



**Research Monograph
On
CIVIL JUDICIAL SYSTEM OF BANGLADESH:
TRIAL LEVEL AND JURISDICTION**

Research Monograph Submitted for the fulfillment of the award of the
degree
in
LL.M.
Department of Law
Sonargaon University (SU)

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Letter of Transmittal

To,
Sharmin Jahan Runa
Assistant Professor & Head,
Department of Law,
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Subject: Submission of Research Monograph on “Civil Judicial System of Bangladesh: Trial Level and Jurisdiction”

Sir,

This is a great pleasure to submit the Research Monograph on “Civil Judicial System of Bangladesh: Trial Level and Jurisdiction” as a requirement for the fulfillment of the LL.M. course under the Department of Law of the Sonargaon University (SU).

I have given due efforts to make this Research Monograph fruitful and to make it as informative as possible. I hope that this paper will not be the formality of academic course completion rather it will be a source of information for other purpose on this topic.

Sincerely Yours,

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Declaration

I do hereby declare that the Research Monograph on “Civil Judicial System of Bangladesh: Trial Level and Jurisdiction” is prepared solely by me and which has been submitted to the Department of Law, Sonargaon University (SU) for achieving the LL.M. degree. This is an original work of mine. No part of this research, in any way or in any form, has been submitted to any University or Institution for any Degree, Diploma or for other similar purpose.

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Certification by the Supervisor

This is to certify that the work presented in this dissertation is based on the work, carried out by the author himself under my supervision in Department of Law, Sonargaon University (SU).

It is also certified that the work presented here is original and suitable for submission as the style and contents, for fulfillment of LL.M. program.

Sharmin Jahan Runa
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Abstract

The civil judicial system of Bangladesh constitutes the primary institutional mechanism for the enforcement of private rights, resolution of civil disputes, and maintenance of legal order under the rule of law. At the heart of this system lie the trial-level civil courts, which function as courts of first instance and bear the principal responsibility for fact-finding, application of substantive law, and delivery of justice. Despite the existence of a comprehensive constitutional and statutory framework, the effectiveness of civil justice at the trial level continues to be undermined by persistent challenges, including jurisdictional complexities, procedural delays, case backlog, infrastructural inadequacies, and limited access to justice for marginalized sections of society.

This monograph undertakes a doctrinal and analytical examination of the civil judicial system of Bangladesh with particular emphasis on the structure, jurisdiction, and functioning of trial-level civil courts. It traces the historical evolution of civil justice from the Hindu and Muslim periods through the colonial era to the post-independence constitutional framework, highlighting the continuity and transformation of judicial institutions. The study analyzes the constitutional foundation of judicial independence under Articles 94 to 116A of the Constitution of Bangladesh, alongside the statutory framework provided by the Civil Courts Act, 1887 and the Code of Civil Procedure, 1908, which together govern the organization, jurisdiction, and procedural functioning of civil courts.

The research further explores the nature and dimensions of jurisdiction exercised by trial courts, including territorial, pecuniary, subject-matter jurisdiction, and the doctrine of implied bar, emphasizing their legal significance and practical implications. An in-depth analysis of civil trial procedure illustrates how procedural law operates as the mechanism through which substantive rights are enforced, while also identifying procedural inefficiencies that contribute to delay and injustice. The study critically examines systemic challenges at the trial level and evaluates comparative experiences from jurisdictions such as India and the United Kingdom to identify reform-oriented best practices.

By proposing targeted procedural, institutional, and technological reforms—such as time-bound trials, mandatory alternative dispute resolution, strengthened case management, digitization of court processes, and expansion of judicial capacity—this monograph seeks to contribute to the ongoing discourse on civil justice reform in Bangladesh. Ultimately, the study argues that strengthening trial-level civil courts is a constitutional imperative essential for ensuring timely, accessible, and effective justice, thereby reinforcing public confidence in the judiciary and the rule of law.

