



Analysing The Procedures Hindering The Efficiency Of The Indian Judiciary With Special Reference To The Code Of Civil Procedure

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Abstract

The Indian judiciary's crisis of delay and arrears is closely linked to the design and day-to-day operation of civil procedure, particularly the Code of Civil Procedure, 1908 (CPC). This paper examines how specific procedural stages under the CPC—pleadings, service of summons, adjournments, interlocutory applications, appeals, and execution—systematically hinder the efficient functioning of the civil justice system. It argues that while the CPC aspires to ensure fairness and due process, its complexity, coupled with a permissive “tareekh pe tareekh” culture of repeated adjournments, creates multiple points at which litigants can strategically prolong litigation. The analysis draws on doctrinal materials, empirical studies on judicial delay and court performance, and key judicial pronouncements on speedy justice to show that delay is not merely a product of inadequate infrastructure or judge strength, but also of how civil procedure is framed and implemented. The paper critically evaluates past amendments to the CPC aimed at reducing delay—especially the 1999 and 2002 reforms—and assesses why their impact has been uneven across courts. It further explores how emerging technological initiatives and active case management can complement procedural reform, provided they are integrated into the formal and informal practices of trial courts. Ultimately, the paper contends that a calibrated re-engineering of civil procedure—tightening control over adjournments and interlocutory practice, streamlining execution, and embedding robust case-management norms—can significantly improve judicial efficiency without sacrificing core due-process safeguards. The conclusion proposes a set of procedural and administrative recommendations designed to realign the CPC with constitutional commitments to timely and effective access to justice.

Keywords: Indian judiciary; judicial efficiency; Code of Civil Procedure; civil procedure; judicial delay; adjournments; case management; execution of decrees; procedural reform.

Introduction

The Indian judiciary is widely celebrated as a powerful guardian of constitutional rights and the rule of law, yet its functional efficiency remains deeply compromised by endemic delay and mounting arrears.¹ A central component of this institutional crisis lies in the procedural framework that governs civil litigation, primarily the Code of Civil Procedure, 1908 (CPC). The CPC, originally designed to secure fairness and uniformity in civil adjudication, has over time become associated with procedural rigidity, technical complexity, and multiple opportunities for dilatory tactics.² This paper critically examines how procedural rules and practices under the CPC hinder the efficiency of the Indian judiciary, focusing on structural features of the Code, their judicial interpretation, and the lived reality of civil litigation in Indian courts.

Background: Judicial Efficiency and Pendency

India's courts together carry tens of millions of pending cases, with civil suits comprising a significant portion of the docket.³ Empirical work on judicial delays consistently identifies procedural complexity, frequent adjournments, and multi-layered appeals as key drivers of pendency, alongside factors such as judge shortages and inadequate infrastructure.⁴ Studies of trial courts show that in a large share of delayed cases, counsel request time repeatedly, often more than three to six times, to file pleadings, produce evidence, or address procedural objections.⁵ These patterns demonstrate that civil procedure is not a neutral framework; it actively shapes how quickly, or slowly, justice is delivered. The CPC therefore becomes an essential site for diagnosing and remedying inefficiencies in the judicial system.

The Code of Civil Procedure: Objectives and Architecture

The CPC, 1908, was originally enacted with the intention to consolidate procedures and amend the laws pertaining to the procedure of civil courts of India. It is divided into a body of sections laying down general principles and a schedule of Orders and Rules covering detailed procedural aspects such as institution of suits, service of summons, pleadings, framing of issues, trial, judgment, execution, and appeals.⁶ The declared aims of the Code are to secure a fair, just, and efficient adjudicatory process by prescribing standardized procedural steps. Over the years, Parliament and the Law Commission have repeatedly amended the CPC to respond to delay and inefficiency, most prominently through the 1999 and 2002 Amendment Acts, which sought to compress time frames and control adjournments.⁷ Yet, as subsequent practice shows, many of the structural and cultural problems the Code was meant to solve have merely shifted form rather than disappeared.

Pleadings and Procedural Technicalities

Pleadings under Orders VI and VII of the CPC are intended to clarify the material facts in dispute and narrow issues for adjudication. In practice, pleadings are often prolix, technical, and strategically drafted to create room for later amendments and objections.⁸ Courts still spend significant time on disputes about cause of action, jurisdiction, valuation, and sufficiency of notice, all of which are procedural questions that can delay progress to trial.⁹ Applications for amendment of pleadings, rejection of plaints, and return of plaints frequently become contested interlocutory proceedings, sometimes spawning appeals or revisions. This procedural layering means that considerable judicial time is consumed before the substantive dispute is even identified and framed.

