

Review

# The Driving Forces and Process of the Codification of China's Civil Procedure Law

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**Abstract:** This paper systematically explores the driving forces and historical process of civil procedure law codification in China. Through an analysis of relevant literature and comparative study, the research identifies four main driving forces behind civil procedure law codification: the objective needs of rule of law construction, coordination with the Civil Code, response to judicial practice demands, and adaptation to the information age. The study traces the evolution of China's civil procedure law from the 1982 trial version through subsequent amendments to recent codification efforts, revealing a progressive development path. The paper further analyzes challenges facing codification, including legislative technical issues, conflicts between legal traditions and modernization, balancing procedural and substantive provisions, and coordination with other legal departments. Based on these analyses, the research proposes path choices for codification that emphasize principles of alignment with substantive law, internal self-consistency, and systematic integration with related legal domains. This research contributes to the theoretical foundation for civil procedure law codification in China and provides practical guidance for future legislative reforms in this field.

**Keywords:** civil procedure law; codification; Civil Code; judicial reform; legislative technology; legal systematization; Chinese characteristics

## 1. Introduction

### 1.1. Research Background and Significance

With the continuous advancement of socialist rule of law in China, civil procedure law, as an important legal instrument for protecting citizens' rights and regulating judicial behavior, has increasingly drawn widespread attention from academic and practical circles regarding its codification. Particularly following the promulgation and implementation of the Civil Code in 2020, the codification of civil procedure law as its complementary procedural law has become a hot topic in current legal research.

The codification of civil procedure law is not only related to the improvement of the civil judicial system but also constitutes an important component in advancing the modernization of national governance systems and governance capabilities. As Ren Zhong points out, the compilation-style codification of civil procedure law is "an inherent requirement for the effective implementation of the Civil Code" [1]. Therefore, studying the driving forces and process of civil procedure law codification has significant theoretical and practical implications.

### 1.2. Current Research Status and Commentary

Currently, academic research on the codification of civil procedure law mainly focuses on the following aspects:

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Firstly, regarding the necessity and significance of civil procedure law codification, Zhang Weiping believes that the codification of civil procedure law helps to systematize civil procedure law, advance the development of civil procedural rule of law in China, and form procedural concepts and awareness throughout society [2]. Hu Xuejun emphasizes that the codification of civil procedure law contributes to the coordination and integration between civil procedures and substantive civil law, completing the internal systematization of civil procedural legal institutions and theories [3].

Secondly, regarding the historical process of civil procedure law codification, Ren Zhong reviewed the historical process of China's civil procedure law codification, pointing out that the 1982 "Civil Procedure Law (Trial)" presented characteristics of independence, technicality, and internality, which ultimately caused civil procedure law codification to diverge from the zeitgeist of reform and opening up [4].

Thirdly, regarding the specific paths of civil procedure law codification, Zhang Weiping proposed that the civil procedure law code should follow the principles of "alignment with substantive law, internal self-consistency, and mutual systematic integration," adopting a model of "procedural pluralism — principled integration" [5]. Wang Cibao believes that in the process of civil procedure law codification, jurisdictional boundaries should be accurately defined and the jurisdictional rules system improved [6].

Finally, regarding the relationship between civil procedure law codification and other laws, Ren Zhong explored the issue of coordinated implementation between the Civil Code and civil procedure law [7], while Ding Wei analyzed the impact of Civil Code compilation on China's international private law legislation [8].

### *1.3. Research Methods and Framework*

This paper employs literature research, comparative analysis, and historical research methods to systematically explore the driving forces and process of China's civil procedure law codification. The article is divided into six parts: the first part is an introduction, elaborating on the research background, significance, and current status; the second part analyzes the driving forces of civil procedure law codification; the third part reviews the historical process of China's civil procedure law codification; the fourth part explores the challenges and difficulties facing civil procedure law codification; the fifth part discusses path choices for civil procedure law codification; and the sixth part presents conclusions and prospects.