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Chapter 1 Introduction

1.1 Concept of Civil Justice

Civil justice refers to the adjudication of disputes between individuals or private entities concerning civil rights, obligations, and remedies.¹ Unlike criminal justice, civil justice emphasizes compensation, restitution, and enforcement of legal rights rather than punishment. Civil justice aims to provide civil remedies if restitution is not the appropriate remedy. In Bangladesh, civil justice is administered primarily through civil courts, governed by statutory laws inherited from the colonial era and subsequently adapted to constitutional mandates. The civil courts have jurisdiction to try all the suits of civil nature excepting suits of which their cognizance is expressly or impliedly barred. Section 9 of the Code of Civil Procedure, 1908 explains a suit of civil nature as a suit in which the right to property or to an office is contested is a suit of civil nature, notwithstanding that such right may depend entirely on the decision of question as to religious rites or ceremonies.²

1.2 Historical Background

The civil justice system has existed since time immemorial. Although in the written history the justice system could be traced from the ancient Hindu period, the current civil judicial framework of Bangladesh traces its origins to British India, particularly following:

- The **Regulating Act, 1773**
- Establishment of Diwani courts
- Codification of civil procedure through the **Code of Civil Procedure, 1908.**

1.2.1 Hindu Period:

The ancient judicial system consisted of the King as the supreme authority of the administration of justice titled as “the fountain of justice”³. The King’s Court was the highest court of appeal as well as court of original jurisdiction for the cases of vital importance to the state. Next to the King’s Court was

¹ M H Rahman, *Civil Courts and Procedure in Bangladesh* (2nd edn, University Press Limited 2018) 1–4.

² Code of Civil Procedure 1908, s 9; C K Takwani, *Civil Procedure* (8th edn, Eastern Book Company 2019) 38–41.

³ S M Solaiman, *Legal System of Bangladesh* (Springer 2017) 21–25.

the court of Chief Justice who was assisted by a board of judges appointed from the Brahmin caste. The lowest unit of court was the Village Council consisted of five or more members to dispense justice to the villagers. The Village Council was entrusted with the trial of civil as well as criminal matters concerning matters relating to irrigation, cultivable land, endowment etc. At a higher level in towns and districts there were government officers under the authority of the king to administer justice. The judicial procedure too was elaborate. A civil suit consisted of four parts: (1) the Complaint (*poorva-paksha*), (2) the reply (*uttar*), (3) the trial and investigation by the court (*kriyaa*), (4) the verdict (*nirnaya*).⁴ Submission of complaint meant that the plaintiff submitted himself before the jurisdiction of the court. The court then issued an order to the defendant to submit a reply to the complaint. If the defendant admitted the allegations made in the complaint the business of the court was to pass a decision to the suit. If the defendant contested the suit, the duty of the court was to provide full opportunity to both the parties to prove their case. After the trial was over, the court the final decision then was given by the court.

1.2.2 Muslim Period:

In the medieval period, the Sultan was the supreme authority to administer justice in his sultanate. A systematic classification and gradation of courts existed at the Capital, provinces, districts, parganas and villages. The highest court for civil appellate matters was *Diwan-e-Risalat* which was nominally presided by the Sultan. Next to Sultan was the Chief Justice (*Qazi-ul-Quzat*), the highest judicial officer. Subordinate to the *Diwan-e-Risalat* was the *Adalat Qazi-e-Subah* which was presided by the Chief Provincial Qazi which entertained the civil and criminal appellate matters arising out of the courts of District Qazis. The court of *Diwan-e-Subah* was a parallel court of final authority concerning land revenue. In District level, the civil appellate court was the court of District Qazi. Next to the court of District Qazi there was Qazi-e-Pargana empowered with all the powers of a District Qazi except the power to hear appeals. At the root level there was Village Council consisting of five or more village elders. The village headman was entrusted with the job to coordinate with the village adjudication and the central judiciary.

1.2.3 British Period:

⁴ M H Rahman, *Civil Courts and Procedure in Bangladesh* (2nd edn, UPL 2018) 7–9

The modern civil judicial system of Bangladesh owes its structural and procedural foundations largely to the British colonial administration in the Indian subcontinent. Prior to British intervention, the administration of justice lacked uniformity and institutional coherence, varying across regions and rulers. The British introduced a centralized and codified legal system with the primary objective of establishing administrative efficiency, revenue stability, and legal certainty to support colonial governance.

The turning point in the development of the civil justice system was the enactment of the Regulating Act, 1773, which marked the beginning of formal judicial administration under the East India Company. This Act established the Supreme Court of Judicature at Fort William in Calcutta and laid the groundwork for separating judicial functions from executive authority, at least in principle. Subsequently, the Warren Hastings judicial reforms of 1772 introduced Diwani Courts at the district level to adjudicate civil disputes, particularly those related to land revenue, contracts, and property rights. These courts applied Hindu or Muslim personal laws in matters of inheritance and family relations, while procedural aspects were gradually standardized under British supervision.

