

CODE OF CIVIL PROCEDURE

By: Dr. Justice B.S. Chauhan

Judge

Supreme Court of India

As it is evident from its name, it mainly lays down the procedure to be adopted in civil courts, and its principles may be applicable in other courts, like writ courts, and Tribunals to the extent the enactments establishing the Tribunals provide for it. It provides for a fair procedure for redressal of disputes. The other party may know what is the dispute about, what defence it can take, and how both the parties may proceed to prove their respective cases. Some of its provisions are substantive in nature and not procedural at all, like Sections 96, 100, 114 and 115 providing for a right of appeal, review and revision. The other provisions are generally procedural in nature. The purpose of the Civil Procedure Code, 1908 (hereinafter referred to as 'Code') is to provide a litigant a fair trial in accordance with the accepted principles of natural justice. The Code is mainly divided into two parts, namely, Sections and Orders. While the main principles are contained in the Sections, the detailed procedures with regard to the matters dealt with by the Sections have been specified in the Orders. Section 122 of the Code empowers the High Court to amend the Rules, i.e., the procedure laid down in the Orders and every High Court had amended the procedure from time to time making the amendments in the said Orders.

The Code is a codification of the principles of natural justice. Natural justice means 'justice to be done naturally' which is adopted naturally by the habits of every individual. It does not mean godly-justice or justice of nature. It simply means an inbuilt-habit of a person to do justice. For example, if a child of 1,1/2 years breaks the saucer, the mother of the child may slap him being furious, but at the time of slapping, she would repeatedly ask him why he has broken the saucer, though she knows that the child has not started speaking. As these principles are inbuilt-habit of everyone to ask others for furnishing the explanation of anything done by them, the same are known as 'principles of natural justice'. In Garden of Eden God did not punish Adam and Eve without giving them opportunity to show cause as to why they had eaten the prohibited fruit. The first reported case of principles of natural justice in Dr. Bentley's case, i.e., **R. V. University of Cambridge**, (1723) 1 STR 757, wherein reference of the incident of Garden of Eden was made.

The two words are repeated everyday in the courts- 'justice' and 'law'. Justice is an illusion as the meaning and definition of 'justice' varies from person to person and party to party. Parties feel that they have got justice only and only if the case succeeds before the court, though it may not have a justifiable claim. (Vide: **Delhi Administration V. Gurudeep Singh Uban**, AIR 2000 SC 3737).

For paucity of time it would not be possible for us to deal with every provision in the Code. Thus, we will discuss the scope and application of the provisions which we have to deal with every day in the Court.

Code Of Civil Procedure National Judicial Academy

Council of Europe



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12 Years CLAT & AILET (2008-19) Topic-wise Solved Papers 3rd Edition Disha Experts, 2019-08-04 **The Pearson Guide to the LLB Entrance Examinations** Edgar Thorpe, 2008-09 *European judicial systems - Edition 2014 (2012 data) - Efficiency and quality of justice* Council of Europe, 2014-12-01 The new Edition of the report of the European Commission for the Efficiency of Justice CEPEJ which evaluates the functioning of the judicial systems in 45 Council of Europe's member states and an observer state to the CEPEJ Israel remains in line with the process carried out since 2002 Relying on a methodology which is already a reference for collecting and processing a wide number of quantitative and qualitative judicial data this unique study has been conceived above all as a tool for public policy aimed at improving the efficiency and the quality of justice To have the knowledge in order to be able to understand analyse and reform such is the objective of the CEPEJ which has prepared this report intended for policy makers legal practitioners researchers as well as for those who are interested in the functioning of justice in Europe The Pearson CSAT Manual 2012 Edgar Thorpe, 2012 *Electronic Technology and Civil Procedure* Miklós Kengyel, Zoltán Nemessányi, 2012-06-26 The effect of modern and communication technology on civil procedure first appeared on the agenda of the conference organized by the International Association of Procedural Law in 1999 verifying Lord Woolf's statement from the 90's that IT will not only assist in streamlining and improving our existing systems and process it is also likely in due course itself to be catalyst for radical change as well At the conference in Pecs in the autumn of 2010 participants from three continents and twenty five countries examined all aspects of the impact of modern information technology on civil procedure beginning with the electronic submission of the application ranging from electronic service of documents and electronic means of proof supported by modern information technology In addition to the practical issues they discussed the possible impact of electronic procedures on traditional principles of civil procedure The conference book contains seven main reports and eleven correferates the foreword was written by Prof Peter Gottwald the President of the International Association of Procedural Law ELI - Unidroit Model European Rules of Civil Procedure European Law Institute, UNIDROIT, 2021-08-19 This volume was developed as part of a cooperative project of the European Law Institute ELI and the International Institute for the Unification of Private Law Unidroit dealing with civil procedure law The long term project began in February 2014 as a joint endeavour to adapt the American Law Institute Unidroit Principles of Transnational Civil Procedure to the European legal environment and ended in 2020 with the approval of the ELI Unidroit Model European Rules of Civil Procedure Featured in this volume the Rules are accompanied by comments They take into account the diverse traditions in Europe concerning civil procedure law and aim to find a common thread in them Therefore they not only consider the similarities but also the differences in order to gain a solution that does not favour one legal system but combines aspects of them all fostering effectiveness and fairness in civil procedure This is an open access title available under the terms of a CC BY NC ND 4.0 International licence It is free to read