## **2. The Driving Forces of Civil Procedure Law Codification**

### *2.1. Objective Needs of Rule of Law Construction*

The codification of civil procedure law is an objective requirement of China's rule of law construction. With the deepening of socialist rule of law construction in China, civil procedure law, as an important legal instrument for protecting citizens' rights and regulating judicial behavior, increasingly shows the need for systematization and integration. As Zhang Weiping points out, the codification of civil procedure law helps to advance the development of civil procedural rule of law in China and form procedural concepts and awareness throughout society [2].

Codification can make the various systems of civil procedure law more systematic and coordinated, helping to eliminate contradictions and conflicts between existing legal norms and improve the operability and predictability of the law. At the same time, codification can also provide clearer guidance for judicial practice, contributing to improved judicial efficiency and credibility.

### *2.2. The Need for Coordination with the Civil Code*

The promulgation and implementation of the Civil Code in 2020 provided an opportunity and impetus for the codification of civil procedure law. Ren Zhong points out that the coordinated implementation of the Civil Code and civil procedure law is the "key core

technology for effectively implementing the Civil Code." As the procedural law for the Civil Code, civil procedure law needs to maintain coordination and consistency with it in terms of concepts, systems, and specific rules [7].

The implementation of the Civil Code places new demands on civil procedure law, requiring corresponding adjustments and improvements in litigation principles, litigation systems, and specific rules. Through codification, the integration and coordination between substantive civil law and procedural law can be better achieved, providing procedural guarantees for the effective implementation of the Civil Code.

### *2.3. Responding to Judicial Practice Needs*

The codification of civil procedure law is an inevitable choice to respond to the needs of judicial practice. With the development of social economy and the increasing complexity of civil disputes, the current civil procedure law is in some aspects already struggling to meet the needs of judicial practice. Through codification, existing systems can be systematically sorted and improved, legal gaps filled, and difficult issues in practice resolved.

For example, in terms of the jurisdiction system, Wang Cibao points out that the codification of civil procedure law provides a good opportunity for the structural improvement of China's jurisdictional rules system. Through codification, various types of jurisdiction can be accurately defined, and a more scientific and reasonable jurisdictional rules system constructed [6].

### *2.4. Adapting to the Requirements of the Information Age*

The rapid development of information technology has posed challenges to traditional litigation models while also providing opportunities for the innovative development of civil procedure law. Cao Jianjun studied the relationship between online litigation rules and civil procedure law codification, pointing out that the civil procedure law code needs to organically incorporate online litigation rules to adapt to the requirements of the information age [9].

Through codification, emerging systems such as online litigation and electronic evidence can be incorporated into the legal framework to construct a more modernized civil litigation system. This not only helps to improve litigation efficiency but also better protects the litigation rights of parties.

## **3. The Historical Process of China's Civil Procedure Law Codification**

### *3.1. The Civil Procedure Law (Trial) Phase (1982-1991)*

The process of China's civil procedure law codification can be traced back to the promulgation of the "Civil Procedure Law (Trial)" in 1982. Ren Zhong points out that the 1982 "Civil Procedure Law (Trial)" presented characteristics of independence, technicality, and internality [4]. This law marked the initial establishment of China's civil procedure system, laying the foundation for subsequent codification.

However, as Ren Zhong analyzed, the civil procedure law codification at this stage was to some extent disconnected from the zeitgeist of reform and opening up. This was mainly because the legislation at that time was more a summary of existing judicial practices, without fully considering the new requirements for the civil procedure system brought about by the development of the market economy.

### *3.2. The Promulgation of the Civil Procedure Law in 1991*

In 1991, China formally promulgated the "Civil Procedure Law," marking a new stage in the codification of China's civil procedure law. Compared with the trial law, the 1991 "Civil Procedure Law" had significant improvements in system structure and specific institutions, better adapting to the needs of market economy development.

However, as Pan Jianfeng and Han Jingru pointed out, although the promulgation of the 1991 "Civil Procedure Law" was an important step forward, there were still some issues, such as insufficient response to new types of disputes and some less scientific system designs [10]. These issues also provided direction for subsequent legal amendments and codification work.

### *3.3. The 2007 and 2012 Amendments*

In 2007 and 2012, China made two important amendments to the "Civil Procedure Law." These two amendments further improved the civil procedure system, such as strengthening judicial protection for vulnerable groups, improving the evidence system, and introducing public interest litigation.