Throughout the nineteenth century, the British administration undertook systematic legal reforms aimed at codification and uniformity. The establishment of a structured hierarchy of civil courts was formalized through legislative instruments, culminating in the enactment of the Civil Courts Act, 1887. This Act provided a clear classification of civil courts, defined their territorial and pecuniary jurisdiction, and established administrative control mechanisms that continue to influence the present-day civil judiciary of Bangladesh. The Act created a rational judicial hierarchy headed by District Judges and supported by subordinate judges, thereby institutionalizing trial-level civil adjudication.

The most significant procedural development of the British period was the enactment of the Code of Civil Procedure, 1908. The CPC consolidated and amended prior procedural laws and introduced a comprehensive framework governing civil litigation. It regulated every stage of a civil suit, from institution to execution, and emphasized principles of natural justice, procedural regularity, and judicial consistency. Although designed primarily to serve colonial administrative needs, the CPC established enduring procedural safeguards that continue to regulate civil trials in Bangladesh. Its

emphasis on jurisdiction, pleadings, evidence, and reasoned judgments laid the foundation for a rule-based civil justice system.

Despite these advancements, the colonial civil justice system was not free from limitations. The structure primarily served the interests of colonial administration and landed elites, often rendering justice inaccessible to ordinary citizens due to procedural complexity, language barriers, and high litigation costs.⁵ Nevertheless, the institutional framework introduced during the British period created a durable legal infrastructure that survived political transition and independence.

In essence, the British period transformed the administration of civil justice from a personalized and discretionary system into a formal, court-centered, and statute-driven mechanism. The legacy of this period remains deeply embedded in the contemporary civil judicial system of Bangladesh, particularly in the continued operation of the Civil Courts Act, 1887 and the Code of Civil Procedure, 1908. While post-independence constitutional developments have sought to realign the judiciary with democratic values and judicial independence, the procedural and institutional architecture of civil justice remains fundamentally rooted in the British colonial legal tradition.

After independence in 1971, Bangladesh retained these structures, subject to constitutional supervision under the **Constitution of the People's Republic of Bangladesh, 1972**.

1.3 Objectives of the Study

The primary objectives of this monograph are as follows:

1. To examine the concept and evolution of civil justice in Bangladesh within its historical, constitutional, and statutory contexts
2. To analyze the institutional structure and hierarchy of trial-level civil courts under the Civil Courts Act, 1887
3. To critically evaluate the nature, scope, and legal significance of jurisdiction exercised by civil trial courts, including territorial, pecuniary, and subject-matter jurisdiction
4. To assess the procedural framework governing civil trials under the Code of Civil Procedure, 1908 and the Evidence Act, 1872

⁵ Shahdeen Malik, 'Access to Justice and Legal Aid in Bangladesh' (2008) *Bangladesh Journal of Law* 1, 3–6.

5. To identify systemic challenges affecting the efficiency and effectiveness of civil justice at the trial level
6. To conduct a comparative analysis of selected foreign jurisdictions in order to draw reform-oriented insights
7. To propose legal, procedural, and institutional reforms aimed at strengthening trial-level civil justice in Bangladesh

1.4 Research Methodology

This study adopts a doctrinal legal research methodology, focusing on the systematic analysis and interpretation of primary and secondary legal sources. The research is primarily based on:

1. Constitutional provisions of the Constitution of the People's Republic of Bangladesh, 1972.
2. Statutory laws, including the Civil Courts Act, 1887, the Code of Civil Procedure, 1908, and the Evidence Act, 1872
3. Judicial decisions of the Supreme Court of Bangladesh, particularly those addressing jurisdiction, judicial independence, and civil procedure.
4. Scholarly books, journal articles, and academic commentaries on civil justice and procedural law.
5. Reports and recommendations of law reform bodies where relevant.

In addition to doctrinal analysis, the study incorporates a limited comparative approach by examining reforms and practices in jurisdictions such as India and the United Kingdom. This comparative dimension is employed to contextualize reform proposals and identify adaptable best practices rather than to conduct an exhaustive comparative study. Analytical and critical methods are used throughout to evaluate existing legal frameworks and propose reasoned reforms.

1.5 Scope and Limitation

The scope of this study is confined to the civil judicial system of Bangladesh at the trial level. It primarily focuses on the structure, jurisdiction, and procedural functioning of civil trial courts, including Civil Judges, Senior Civil Judges, Joint District Judges, and District Judges.