Service of Summons and Pre-Trial Delays

Order V of the CPC governs the service of summons, a seemingly routine step that in practice generates disproportionate delay. In many trial courts, service still relies on manual processes and physical delivery, leading to repeated failures of service when parties are unavailable, addresses are inaccurate, or process servers are overburdened.¹⁰ Defective service or non-service leads to repeated issuance of summons, ex parte orders that later get set aside, and adjournments to "ensure proper service." Although the Code

allows for substituted service in defined circumstances, courts are often cautious in using these tools, thereby extending the pre-trial phase. Amendments and practice directions encouraging use of registered post, courier, and electronic service have improved matters in some jurisdictions, but implementation remains uneven.¹¹

Adjournments and the “Tareekh” Culture

One of the most visible procedural practices hindering efficiency is the liberal grant of adjournments under Order XVII. Empirical research indicates that in a majority of delayed civil cases, counsel have sought time multiple times to file documents, prepare arguments, or secure witnesses.¹² Adjournments are requested for reasons ranging from change of counsel and absence of witnesses to overlapping commitments of lawyers or judges. For decades, courts often granted these requests mechanically, without imposing meaningful costs or enforcing timelines. This “tareekh pe tareekh” culture—endless dates—has become emblematic of civil litigation.

The Supreme Court has repeatedly criticized repeated adjournments, calling such practices an “insult” to justice and to the concept of speedy disposal of cases.¹³ In recent orders, the Court has directed that trial courts should be slow in granting adjournments and must record reasons in writing, while discouraging advocates from using adjournments as a tactical weapon.¹⁴ Nonetheless, discretion over adjournments remains largely unguided at the trial level, and the institutional pressures of crowded dockets and bar practices often push judges toward accommodating repeated requests.

Multiplicity of Interlocutory Applications

The structure of the CPC allows, and sometimes invites, a host of interlocutory applications—for temporary injunctions (Order XXXIX), appointment of receivers, amendment of pleadings, production and discovery of documents (Orders XI–XIII), and striking of parties or issues. While these are essential tools for ensuring fairness, they also offer opportunities for delay. Strategic litigants may file multiple applications to stall proceedings, provoke interim appeals, or pressure the opposing party into settlement from a position of procedural advantage.¹⁵

High courts and the Supreme Court have occasionally tried to discipline this practice by insisting that interlocutory matters be decided expeditiously and, where possible, along with the main matter. Yet, in crowded trial courts with limited staff and time, the cumulative effect of numerous interim applications is to stretch out hearings over years.¹⁶ The capacity of the CPC to structure the process thus becomes a double-edged sword: it protects parties’ rights but also opens procedural avenues for obstructive behavior.

Appeals, Revisions, and Multi-Tier Litigation

The CPC envisages a comprehensive mechanism for appeals from original decrees (Section 96), appeals from appellate decrees (Section 100), second appeals on substantial questions of law, and various forms of revisions and reviews. This multi-tier appellate structure reflects a commitment to accuracy and legality, but it also extends the life cycle of litigation.¹⁷ Litigants can challenge preliminary and interlocutory orders, execution orders, and decrees, often serially and strategically.

Second appeals, in particular, were meant to be confined to substantial questions of law, but in many instances they are used to reopen factual disputes.¹⁸ Even when higher courts ultimately affirm trial court findings, the time spent in appellate litigation can stretch into decades. The cumulative effect is that a civil dispute that should resolve in a few years instead persists across generations, undermining the deterrent and stabilizing functions of legal adjudication.

Execution of Decrees: The “Graveyard” of Civil Litigation

Execution proceedings under Order XXI represent another major procedural bottleneck. It is often said that civil litigation in India ends not with the decree but with the execution, which can be more time-consuming and complex than the original suit.¹⁹ Judgment-debtors may conceal assets, transfer property, or exploit procedural loopholes; objections are raised to attachment and sale; and repeated auctions fail for want of bidders. Each stage permits applications, objections, and sometimes appeals, prolonging the process.

Reports and scholarly analyses note that execution proceedings can account for a large share of trial court workload and pendency, undermining the meaningfulness of decrees.²⁰ The CPC's detailed execution provisions were designed to safeguard property rights and prevent arbitrary dispossession, but when combined with inadequate enforcement infrastructure, they foster a perception that even a favorable court order may not translate into timely relief.

Empirical Insights on Procedural Inefficiency

Recent empirical work on judicial delay highlights “complexity of judicial procedures” as one of the highest-ranked factors affecting efficient discharge of judicial functions in India.²¹ Researchers have catalogued factors such as frequent adjournments, cumbersome filing processes, procedural uncertainties, and inadequate use of information technology as key drivers of delay.²² Studies of district-level courts reveal that time is disproportionately consumed in pre-trial and interlocutory stages rather than in actual trial and judgment writing.

