



CONTEMPORARY ISSUE IN PROCEDURAL LAW

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ABSTRACT

There are two types of law, Procedural and substantive law; in both, there is a huge difference. Substantive rights provide rights and duties and Procedural law is all about the procedure which should be followed by the people and the way to provide the rights. Procedural law should be followed for better implementation of Substantive law because substantive law is all about the right of parties and through Procedural law we try to implement it.

Procedural law is also called Adjective law, basically, a law which is a machinery for the better implementation of a court or a method by which state and individual can enforce their rights in the right manner. Procedural law prescribes the rules about jurisdiction, pleading and drafting, practice before the court, evidence, appeal, judgement, and so on.²⁹⁶

Procedural law forms an integral part of any legal system, providing the framework for how legal disputes are handled and resolved. As times change and societies evolve, new challenges and complexities emerge in the administration of justice. In this article, we will delve into some of the contemporary issues faced by procedural law and explore potential solutions to address them.

KEYWORD – Procedural law, Contemporary issues in procedural law, Issues in procedural law, Adjective law.

GRASP - EDUCATE - EVOLVE

²⁹⁶ Britannica, <https://www.britannica.com/topic/procedural-law>



PROCEDURAL LAW

This law is one of the extremely important laws in administrative justice because it implements substantive law. The primary source of procedural law is the constitution and many other sources are there. All procedural laws are created in accordance with their needs and legal requirements.

Every judicial official has to follow the same and they cannot go beyond the procedure which is written in the laws because if they do so then there is a much possibility that any party may not get equal opportunity and then it will create issues. To ensure that everything is equal and getting a fair chance that there must be some written procedural law and the procedural law must be uniform in all the cases and all the situations.

The state creates several types of laws including criminal procedural law as well as civil procedural laws. The law must be understood by two types or categories one is substantive law and second is procedural law.

EXAMPLES OF PROCEDURAL LAWS:

Types of procedural laws are:

1. Civil procedure code 1908
2. Criminal procedure code 1978
3. Indian evidence act 1872
4. The limitation act 1963.

NATURE OF PROCEDURAL LAW:

1. Procedural law explains the methods and procedures for the implementation of substantive law.
2. Procedural law prescribes the jurisdiction of the court, locus standi, limitation, res judicata, summons, pleading and practice, prosecution of crime, collection of evidence, execution of judgment etc.
3. Procedural law is almost applicable to everyone but sometimes it is changed or amended by any particular state as it is possible that some of the states have their own laws for their conditions and the crime for that particular state.

STRUCTURE OF INDIAN PROCEDURAL LAW

Civil Procedure Code (CPC)

The Civil Procedure Code governs civil matters and procedures in Indian courts. It prescribes the rules for filing suits, presenting evidence, and the conduct of trials in civil cases.

Criminal Procedure Code (CrPC)

The Criminal Procedure Code regulates the proceedings in criminal cases. It sets out the rules for the investigation, arrest, bail, trial, and appeals in criminal matters.

Other Relevant Laws

Apart from the CPC and CrPC, other laws complement the procedural framework, such as the Evidence Act, Limitation Act, and specific laws related to family, property, and business disputes.

CONTEMPORARY ISSUES IN THE PROCEDURAL LAWS:

As above we have already discussed the procedural laws and we found that there may be the procedural law will be differed by the state and by the area of that particular state just because of their community and different languages and there may be different procedures when it comes to the general laws than the general procedure will be applicable.

There are two types of procedural laws i.e. general and specific procedural law means general law is that law with will be applicable normally everywhere but as far as a specific area is concerned then that specific law will be applicable.

1. **LACK OF PROPER LAWS:** Every state has its own laws and sometimes this also creates some kind of problem which is related to the procedural issues which people have to face just because of different laws for different issues and different procedures.
2. **MODERN THINKING:** India is not moving in the modern area and era so we need to improve the laws as we are improving day by

day and the laws should somewhat meet the expectation of modern-day society.

3. **MODERNIZATION OF INDIAN**

PROCEDURAL LAW: In recent years, efforts have been made to modernize the Indian legal system by introducing technology-driven solutions to streamline proceedings and reduce delays.

4. **REDUCING DELAYS AND BACKLOGS:** The Indian courts have been grappling with a massive backlog of cases, leading to significant delays in justice delivery. Addressing this issue remains a pressing challenge.

5. **BALANCING TECHNOLOGY AND TRADITION:** While technology can expedite processes, preserving the sanctity of traditional courtroom practices and ensuring access to justice for all is essential.

6. **TECHNOLOGICAL ADVANCEMENTS AND E-JUSTICE:** In the digital age, technology has revolutionized almost every aspect of our lives, including the legal landscape. However, integrating technology into procedural law raises both opportunities and challenges. While e-filing, virtual hearings, and digital case management systems have improved efficiency, there are concerns about data security, access to technology in rural areas, and ensuring the integrity of electronic evidence.