The study does not provide a detailed examination of appellate, revisional, or constitutional jurisdiction, except where reference to higher courts is necessary to explain supervisory control, jurisdictional boundaries, or constitutional principles. Similarly, specialized tribunals and quasi-judicial

bodies are discussed only to the extent required to explain subject-matter jurisdiction and the doctrine of implied bar.

As a doctrinal study, this research does not include empirical fieldwork, statistical analysis, or interviews with judicial officers or litigants. Consequently, the analysis relies on reported cases, statutory interpretation, and existing academic literature. Despite these limitations, the study aims to provide a comprehensive and coherent legal analysis of trial-level civil justice and to contribute meaningfully to academic and reform-oriented discourse.

Chapter 2

Constitutional and Statutory Framework

Introduction

The civil judicial system of Bangladesh is grounded in a constitutional and statutory framework that defines its structure, powers, and procedural mechanisms. Understanding this framework is essential for comprehending the functioning of civil courts at both the trial and appellate levels. The judiciary occupies a constitutionally enshrined position as an independent organ of the State, tasked with safeguarding rights, interpreting laws, and ensuring the administration of justice. Articles 94 to 116A of the Constitution delineate the composition, appointment, and control of the Supreme Court and subordinate courts, establishing both the independence of judges and the mechanisms for maintaining judicial accountability. The constitutional provisions, particularly Articles 94(4) and 116A, underscore that judges must exercise their functions without interference, reflecting the separation of powers doctrine and ensuring that the judiciary remains free from executive or political influence. The establishment of the Supreme Court Secretariat further institutionalizes this independence, providing administrative clarity and eliminating dual control systems that previously affected the subordinate judiciary.

Complementing the constitutional mandate, statutory instruments provide the operational framework for civil courts. The Civil Courts Act, 1887, although enacted during the colonial period, continues to serve as the principal statute governing the hierarchy, constitution, and administrative functioning of civil courts in Bangladesh. It establishes the classes of civil courts, delineates their territorial and pecuniary jurisdiction, prescribes the appointment of judges, and regulates powers relating to appellate jurisdiction, transfers, and provisional authority. While it does not prescribe procedural law, the Act forms the institutional backbone within which civil procedure under the Code of Civil Procedure, 1908, is administered.

The CPC, in turn, provides a comprehensive procedural framework for civil litigation, regulating every stage of a suit from institution to execution. By codifying rules on pleadings, framing of issues, evidence, interim relief, judgments, decrees, appeals, and review, the Code ensures that civil litigation is conducted in an orderly, fair, and predictable manner. It functions as the operational lifeline of the civil judiciary, bridging the gap

between substantive rights established under laws such as the Contract Act or Transfer of Property Act, and their effective enforcement in the courts. Provisions such as Section 9 reaffirm the role of civil courts as courts of general jurisdiction, while also respecting limitations imposed by special statutes or exclusive forums. Collectively, the constitutional and statutory framework establishes a cohesive system designed to maintain judicial independence, procedural uniformity, and effective access to civil justice, forming the foundation upon which the trial-level judiciary operates.

2.1 Constitutional Basis of the Judiciary

Articles 94–116A of the Constitution establish the judiciary as an independent organ of the State. Article 94(4) guarantees that the Chief Justice and the other Judges of the Supreme Court be independent in discharging their judicial function. As the Judiciary consists of the Supreme Court and the Subordinate Courts and Tribunals, the appointment, control and discipline of the subordinate court judges are regulated by the constitutional mandate. The judicial members of the subordinate courts and tribunals are appointed by the president in accordance with the rules made by him in that behalf. The control and discipline of the judicial members exercising judicial functions shall vest in the President in consultation with the Supreme Court. Prior to the absolute separation of the judiciary from the executive organ as mandated by Article 22, the control including the power of posting, promotion and grant of leave to the judicial members vested de facto in the Supreme Court in consultation with the Ministry of Law, Justice and Legislative Affairs⁶. But the establishment of the Supreme Court Secretariat on 1st December, 2025 has put an end to the dual system of control and discipline of the judicial members. Like the mandate of Article 94, the Article 116A guarantees the independence of the judicial members in discharging their judicial functions.