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Rethinking Judicial Jurisdiction in Private International Law Milana Karayanidi, 2020-02-20 This book explores the theory and practice of judicial jurisdiction within the field of private international law It offers a revised look at values justifying the power of courts to hear and decide cross border disputes and demonstrates that a re conceptualisation of jurisdiction is needed Rather than deriving from territorial power of states jurisdiction in civil and commercial cross border matters ought to be driven by party autonomy This autonomy can be limited by certain considerations of equality and critical state sovereign interests The book applies this normative view to the existing rules of jurisdiction in the European Union and the Russian Federation These regimes are chosen due to their unique positions towards values in private international law and contrasting societal norms that generate and accommodate these values Notwithstanding disparate cultural and political ideas these regimes reveal a surprising level of consistency when it comes to enforcement of party autonomy There is nevertheless room for improvement The book demonstrates to scholars policy makers and lawmakers that jurisdiction should be re centred around the interests of private actors and proposes ways to improve the current rules

The Pearson CSAT Manual 2011 Edgar Thorpe, Showick Thorpe, **Hearings** United States. Congress Senate, 1963 **Law And**

Technology In The Pacific Community Philip S.C. Lewis, 2019-03-11 Most would agree that business and trade are now carried out in an international environment but it is much less widely recognized that the practice of the law of business and technology is also becoming internationalized Indeed in many ways we seem to be rapidly moving toward a world legal order that may parallel the world economic order In th

Use of the UNIDROIT Principles to Interpret and Supplement Domestic Contract Law Alejandro Garro, José Antonio Moreno Rodríguez, 2020-11-03 This book discusses how UNIDROIT principles are viewed and interpreted in different countries presenting various perspectives and practical lessons learned It also offers a detailed analysis of the use of the UNIDROIT principles to interpret and supplement domestic contract law Written by experts in the field it provides insights into how the principles are being used and applied in their respective countries The findings are also summarized in a General Report that was presented at the 20th IACL General Congress in Fukuoka Japan

Congressional Record United States. Congress, 1981 The Congressional Record is the official record of the proceedings and debates of the United States Congress It is published daily when Congress is in session The Congressional Record began publication in 1873 Debates for sessions prior to 1873 are recorded in The Debates and Proceedings in the Congress of the United States 1789 1824 the Register of Debates in Congress 1824 1837 and the Congressional Globe 1833 1873

Contracts in the People's Republic of China Jacques H. Herbots, 2018-03-12 A complete and well documented review of contract law in China This in depth introduction to the law of contracts of Mainland China was written for Western lawyers who have contacts with the People s Republic of China for scholars and students of comparative law or of Sinology As stated above the book is merely an introduction not a technical legal treatise for

specialised private lawyers It is therefore useful for businessmen too Without using stale language this work also places the law of contractual obligations in an historical and socio political context It sketches besides the general theory of contractual obligations and the provisions on the several specific contracts the Chinese case law on international sales contracts as well as the law on the dispute resolution It can be said that with regard to the private law the book opens a window on the continental Chinese legal culture as Zweigert and Kötz would call it An essential handbook for all lawyers who wish to be fully involved in international relationships

ABOUT THE AUTHOR Jacques H Herbots devoted his PhD thesis to African law Thereafter for many years he taught contracts obligations and comparative law at the renowned university of Louvain Besides his main tasks as a professor he kept feeling the pulse of the living law as a deputy judge as an assessor in the Belgian Council of State and as a member of the High Council for the Judiciary He is currently still arbitrator in the Belgian Centre for Arbitration and Mediation and he was appointed to the panel of the CIETAC in Beijing Ever since a visit to the People's Republic in 1974 one may safely say he has been fascinated by the Empire of the Middle

Albany Law Journal, 1887

The Law of the Near and Middle East Herbert J. Liebesny, 1975-06-30 A systematic survey of fundamental statements of Islamic and Near Eastern law that includes selections from the writings of classic Islamic scholars contemporary works on legal theory and modern Middle Eastern codes No other accessible work brings together so many useful materials on the development of Islamic law as does this volume based on translations from a variety of languages and numerous sources all of which are identified Because of the important role which law plays in Islamic culture some acquaintance with legal developments is indispensable if one is to gain a rounded picture of Islamic culture

Judicial Accountabilities in New Europe Daniela Piana, 2016-05-06 This volume focuses on a highly challenging aspect of all European democracies namely the issue of combining guarantees of judicial independence and mechanisms of judicial accountability It does so by filling the gap in European scholarship between the two policy sectors of enlargement and judicial cooperation and by taking full stock of an interdisciplinary literature spanning from comparative politics socio legal studies and European studies *Judicial Accountabilities in New Europe* presents an insightful account of the judicial reforms adopted by new member States to embed the principle of the rule of law in their democratic institutions along with the guidelines of quality of justice promoted by European institutions in all member States

Second Supplemental Appropriation Bill for 1961, Hearings Before ... 86-2, on H.R. 13161 United States. Congress. Senate. Appropriations Committee, 1960

Supplemental Appropriations for 1963 United States. Congress. Senate. Committee on Appropriations, 1963

The Green Bag, 1893 Includes index 1 v

Towards Improving Governance S. K. Agarwal, 2008 Compiled to identify both sound and unproductive practices while suggesting advancements for India's governance this volume seeks to analyze India's efforts made towards progress and to eradicate corruption Containing previous exemplary initiatives and information about public domain tools this resource deals with the perception of governance in India and its status in the monopolistic services

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