proves", the responsibility that should be borne by the defendant is added to the plaintiff, and ultimately the judgment results of contract and tort cases are changed.

There is a similar deviation in the field of the statute of limitations. Article 193 of the Civil Code clearly states that courts shall not actively apply the statute of limitations, and the defense of the statute of limitations belongs to the discretion of the obligor. However, in some cases, courts still actively invoke the statute of limitations on their own initiative, which exactly contradicts the arrangement of the Civil Code that assigns the benefits of the statute of limitations to the obligor. Going deeper, the root of these problems is actually the same: when making judgments, they are accustomed to starting from only one perspective - either focusing on the substantive aspect or the procedural aspect, lacking the thinking habit of viewing the two laws together.

### 4.3 Departmental Barriers in Academic Research

The division of disciplines adds another constraint. Civil law scholars focus on the construction of the rights system and pay little attention to the procedural mechanism; when designing procedural rules, litigation law scholars do not always delve into the substantive basis behind the norms. These areas such as the allocation of the burden of proof, the statute of limitations, the qualification of the parties, and the res judicata thus become gray areas where both sides touch but do not truly go to the bottom. Changes are also taking place. Conferences with the title "Dialogue between Civil Law and Civil Procedure Law" have been held more and more frequently in recent years. Projects such as the national-level major topic on the collaborative implementation of the two laws, which were chaired by Ren Zhong, have also been pulling the forces of both sides towards one place. The overall research atmosphere has indeed improved, but the results that delve deeply into a specific problem are still limited, and the departmental barriers have not been truly broken.

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## 5. Integration in Practice: Four Institutional Nodes

Whether the proposition can stand the test ultimately depends on its acceptance in specific institutions. The following will examine four areas: the burden of proof, the statute of limitations, the qualification of the parties, and the res judicata.

### 5.1 The Burden of Proof: The Procedural expression of the substantive law structure

The burden of proof has always been called "the backbone of civil litigation", and it is the most typical intersection point. The reason why Rosenberg [9]'s "normative theory" gained the status of the prevailing view in the civil law system was not because it derived results from the procedural side, but because of its meticulous classification of the substantive law structure. Its core proposition is roughly: Each party should bear the burden of proof for the normative elements that are favorable to them and can support their claims.

The normative theory divides substantive norms into four categories: rights creation norms, rights obstacle norms, rights extinction norms, and rights exclusion norms. The plaintiff bears the burden of proof for the elements of rights creation, and the defendant bears the burden of proof for the elements of obstacles, extinction or exclusion of rights. Through this classification, the allocation of the burden of proof is no longer a rule invented randomly by the procedure, but an extension of the substantive law structure in the procedure. Li Hao [10]'s empirical analysis of cases in the "Supreme People's Court Gazette" confirms this: The burden of proof in Chinese civil judgments is mainly allocated according to substantive law and its element structure, and judicial interpretations only fill in the gaps when substantive law is silent or ambiguous.

Chinese law generally adopts this logic. Article 91 of the "Interpretation of the Supreme People's Court on the Application of the Civil Procedure Law of the People's Republic of China" establishes a general rule: the party who claims the existence of a legal relationship shall bear the burden of proof for the basic facts that give rise to that legal relationship; the party who claims a change, extinction, or obstruction of the legal relationship shall bear the burden of proof for the corresponding facts. The "Several Provisions of the Supreme People's Court on Evidence in Civil Litigation" (Judicial Interpretation [2019] No. 19) continues the same approach in contract and tort disputes. Taking contract cases as an example, the plaintiff who claims performance must prove the establishment and effectiveness of the contract; the defendant who raises the defense of simultaneous performance must prove the establishment of the defense requirements. This process essentially translates the substantive normative structure into procedural burden of proof. Whether a judge can correctly classify a certain norm into one of the four categories directly determines whether the allocation is correct. Therefore, the issue of burden of proof is never a purely procedural technical problem; its root lies in substantive interpretation.

### 5.2 Limitation of Action: The Interweaving of Entity Defense and Procedural Claim

Limitation of action is another intersection that cannot be handled from a single departmental perspective. In substantive law, once the period has passed, the obligor acquires a defense, and the right itself does not disappear; it merely degenerates into a natural debt that is not protected by compulsory measures. In procedural law, the defense must be raised by the parties themselves, and the court cannot invoke it on its own initiative; as for the timing of raising the defense and the mode of trial, they are adjusted by procedural rules.

Article 188 of the Civil Code stipulates that the ordinary limitation period is three years, and Article 195 explicitly lists "filing a lawsuit or applying for arbitration" as one of the circumstances that interrupt the limitation period. Thus, the procedural act of filing a lawsuit is directly bound to the substantive effect of interruption. The "Provisions of the Supreme People's Court on the Application of the Limitation Period System in Civil Cases" further states that when a party submits a lawsuit petition or makes an oral complaint to the people's court, the limitation period shall be interrupted from the date of submission of the lawsuit petition or oral complaint. The problem still remains: Should a withdrawal of the lawsuit after filing be considered an interruption? How should the interruption that has occurred be handled when the court refuses to accept or dismiss the lawsuit? Huo Haihong [11]'s research shows that the burden of proof for the interruption fact is highly debated in Chinese theory and practice. Consistent with the normative theory and Article 91 of the Interpretation of the Civil Procedure

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Law, the right holder should bear the burden of proof for the interruption circumstances; for cases such as withdrawal of the lawsuit, it should be judged comprehensively based on the purpose of the limitation period system and the procedural effect of the lawsuit behavior. These issues cannot be answered solely from the perspective of substantive law; treating them as procedural techniques also fails to provide a solution - the purpose of the limitation period and the effect of the procedural act must be weighed together.