2.2 Civil Courts Act, 1887

The Civil Courts Act, 1887 is the principal statute governing the constitution, hierarchy, jurisdiction, and administration of civil courts in Bangladesh. Originally enacted during the British colonial period, the Act continues to operate under the constitutional and statutory framework of Bangladesh. It provides the foundational legal structure for trial-level and appellate civil courts and operates in conjunction with the Code of Civil Procedure, 1908. The Civil Courts Act, 1887 applies to the whole of Bangladesh and governs

⁶ Secretary, Ministry of Finance v Masdar Hossain (1999) 52 DLR (AD) 82.

civil courts subordinate to the High Court Division of the Supreme Court of Bangladesh. The Act does not deal with procedural law; rather, it establishes the institutional structure within which civil procedure under the CPC is administered. It establishes classes of civil courts, determines powers and hierarchy and contains provision for delimiting the pecuniary and territorial jurisdiction. The Act also provides the power for appointment of the civil court judges, place of sitting, provisional power of the judges, appellate jurisdiction, judicial calendar, power to transfer of suits and appeals etc.⁷

2.3 Code of Civil Procedure, 1908

The Code of Civil Procedure, 1908 (hereinafter referred to as “the Code”) constitutes the central procedural statute governing the functioning of civil courts and the administration of civil justice in Bangladesh. Enacted with the objective of consolidating and amending the laws relating to the procedure of civil courts, the CPC provides a comprehensive legal framework that regulates how civil jurisdiction is exercised, how suits are instituted and tried, and how judgments and decrees are enforced. Unlike substantive laws that create or define rights, the CPC operates as an enabling mechanism through which existing civil rights are enforced in a structured, uniform, and legally sanctioned manner. Its scope extends to all civil courts in Bangladesh, subject to constitutional limitations and express or implied exclusion by special laws, thereby affirming the civil court as the primary forum for adjudication of civil disputes. The Code ensures procedural uniformity, fairness, and predictability by laying down detailed rules on jurisdiction, pleadings, evidence, interim relief, adjudication, appeals, and execution. Read harmoniously with the Civil Courts Act, 1887 and other special statutes, the Code serves as the operational backbone of the civil judicial system and remains indispensable for understanding the statutory framework and practical functioning of civil courts at the trial level. The term *civil procedure* refers to the body of rules that regulate the process by which civil rights and obligations are enforced through courts of law. In this sense, the Code does not create, define, or extinguish substantive rights; rather, it prescribes the legal machinery for the enforcement of rights arising under substantive laws such as the Contract Act, Transfer of Property Act, or Specific Relief Act. Its fundamental objective is to ensure that civil litigation is conducted in a fair, orderly, and efficient manner, consistent with the principles of natural justice. The meaning of the CPC is further clarified

⁷ Civil Courts Act 1887; Code of Civil Procedure 1908.

through the definitional framework provided in Section 2, which defines key legal concepts such as *court*, *judge*, *decree*, *order*, *judgment* and *suit*. These definitions establish the legal contours within which civil courts operate and determine the procedural consequences of judicial decisions, particularly in relation to appeals, execution, and finality of adjudication⁸. By codifying these concepts, the Code ensures uniform interpretation and application of procedural rules across all civil courts. The scope of the CPC is extensive and applies, subject to statutory exceptions, to all civil courts in Bangladesh exercising original and appellate jurisdiction. Section 9 embodies the broad jurisdictional mandate of civil courts by empowering them to try all suits of a civil nature unless their cognizance is expressly or impliedly barred. This provision underscores the role of the code in affirming civil courts as courts of general jurisdiction⁹. At the same time, the Code recognizes limitations on its scope where special statutes create exclusive forums or special procedures, thereby maintaining harmony between general procedural law and special laws. The Code regulates every stage of a civil proceeding, beginning with the institution of suits, presentation of pleadings, and framing of issues, and extending to trial, evidence, judgment, decree, appeal, review, revision, and execution. It also confers both express and inherent powers upon civil courts to grant interim relief, prevent abuse of process, and secure the ends of justice. Thus, the scope of the CPC is not merely technical or mechanical; it is integrally connected to the effective realization of substantive justice. In practical terms, the Code functions as the procedural lifeline of the civil judicial system, ensuring that civil courts are able to adjudicate disputes systematically, consistently, and in accordance with the rule of law.