The 2012 amendment, in particular, as analyzed by Yang Xiaoli, largely reflected systematic thinking, attempting to construct a more scientific and reasonable litigation system [11]. However, these amendments were still made within the existing legal framework and did not achieve codification in the true sense.

### *3.4. Recent Exploration of Codification*

In recent years, with the promulgation and implementation of the "Civil Code," the codification of civil procedure law has once again become a focus of attention in academic and practical circles. Zhang Weiping and others pointed out in a dialogue that facing the present and future, civil procedure law needs comprehensive modification and improvement under the macro vision of codification [12].

At the same time, some scholars have begun to explore codification issues in specific areas. For example, Tang Weijian researched the value and challenges of civil evidence law codification [13], and You Xiabing conducted in-depth research on civil evidence law codification issues. These studies provide useful references for the overall codification of civil procedure law [14].

## **4. Challenges and Difficulties Facing Civil Procedure Law Codification**

Although the codification of civil procedure law has important significance, it still faces many challenges and difficulties in practical advancement. These challenges involve multiple aspects, including legislative techniques, conflicts between legal traditions and modernization, the balance between procedural provisions and substantive provisions, and coordination with other legal departments. In-depth analysis of these challenges is of great significance for scientifically advancing civil procedure law codification work.

### *4.1. Challenges in Legislative Techniques*

The codification of civil procedure law faces many challenges at the level of legislative techniques:

Firstly, how to handle the relationship between existing laws, judicial interpretations, and normative documents is an important issue. Ren Zhong points out that the 1991 "Civil Procedure Law" and its increasingly accelerated amendments have not ultimately achieved "de-trialization" [1]. This means that in the codification process, a large number of judicial interpretations and normative documents need to be systematically sorted and integrated, which is a highly technical task.

Secondly, the unification of legal language and the clarification of concepts are also challenges. In the codification process, concepts and terminology in existing laws must be unified and clarified to eliminate possible ambiguities and contradictions.

Thirdly, how to reasonably arrange specific systems in the code is also a technical difficulty. For example, Wang Cibao pointed out when studying the jurisdictional rules system that it is necessary to accurately define various types of jurisdiction and construct a scientific and reasonable jurisdictional rules system [6]. This involves not only the completeness of content but also the scientific nature and logic of the structure.

Finally, how to reserve space for future development in the code is also an issue that needs to be considered. With social development, new types of disputes and new forms of litigation may continuously emerge, and the code needs to have a certain openness and inclusivity.

#### *4.2. Conflicts Between Legal Traditions and Modernization*

The codification of civil procedure law also faces conflicts between legal traditions and the needs of modernization:

Firstly, there are certain differences between China's traditional litigation concepts and modern litigation concepts. Traditionally, China's litigation system has emphasized substantive justice, while modern litigation concepts place more emphasis on procedural justice. Ren Zhong, in his study of the implementation of the Civil Code and the reshaping of civil litigation purposes, pointed out the need to re-examine litigation purpose theory, which actually reflects the conflict between traditional concepts and modern concepts [15].

Secondly, some litigation habits formed in China over the long term may not align with the requirements of codification. For example, China traditionally places more emphasis on the power of judges, while modern litigation systems place more emphasis on the principle of party autonomy. How to balance these two concepts in the code is an issue that needs careful consideration.

Thirdly, codification may encounter resistance from the practical community. Long-established judicial practice habits may conflict with new rules after codification, which may lead to caution or conservatism towards codification in the practical community.

Finally, how to reflect Chinese characteristics in the code is also a challenge. Zhang Weiping emphasizes that the codification of civil procedure law should reflect Chinese characteristics [16], but how to maintain local characteristics while drawing on international experience is an issue that needs in-depth research.

#### *4.3. The Balance Between Procedural Provisions and Substantive Provisions*

In the process of civil procedure law codification, how to handle the relationship between procedural provisions and substantive provisions is also an important issue:

Firstly, although civil procedure law is mainly procedural law, it also contains some substantive provisions. For example, provisions regarding statutes of limitations and the allocation of the burden of proof have the nature of substantive law. How to reasonably arrange these provisions in the code is an issue that needs careful consideration.