These findings suggest that while structural issues like judge–population ratios and vacancies are important, procedural law and its day-to-day implementation significantly shape judicial efficiency. Simplification of procedures, better case management, and stricter control over adjournments emerge as recurrent policy recommendations.²³

CPC Amendments and Reform Efforts

Recognizing that civil procedure itself contributes to delay, Parliament enacted the Code of Civil Procedure (Amendment) Acts of 1999 and 2002 with explicit objectives of curbing adjournments, compressing timelines, and strengthening case management.²⁴ Key measures included:

- Time limits for filing written statements and completing pleadings.
- Stricter conditions for granting adjournments and power to impose realistic and even punitive costs.
- Greater use of examination-in-chief by affidavit to save court time, with cross-examination before commissioners.
- Enhanced powers for courts to manage proceedings, consolidate issues, and avoid fragmentary trials.²⁵

These amendments were controversial and initially met resistance from segments of the Bar who feared that stricter timelines would prejudice litigants.²⁶ Over time, courts have upheld most of these reforms, and in many jurisdictions they have improved pre-trial efficiency. However, uneven implementation, continued judicial reluctance to impose meaningful costs, and local bar pressures have limited the transformative potential of these amendments.

Judicial Responses: Case Law on Delay and Procedure

The higher judiciary has frequently acknowledged that procedural law must serve, not defeat, the cause of justice. The Supreme Court has underscored that conventional procedural practices, including routine adjournments and lax enforcement of timelines, erode public faith in the institution.²⁷ In several decisions,

the Court has emphasized that trial courts should avoid becoming “a party to delay” by mechanically granting adjournments and failing to enforce procedural discipline.²⁸

In its broader jurisprudence on speedy justice, the Court has linked procedural delay to constitutional values, noting that excessive delay can amount to denial of access to justice, especially for vulnerable litigants.²⁹ Nonetheless, transformative change requires consistent application of these principles at the trial level, supported by institutional incentives and training, which remain uneven.

Technology, Case Management, and the CPC

Recent reform discourse has increasingly focused on integrating technology into civil procedure. E-filing, digital summons, virtual hearings, and online case management can mitigate some CPC-related delays, particularly in filing and service stages.³⁰ The National Judicial Data Grid and e-Courts projects have begun to make data on pendency and adjournments more transparent, enabling better case planning and monitoring.

However, technological solutions interact with the CPC in complex ways. Many procedural rules were framed for a paper-based environment, and adapting them to digital platforms requires careful redesign.³¹ Moreover, digital divides, infrastructural gaps, and limited training for court staff and lawyers can blunt the impact of technological reforms. Effective integration thus demands both formal amendments to the CPC and changes in local practice rules.

Normative Evaluation: Balancing Fairness and Efficiency

Any critique of civil procedure must grapple with a fundamental tension: procedures exist to protect fairness, due process, and reasoned decision-making. Excessive simplification or rigid time limits could risk undermining the rights of weaker parties or reducing judicial scrutiny in complex cases.³² The challenge, therefore, is to design and implement procedures that maintain core fairness guarantees while minimizing opportunities for abuse and delay.

From this perspective, the problem with the CPC is not merely that it is detailed, but that its safeguards are often deployed strategically by litigants in an environment with few countervailing incentives for efficiency.³³ When courts feel obliged to entertain repeated procedural objections, grant frequent adjournments, and tolerate non-compliance with timelines, even well-intentioned provisions can become tools of obstruction.

Recommendations for Reform

Building on the analysis above, several reform strategies emerge:

- Strengthen case management powers: Courts should actively use their authority to frame issues early, consolidate proceedings, and set realistic but firm schedules, supported by clear rules under the CPC and local amendments.³⁴
- Regulate adjournments: Detailed guidelines should cap the number of adjournments, require written reasons, and mandate meaningful costs for unjustified delays, with performance monitoring of adjournment practices across courts.³⁵
- Rationalize interlocutory practice: Higher thresholds for granting certain interim reliefs, combined hearings of related applications, and restrictions on appeals from minor interlocutory orders can reduce fragmentation.³⁶
- Streamline execution: Specialized execution cells, simplified procedures for uncontested execution, and better coordination with revenue and police authorities can shorten the enforcement phase.³⁷

- Integrate technology into the CPC: Formal recognition of e-service, e-filing, and digital evidence procedures should be coupled with capacity building and infrastructure support, especially in lower courts.³⁸
- Continuous procedural review: A standing body involving judges, practitioners, and researchers could periodically review CPC practice, drawing on data to recommend targeted amendments and practice directions.³⁹

Conclusion

The Code of Civil Procedure, 1908, as interpreted and practiced in Indian courts, plays a pivotal role in shaping the efficiency of the judiciary. While the CPC aims to secure fairness and order in civil adjudication, its complexity, the culture of adjournments, multiplicity of interlocutory steps, and protracted appellate and execution processes have made it a significant contributor to delay and pendency. Empirical evidence confirms that procedural inefficiency, rather than substantive law alone, lies at the heart of the Indian judiciary's crisis of timeliness.

Reform efforts—particularly the 1999 and 2002 Amendments, judicial pronouncements against adjournment culture, and emerging technological initiatives—have begun to address these issues but remain incomplete. A sustained, data-driven program of procedural reform, combining legislative change, judicial leadership, and administrative innovation, is essential to transform civil procedure from a hindrance into a facilitator of timely justice. Only by aligning the CPC's structure and practice with constitutional commitments to access to justice and speedy trial can the Indian judiciary hope to reconcile its normative aspirations with its everyday performance.

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