The constitutional and statutory framework of Bangladesh provides both the authority and the mechanism for the civil judiciary to function effectively. The Constitution ensures the independence and accountability of judges, protecting them from undue influence while establishing clear procedures for appointment, control, and discipline. The Civil Courts Act, 1887, complements this constitutional mandate by defining the structure, hierarchy, and jurisdiction of civil courts, thereby creating the institutional foundation necessary for the administration of justice. The Code of Civil Procedure, 1908, operationalizes this structure, providing detailed

⁸ Code of Civil Procedure 1908, s 2

⁹ Code of Civil Procedure 1908, s 9

procedural rules that ensure civil litigation is conducted systematically, fairly, and consistently across all courts.

Together, these instruments create a comprehensive legal ecosystem that balances judicial independence, procedural uniformity, and substantive justice. The Constitution safeguards the judiciary's autonomy, the Civil Courts Act structures its organization and powers, and the CPC enables the practical realization of legal rights. Understanding this integrated framework is essential for appreciating how civil courts function, how trial-level disputes are adjudicated, and how the administration of justice is maintained in accordance with the rule of law. The effectiveness of civil justice in Bangladesh ultimately rests upon the harmonious interplay between constitutional principles and statutory mechanisms, which collectively ensure that disputes are resolved in a fair, efficient, and legally coherent manner.

Chapter 3 Structure of the Civil Courts

Introduction

The structure of civil courts in Bangladesh reflects a carefully designed hierarchical framework intended to facilitate the effective administration of civil justice. This structure determines not only the distribution of judicial workload but also the manner in which civil disputes progress from initiation to adjudication at the trial level. Governed primarily by the Civil Courts Act, 1887 and operationalized through the Code of Civil Procedure, 1908, the civil court hierarchy ensures that disputes are heard by courts of appropriate grade based on pecuniary value, subject-matter, and territorial nexus. The organization of trial-level civil courts plays a decisive role in access to justice, judicial efficiency, and the realization of the rule of law.

3.1 Hierarchy of Civil Courts

The civil court structure in Bangladesh has a hierarchical system designed to ensure effective adjudication of civil disputes based on the pecuniary value, subject-matter, and territorial competence. This structure operates primarily under the combined framework of the Civil Courts Act, 1887 and the Code of Civil Procedure, 1908, and functions under the superintendence of the High Court Division of the Supreme Court of Bangladesh. Trial-level courts exercise original jurisdiction in civil matters and form the foundation of the civil justice delivery system.

At the apex of the hierarchy stands the **Court of the District Judge**, which is the principal civil court of original jurisdiction within a district. The District Judge has original jurisdiction in civil suits, and special jurisdiction in specific subject-matters and also functions as the chief administrative authority over all the civil courts within the district. The court plays a pivotal role in supervision, transfer of cases, and ensuring uniformity in judicial administration at the district level.

Below the District Judge are the **Additional District Judges**, who are appointed to assist in the disposal of civil cases. Although the Additional District Judges are not empowered with any original jurisdiction to take cognizance of any civil suit, when cases are assigned to them by the Court of District Judge, the Additional District Judges then exercise the same powers and jurisdiction as the District Judge, and their judgments and

decrees carry equal legal authority. Their inclusion in the structure is aimed at reducing case backlog and ensuring timely adjudication.

The next tier consists of **Joint District Judges**, who primarily exercise original jurisdiction over civil suits valued at more than twenty-five lacs Taka and appellate jurisdiction over decrees passed by subordinate courts. Although the Joint District Judges are empowered with the same pecuniary original jurisdiction as of the District Judges', they are de facto the highest court of ordinary pecuniary jurisdiction as per the mandate of Section 15 of the Code of Civil Procedure, 1908 which mandates institution of the suits in the court of lowest grade competent to try those.

At the grassroots level of the trial judiciary are the **Senior Civil Judges** and **Civil Judges**. The Senior Civil Judges exercise original jurisdiction over civil suits valued at between fifteen lac taka and twenty-five lac taka whereas, the Civil Judge has jurisdiction to try suits valued at less than fifteen lac taka. Despite their limited jurisdiction, these courts handle the largest volume of civil litigation and play a vital role in ensuring access to justice for ordinary litigants.

The allocation of jurisdiction among these courts is primarily determined by pecuniary limits fixed by government notification and by the principle embodied in Section 15 of the Code of Civil Procedure, 1908, which mandates that every suit shall be instituted in the court of the lowest grade competent to try it. This structural arrangement promotes judicial efficiency, decentralization of litigation, and effective case management at the trial level.