Secondly, some procedural provisions may affect the realization of substantive rights. For example, the setting of evidence rules directly relates to the protection of parties' substantive rights. Tang Weijian pointed out the complexity of this issue when studying the codification of civil evidence law [13].

Thirdly, with social development, the protection of some new types of rights may require corresponding procedural provisions. For example, the protection of emerging rights such as environmental rights and data rights may require special litigation procedures. How to reserve space for these new types of rights in the code is an issue that requires forward-thinking.

Finally, the balance between procedural justice and substantive justice needs to be considered. Overemphasis on procedure may affect the realization of substantive justice, while excessive focus on substantive issues may damage procedural justice. How to achieve a balance between the two in the code is an important challenge facing codification.

#### *4.4. The Issue of Coordination with Other Legal Departments*

The codification of civil procedure law also needs to consider the issue of coordination with other legal departments:

Firstly, it needs to maintain high coordination with the Civil Code. Ren Zhong points out that the coordinated implementation of the Civil Code and civil procedure law is the key core technology for "effectively implementing the Civil Code" [7]. This requires that in the process of civil procedure law codification, the issue of interface with the Civil Code must be fully considered.

Secondly, it also needs to maintain coordination with other procedural laws, such as administrative procedure law and criminal procedure law. For example, in terms of jurisdiction, evidence rules, and other aspects, different procedural laws need to maintain a certain consistency to ensure the unity of the entire procedural law system.

Thirdly, coordination with non-litigation dispute resolution mechanisms such as arbitration law and mediation law is also an important issue. How to specify the connection between litigation and non-litigation procedures in the code, how to handle judicial review of arbitration awards, and other issues all need careful consideration.

Finally, coordination with international private law also needs to be considered. Ding Wei analyzed the impact of Civil Code compilation on international private law legislation [8], and this impact equally applies to the codification of civil procedure law. For example, how to specify special procedures for foreign-related civil litigation in the code and how to handle international judicial assistance are issues that need to be coordinated with international private law.

In summary, the codification of civil procedure law faces multiple challenges and difficulties. These challenges involve legislative techniques, conflicts between legal traditions and modernization, the balance between procedural provisions and substantive provisions, and coordination with other legal departments. Only by fully recognizing and addressing these challenges can the codification work of civil procedure law be smoothly advanced, ultimately forming a scientific, comprehensive civil procedure law code with Chinese characteristics.

### **5. Path Choices for Civil Procedure Law Codification**

#### *5.1. Basic Principles of Codification*

In the process of civil procedure law codification, some basic principles need to be followed. Zhang Weiping proposed that the civil procedure law code should follow the principles of "alignment with substantive law, internal self-consistency, and mutual systematic integration" [5]. Specifically:

Firstly, the civil procedure law code should maintain coordination and consistency with the Civil Code in concepts and specific systems. This requires not only interconnection in specific rules but also consistency in value orientation.

Secondly, the various systems within the civil procedure law code should maintain logical self-consistency. This requires systematic sorting and integration of existing systems in the codification process, eliminating contradictions and conflicts between systems.

Finally, the civil procedure law code should maintain good integration relationships with other relevant laws, such as administrative procedure law and arbitration law, constructing a coordinated and unified litigation legal system.

#### *5.2. Specific Paths of Codification*

In terms of specific codification path choices, the following aspects can be considered:

##### **1) System Construction**

Codification first needs to solve the issue of system construction. Ke Yangyou studied the improvement of civil procedure law code general provisions construction, believing that the experiences of Germany, France, Japan, and other countries should be drawn upon to construct comprehensive and structurally rigorous general provisions. At the

same time, in the specific provisions section, various chapters and sections should be scientifically set according to the characteristics of China's civil litigation practices [17].

#### 2) System Integration and Innovation

The codification process requires integration and innovation of existing systems. For example, Wang Cibao pointed out that in the jurisdiction system, various types of jurisdiction should be accurately defined, constructing a scientific and reasonable jurisdictional rules system [6]. In the evidence system, Tang Weijian proposed the value and challenges of civil evidence law codification, all of which need to be carefully considered and resolved in the codification process [13].

