

Code of Civil Procedure (CPC) - UPSC Notes

The CPC or the Code of Civil Procedure is an important topic for the UPSC exam. It comes under the polity, governance, law, and judicial administration segments of the [UPSC syllabus](#). It is also referred to as the Civil Procedure Code.

Code of Civil Procedure (CPC)

The Code of Civil Procedure, which in common practice is used in its abbreviated form i.e., C.P.C, is a pre-independence enactment.

- The Act was first enacted in the year 1859 as Act No.8 of 1859.
- The Code was thereafter, amended several times in the years, 1860, 1861, 1878, 1879, and 1882.
- After facing these many amendments, finally, the Code of Civil Procedure was re-enacted in the year 1908, and it came in force with effect from 1 January 1909.
- It further underwent a revamp by virtue of a major amendment in the year 1976.

The CPC not only defines and amends but also consolidates the law of the civil procedure. The main aim of the CPC is to facilitate justice, it has been rightly observed that procedural law is always subservient to and is in aid of Justice.

The Code of Civil Procedure is a complete code in itself consisting of Sections 1 to 158 in the first part and Orders I to LI with Appendices to the first schedule and Forms in the second part.

What is the Civil Procedure Code?

The Code of Civil Procedure is a procedural law and deals with the administration of civil proceedings in India. Once the proceedings are initiated under it, rights and remedies of the parties will be governed by the Code. As it is a settled proposition of law, if the law prescribes a procedure for anything to be done then it is to be done in the manner prescribed only.

Inter-alia, the object and purpose of the major Amendment of 1976 was:

- Litigant should get a fair trial and in accordance with the principles of natural justice;
- Not to delay proceedings and to expedite the disposal of civil suits;
- Simplification of the procedure, and ensure a fair deal to poorer sections who cannot engage counsels for defending cases.

Another major amendment to the Code was made in the year 2002, which was made with a view to making the trial speedy. The few salient features of the 2002 amendment are:

- Time to file written statement restricted to 90 days. Earlier no time frame was fixed.
- Restriction on the number of adjournments.

Important CPC Terms Explained

In this section, we present explanations and meanings of commonly used terms in relation to the CPC. You will find them frequently mentioned in the daily news and an understanding of these terms is essential to crack the [civil services exam](#).

Civil Suit

The proceedings under CPC before a civil court are mostly commenced with the institution of a Civil Suit.

- The person who institutes a suit is known as a ***Plaintiff***, and, against whom the action is brought is called as a ***defendant***.
- A statement in writing of a cause of action or the formal claim in writing used to initiate action in a civil court is called a ***plaint*** and response/reply thereof is known as a ***Written Statement***.

Jurisdiction and Res-judicata

Section 9 of the Civil Procedure Code gives civil courts the power to try all the civil suits unless expressly barred. Section 9 gives a statutory right to the litigants to institute a Civil Suit before the Civil Court and the only embargo it creates is that the suit shall not be expressly barred by any law in force.

- To put an end to litigation in a matter, rights of the parties have been substantially decided by the Court, the same cannot be reopened by the original parties or their successors in appeal. The above-said principle is called Res-Judicata, a Latin term which means, a matter that has been decided.
- Res-Judicata does not preclude appeals, review or revision, these are the remedies provided by the statute.

You can read about the [Criminal Procedure Code](#) in the linked article.

Other Important CPC-related Terms

Judgement: Judgement means the statement given by a civil judge of the grounds of decree or order.

Decree: A decree is a formal expression of adjudication which conclusively determines the rights of the parties. A decree comes into existence as soon as judgment is pronounced.

Execution: The lengthiest provision in the Code of Civil Procedure is with regard to Execution of the Decree/s. Order XXI of the Code deals with the execution of decrees. Apart from Order XXI, Sections 36 to 74 also deal with executions. The term execution itself is not defined in the code. The expression “Execution”, in simpler terms, would mean giving effect to the judgment of a court.

Appeals:

- The term Appeal is not as such defined in the Code. To put it simply, an appeal is a petition to a higher court for reconsideration of a decision of the lower court. There are two appellate forums available for 1st Appeal in India i.e., High Court and District Court. And in case a high court is hearing a matter on its civil original side, then the appeal will lie to Supreme Court.
- Section 96 of the Code gives the right to file an appeal against the decree and Section 100 gives the right to file an Appeal against the Appellate decree (judgment in appeal) which is also called Second Appeal.
- All the order/s passed cannot be challenged in the Appeal, as the Code classifies orders which can be challenged in Appeal.

Review: Section 114 gives substantive power of review and Order 47 provides for the limitations and conditions, which are mentioned here as under:

- Mistake or error apparent on the face of record;
- Discovery of any new and important matter or evidence and

- Any other sufficient reason.

Revision: Section 115 of the Code of Civil Procedure empowers the High Court to entertain Revision petition in certain situations in its Revisional Jurisdiction.

- The main purpose of the revision is to prevent a subordinate court from acting contrary to their jurisdiction and in furtherance of justice and stop the abuse and misuse of the jurisdiction.
- As the literal meaning of the word revision suggests, the revision under Section 115 means to go through carefully and correct where necessary.

The Code is an elaborate enactment and deals with almost most of the situations. Apart from the above broad principles which have been discussed briefly, the Code further deals with Suits by Paupers, money suits, temporary injunctions, suits against State/Government, caveats, etc.

The lawmakers have put in their best efforts to minimize the procedural tangles and make the procedure a tool for speedy justice. However, in practice, it is a far cry from it. On the ground the situation is quite contrary, the suits take decades to be decided and till its culmination, the entire exercise is either futile or inconsequential. The procedural law is always an aid to meet the ends of justice, but unfortunately, has become an aid of injustice as mostly litigations are caught in the tangles of procedure. The onus to make procedural laws an aid to justice is on both the bench and the bar. They have to work together to make the system of administration of law more robust and vibrant.