3.2 Appointment and Control of Civil Court Judges

The appointment, posting, promotion, and control of judges of the subordinate civil courts are governed by the Constitution of the People's Republic of Bangladesh. Under **Article 115** of the Constitution, judges of subordinate courts are appointed by the President in accordance with rules made in consultation with the Supreme Court. This constitutional mechanism aims to ensure that judicial appointments are based on merit while preserving institutional balance between the executive and the judiciary.

Control and supervision over subordinate courts are vested in the Supreme Court under **Article 116** of the Constitution. This control extends to posting,

promotion, grant of leave, and disciplinary matters concerning judges of civil courts. The vesting of such authority in the Supreme Court serves as a constitutional safeguard for judicial independence and protects trial-level judges from undue executive influence.

Judicial independence at the trial level is essential for the impartial adjudication of civil disputes, as trial courts are primarily responsible for fact-finding, assessment of evidence, and determination of civil rights. Effective constitutional control by the Supreme Court, combined with functional autonomy in decision-making, ensures that civil courts operate in accordance with the rule of law, principles of natural justice, and constitutional guarantees of equality and due process.

The structure of civil courts in Bangladesh represents a balanced and hierarchical system designed to facilitate accessible, efficient, and impartial civil justice at the trial level. By distributing jurisdiction according to pecuniary value and court hierarchy, the system ensures that disputes are adjudicated by courts best suited to handle them. The constitutional framework governing appointment and control further reinforces judicial independence, accountability, and adherence to the rule of law.

The trial-level civil judiciary, comprising Courts of Assistant Judges, Senior Assistant Judges, Joint District Judges, and District Judges, plays a pivotal role in the administration of justice. These courts function as the primary fora for adjudication of civil disputes, thereby shaping public confidence in the legal system. Statutory instruments such as the Code of Civil Procedure, 1908, the Civil Courts Act, 1887, and relevant constitutional provisions collectively define their jurisdiction, powers, and procedural framework. While these laws establish a comprehensive judicial mechanism, practical challenges such as case backlog, procedural delays, and limited judicial resources continue to affect efficiency.

Despite these challenges, the civil judicial system at the trial level demonstrates a structured attempt to balance accessibility with judicial competence. The allocation of original and appellate jurisdiction, along with supervisory control by higher courts, ensures consistency and legal certainty. However, effective realization of these objectives requires continuous reforms, including modernization of court administration, digitization of records, capacity building of judicial officers, and procedural simplification.

In conclusion, the civil judicial system of Bangladesh at the trial level constitutes the backbone of civil justice delivery. Strengthening its institutional capacity and procedural efficiency is essential for ensuring timely justice, safeguarding legal rights, and upholding constitutional values. A responsive and well-functioning trial judiciary not only resolves disputes but also reinforces public trust in the rule of law and democratic governance.

Chapter 4

Jurisdiction of Civil Trial Courts

Introduction

Jurisdiction forms the cornerstone of any judicial system, defining the scope and limits of judicial authority. Without jurisdiction, a court cannot legally adjudicate a matter, and any decree rendered in excess of jurisdiction is considered a nullity. Civil courts in Bangladesh are vested with carefully delineated jurisdiction at the trial level to ensure orderly administration of justice, prevent forum-shopping, and maintain procedural and substantive propriety.

The concept of jurisdiction encompasses multiple dimensions—territorial, pecuniary, subject-matter, and, in certain cases, implied limitations. Each type of jurisdiction plays a critical role in determining whether a particular civil court is competent to hear and decide a case. This chapter explores these dimensions in detail, highlighting their statutory basis, judicial interpretations, and practical significance in the context of the Bangladeshi civil judicial system.

4.1 Meaning and Importance of Jurisdiction

Jurisdiction refers to the legal authority vested in a court to hear, adjudicate, and pronounce judgment in a matter brought before it. Jurisdiction is not merely procedural; it is fundamental to the legitimacy of judicial action. Any proceeding conducted by a court lacking proper jurisdiction is void ab initio, and no legal consequences can attach to such proceedings.

The Supreme Court of Bangladesh has consistently emphasized that jurisdiction is a question of law that cannot be conferred by the consent of the parties or waived by them [2]. This principle ensures that the parties cannot confer authority on a court that the law itself has not sanctioned, thereby safeguarding both legal certainty and the rule of law.