#### 3) Incorporation of Emerging Fields

With social development, litigation issues in some emerging fields also need to be addressed in the code. For example, Cao Jianjun studied the relationship between online litigation rules and civil procedure law codification, proposing that online litigation rules should be organically incorporated into the civil procedure law code [9]. In addition, new litigation models such as public interest litigation and group litigation also need to be systematically regulated in the code.

#### 4) Coordination with Relevant Laws

The codification of civil procedure law also needs to consider the issue of coordination with relevant laws. Ren Zhong discussed the issue of coordinated implementation between the Civil Code and civil procedure law [7], while Ding Wei analyzed the impact of Civil Code compilation on international private law legislation [8]. These studies remind us that the codification of civil procedure law cannot be conducted in isolation but needs to be considered within the framework of the entire legal system.

### 5.3. Challenges Facing Codification

Although the codification of civil procedure law is necessary, it also faces many challenges:

Firstly, how to balance stability and flexibility in the codification process is a difficult issue. Codification seeks a relatively stable rule system, but civil litigation practice also requires the law to have a certain flexibility to address complex and changing disputes.

Secondly, how to handle the relationship between codification and localization is also a challenge. China's civil procedure system has its unique historical traditions and practical experiences. How to maintain the local characteristics of the system while drawing on foreign experiences is an issue that needs careful consideration.

Thirdly, codification also faces technical challenges. For example, how to scientifically integrate a large number of judicial interpretations and normative documents into the code, how to handle the relationship between the code and individual laws, etc., all require detailed research and design at the technical level.

Finally, codification also needs to consider implementation cost issues. Codification involves not only legislative techniques but also adjustments to judicial practice, which may bring adaptation costs in the short term. How to reduce these costs and ensure that the civil procedure law after codification can be smoothly implemented is also an issue that needs to be seriously considered.

## 6. Conclusion and Outlook

### 6.1. Main Conclusions

Through the study of the driving forces and process of China's civil procedure law codification, the following main conclusions can be drawn:

Firstly, the codification of civil procedure law is an objective requirement of China's rule of law construction, an inevitable requirement for coordination with the Civil Code, and an inevitable choice to respond to judicial practice needs and adapt to the information age.

Secondly, the codification of China's civil procedure law has gone through a process from trial to formal law, and then to multiple amendments. This process reflects the continuous improvement and development of China's civil procedure system.

Thirdly, the codification of civil procedure law needs to follow certain principles, such as alignment with substantive law, internal self-consistency, and mutual systematic integration. In terms of specific paths, systematic design is needed from multiple aspects such as system construction, system integration and innovation, incorporation of emerging fields, and coordination with relevant laws.

Fourthly, although the codification of civil procedure law is necessary, it also faces many challenges, such as how to balance stability and flexibility, how to handle the relationship between codification and localization, how to solve technical issues, and how to reduce implementation costs.

## 6.2. Future Outlook

Looking to the future, the codification of China's civil procedure law still has a long way to go, but the prospects are broad. Future research and practice can be developed from the following aspects:

Firstly, there is a need to further deepen research on the theoretical basis of civil procedure law codification. In particular, there is a need to explore how to construct a civil procedure law code that both conforms to international trends and has Chinese characteristics under the guidance of socialist rule of law with Chinese characteristics.

Secondly, there is a need to strengthen in-depth research on specific systems. For example, how to scientifically set up new litigation systems such as online litigation, public interest litigation, and group litigation in the code, and how to improve key links such as the evidence system and enforcement system, all require more in-depth discussion.

Thirdly, there is a need to strengthen comparative law research. Although scholars have already studied the civil procedure laws of countries such as the United States and France, there is still a need to further expand research horizons, especially to strengthen research on the civil procedure law codification experiences of countries and regions with legal traditions similar to China's.

Finally, there is a need to strengthen the combination of theoretical research and practical exploration. The codification of civil procedure law is not only a theoretical issue but also a practical one. Future research should pay more attention to issues in judicial practice, providing more feasible solutions for codification.

In conclusion, the codification of civil procedure law is a systematic project that requires the joint efforts of theoretical and practical circles. With the continuous deepening of research and the continuous advancement of practice, it is believed that China's civil procedure law codification work will make greater progress, making important contributions to advancing China's rule of law construction.

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