### 5.3 Party Competency: Correspondence between Entity Subject and Procedural Subject

The party system is a bridge built between the two laws. Usually, the subject of the substantive legal relationship is the litigant, but non-substantive subjects can also come to the court through litigation. Statutory assumption - such as the administrator of bankruptcy or the administrator of inheritance - has the litigation right derived from the management authority or legal duties granted by substantive law; arbitrary assumption - such as the representative in representative litigation - has the power derived from the authorization of the parties. Regardless of the form, the problem ultimately comes down to how to separate and correspond between the owner of substantive rights and the subject of the procedure. Whether a party is competent is often determined by using resources from both laws.

The action for confirmation makes this point particularly clear. Whether the plaintiff needs to obtain such a confirmation depends on whether the substantive legal relationship is in an unclear state and whether there are procedural interests in filing the lawsuit; the substantive law cannot give a complete answer. Therefore, the process of applying the party rule is actually a process of cross-checking the substantive ability with the procedural ability.

### 5.4 Resoluteness: The Procedural Determination of Substantive Legal Relations

Resoluteness refers to the binding force of the judgment that has taken effect on the subject matter of the litigation. Its objective scope is determined by the subject matter of the litigation, and how the subject matter is identified lies in the substantive request; its subjective scope is generally limited to the parties, and in legal circumstances, it can be expanded to third parties, but the basis for expansion is generally also in the substantive legal relations. The person who succeeds to the subject matter of the litigation after the oral debate ends, or the person who holds the disputed subject matter for the benefit of the parties, is bound by the judgment precisely because there is such a succession relationship or possession relationship in the substantive law.

Wang Yaxin and Chen Xiaotong [12] analyzed Article 93 and Article 247 of the Civil Procedure Interpretation and pointed out that the prohibition of repeated litigation stipulated in Article 247 is directly based on resoluteness, while the "pre-judgment effect" stipulated in Article 93 is both related to and different from resoluteness; which rule to apply depends on whether the subjects, objects, and time scope of the two subsequent lawsuits are the same. This presents a two-way structure: the determination of the procedure stabilizes the substantive legal relations, and the substantive relations in turn define the boundaries of the procedural effect. The integration of judicial effect refers to this layer.

## 6. The Path of Integration

### 6.1 Legislative Coordination

Legislation should abandon the habit of treating the two laws as two unrelated projects. When formulating or amending the Civil Code, it is necessary to simultaneously assess the procedural path through which a right can be realized; when amending the Civil Procedure Law, it is necessary to track the new systems of substantive law and adjust the procedural rules accordingly. The so-called "comprehensive and systematic connection" proposed by Zhang Weiping can serve as the basic direction. When drafting laws and judicial interpretations, special comparisons and rechecks should be conducted in the cross-cutting areas such as proof, statute of limitations, parties, and res judicata, so that conflicts and gaps no longer come to the surface. Technically, the "civil law integration thinking" proposed by Wang Lei [2,13] requires integrating procedural guarantees into the design of substantive rules, so that these rules are inherently capable of being litigated and enforceable from the very beginning.

### 6.2 Judicial Convergence

On the judicial front, the key lies in the shift of the judgment method. When applying the procedural law, judges may ask themselves what impact this rule will have on the substantive

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rights, for example, when allocating the burden of proof, one should look for the basis in the structure of substantive norms; when applying the substantive law, the constraints of the procedure cannot be ignored - to determine whether a right exists, one must abide by the proof standard and evidence rules. Judicial training can be broadened in a multidisciplinary direction, and the case guidance system can also intentionally select more cases that reflect the application of the two laws in a harmonious manner, leaving samples that can be directly applied to front-line judges for them to draw on, gradually reducing the "emphasizing substantive law, neglecting procedure" bias and the phenomenon of procedural idleness.

### 6.3 Academic Integration

To dismantle the academic barriers, a transformation of the research paradigm is necessary. Issues in the intersection should no longer be claimed separately by departments, but should be jointly addressed by civil law scholars and litigation law scholars. Chen Gang's "substantive litigation law" reveals the substantive norms within the procedure, while Liu Pengfei's analysis of the procedural norms within the substantive law provides a reverse perspective. When reading them together, the conclusion is that: at the normative level, the substantive and procedural laws are mutually embedded, which is an objective fact and can serve as an entry point for interdisciplinary research. Legal education should also be adjusted synchronously, integrating the two laws in course settings and case simulations, so that learners no longer form fragmented knowledge about civil law and civil litigation law.

## 7. Conclusion

The integration of the Civil Procedure Law and the Civil Substantive Law is not a trendy slogan, but an issue that cannot be avoided in the current stage of China's civil legal system development. From the dependency theory to the independence theory and then to the interaction theory, the evolution of academic theories itself indicates that the theoretical grasp of the relationship between the two laws is steadily approaching the real state of litigation. The reasons supporting integration ultimately lie in those few points: in litigation, the two laws have been working together from the very beginning; rights protection requires both substantive confirmation and procedural relief; legal application is based on the premise of system coordination.

The disconnection at the legislative, judicial and academic levels in China has not been eliminated yet. It needs to be gradually bridged through legislative coordination, judicial convergence and academic integration. The specific forms of integration have already been demonstrated in four areas such as the burden of proof, statute of limitations, parties and res judicata, and also indicate that this path is technically feasible. It is necessary to emphasize again: integration does not eliminate the division of labor between the two laws. It merely connects the nodes that should be connected and aligns the rules that should be aligned on the basis of their independence, so that the civil legal system has fewer internal contradictions. The gains and losses of institutional design ultimately return to a simple standard - whether the legal rights of the parties can be effectively protected in litigation.

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