To tackle these issues, legal systems must invest in robust cybersecurity measures, provide training to legal professionals on using technology, and ensure that underprivileged individuals have access to digital resources to participate in the judicial process.

7. **BACKLOG OF CASES AND DELAYED**

JUSTICE: One of the most persistent issues plaguing procedural law is the backlog of cases in courts. Delayed justice can lead to frustration, loss of faith in the legal system, and prolonged suffering for the parties involved. The sheer volume of pending cases often overwhelms the judiciary and hampers the timely resolution of disputes.

To tackle this problem, alternative dispute resolution mechanisms such as mediation and

arbitration can be promoted to alleviate the burden on courts. Additionally, increasing the number of judges, optimizing case allocation, and employing case management techniques can expedite the judicial process.

8. **ONLINE DISPUTE RESOLUTION (ODR) AND**

FAIRNESS CONCERNS: Online Dispute Resolution (ODR) platforms have gained popularity as an efficient and cost-effective way to resolve disputes. While ODR offers convenience, there are concerns about the quality of justice delivered through virtual platforms. Fairness, transparency, and the ability to fully understand the emotional nuances of a case may be compromised in an online setting.

To address these concerns, ODR processes should be designed with built-in safeguards to ensure fairness. There should also be an option for parties to choose traditional in-person hearings if they find it more appropriate.

UNDERSTANDING INDIAN PROCEDURAL LAW

Definition and Scope

Indian Procedural Law refers to the set of laws and rules that govern the procedure and conduct of legal proceedings in Indian courts. It outlines the steps to be followed, the rights of the parties involved, and the responsibilities of the judiciary in ensuring a fair and just trial.

Importance of Indian Procedural Law

The significance of Indian Procedural Law cannot be overstated, as it ensures that the principles of natural justice are upheld. It guarantees that every individual has the right to be heard, present evidence, and receive a fair trial, thus protecting their fundamental rights.

KEY PRINCIPLES OF INDIAN PROCEDURAL LAW

Fair Trial

A fair trial is the bedrock of justice. Indian Procedural Law emphasizes the need for impartiality, ensuring that both parties have an equal opportunity to present their case before an unbiased judge.

Due Process

The principle of due process ensures that no person is deprived of life, liberty, or property without following the established legal procedures. It safeguards against arbitrary actions and ensures that justice is administered according to the law.

Access to Justice

Indian Procedural Law endeavors to make justice accessible to all, irrespective of their socio-economic background. It allows even the marginalized sections of society to seek remedies for their grievances through legal channels.

SPECIAL FEATURES OF INDIAN PROCEDURAL LAW

Public Interest Litigation (PIL)

PIL allows citizens to seek legal remedies for public issues and violations of fundamental rights. It has been a powerful tool in promoting social justice.

Alternative Dispute Resolution (ADR)

ADR mechanisms like arbitration and mediation offer faster and cost-effective ways of resolving disputes outside the traditional court system.

STAGES OF PROCEEDINGS

Pleadings

The process begins with the filing of pleadings by the parties involved. The plaintiff submits the complaint, and the defendant responds with a written statement, defining the issues in contention.

Discovery and Evidence

During this stage, both parties gather evidence and information to support their claims. Witness testimonies, documents, and other forms of evidence are presented before the court.

Arguments and Hearings

Once the evidence is gathered, the parties present their arguments before the court. The

judge carefully evaluates the arguments and evidence before arriving at a decision.

Judgments and Decisions

Based on the evidence presented and legal arguments made, the judge delivers a verdict, which concludes the trial or paves the way for further legal recourse.

LANDMARK CASES

*Kesavananda Bharati v. State of Kerala*²⁹⁷

A landmark case that defined the basic structure doctrine and the limits of the amending power of the Indian Parliament.

*Maneka Gandhi v. Union of India*²⁹⁸

This case expanded the scope of the right to life and personal liberty, including the right to a fair procedure.

*Vishakha v. State of Rajasthan*²⁹⁹

A groundbreaking case that laid down guidelines for preventing sexual harassment in the workplace.

COMPARISON WITH OTHER LEGAL SYSTEMS

Indian Procedural Law shares similarities with legal systems worldwide, while also possessing unique features owing to the country's diverse cultural and historical background.

CONCLUSION

Indian Procedural Law stands as a guardian of justice, ensuring that every individual's rights are protected and that disputes are resolved fairly. It remains the lifeline of the Indian legal system, upholding the principles of fairness, access to justice, and due process.

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²⁹⁷ (1973) 4 SCC 225; AIR 1973 SC 1461

²⁹⁸ AIR 1978 SC 597

²⁹⁹ AIR 1997 SC 3011



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