Jurisdiction is not only important for the validity of judicial orders but also for the effective administration of justice. Proper jurisdiction ensures that disputes are heard by courts competent in terms of territorial scope, pecuniary limits, and subject-matter expertise, minimizing the risk of judicial errors and procedural inefficiencies.

4.2 Territorial Jurisdiction

Territorial jurisdiction defines the geographic area within which a court may exercise its authority. In Bangladesh, territorial jurisdiction is primarily governed by Sections 15–20 of the Code of Civil Procedure (CPC). Key principles include:

- **Residence or business of the defendant:** A suit should ordinarily be instituted where the defendant resides or carries on business.
- **Place of cause of action:** A suit may also be filed where the cause of action wholly or partly arises.

Judicial precedent underscores the importance of strict adherence to territorial limits. In *Hossain v Abdul Karim* [3], the court held that filing a suit outside the proper territorial jurisdiction constitutes a fatal irregularity, rendering any decree liable to be set aside.

Territorial jurisdiction ensures convenience to the parties, prevents forum-shopping, and maintains judicial efficiency by distributing cases according to geographic considerations. It also reinforces the principle that no court has universal authority to try matters beyond its lawful territorial reach.

4.3 Pecuniary Jurisdiction

Pecuniary jurisdiction is determined by the monetary value of the claim. It ensures that civil courts adjudicate only matters that fall within their financial competence, thereby aligning judicial resources with the complexity and value of disputes.

In Bangladesh, pecuniary limits are prescribed under the Civil Courts Act and are updated periodically through government notifications. A suit filed beyond the pecuniary jurisdiction of a court is not merely irregular; it is considered legally void.

Pecuniary jurisdiction helps balance the workload among courts. For instance, lower courts handle claims of lesser value, while higher courts with greater expertise and resources deal with higher-value cases. This hierarchy prevents the overburdening of subordinate courts and ensures that parties have access to courts equipped to handle claims of corresponding complexity.

4.4 Subject-Matter Jurisdiction

Subject-matter jurisdiction defines the categories of disputes a court is competent to hear. Certain matters are excluded from the jurisdiction of civil courts due to statutory provisions or the creation of specialized tribunals. Examples include:

- **Revenue matters:** Administered by revenue authorities under specific laws.
- **Election disputes:** Typically adjudicated by election tribunals or the Election Commission.
- **Specialized tribunals:** Such as labor or administrative tribunals established by statute.

In *Secretary, Ministry of Finance v Masdar Hossain*¹⁰, the Supreme Court reaffirmed the principle of strict separation of jurisdiction, holding that courts cannot entertain matters expressly reserved for other forums.

Subject-matter jurisdiction ensures that cases are adjudicated by courts with the requisite expertise and statutory authority, maintaining legal consistency and safeguarding public confidence in the judicial system.

4.5 Doctrine of Implied Bar

Even in the absence of an express statutory prohibition, jurisdiction may be barred under the doctrine of implied bar. This occurs when:

- **Special remedies are provided:** For example, administrative review mechanisms or arbitration provisions.
- **Legislative intent excludes civil courts:** The legislature may intend to channel certain disputes through alternative forums, thereby implying that civil courts should not interfere.

The doctrine of implied bar reinforces legislative intent and prevents duplication of judicial functions. It protects specialized mechanisms from being undermined by conventional civil suits, thereby enhancing both efficiency and coherence in dispute resolution.

Jurisdiction, in all its dimensions—territorial, pecuniary, subject-matter, and implied—forms the backbone of the civil judicial system in Bangladesh. It ensures that disputes are adjudicated by courts competent in law, geography,

¹⁰ *Secretary, Ministry of Finance v Masdar Hossain* (1999) 52 DLR (AD) 82

and financial capacity, while also respecting legislative intent and procedural propriety.

The trial-level civil courts, operating within these jurisdictional parameters, serve as the primary forums for dispute resolution, maintaining a balance between accessibility, efficiency, and judicial competence. While statutory provisions provide a clear framework, practical challenges such as case backlog, procedural delays, and jurisdictional ambiguities occasionally impede the smooth administration of justice.

Strengthening jurisdictional clarity, coupled with judicial reforms like digitization, capacity building, and procedural simplification, can enhance the efficiency and credibility of the civil judiciary. Ultimately, a well-defined and properly exercised jurisdiction is essential for upholding the rule of law, protecting legal rights, and reinforcing public confidence in the civil judicial system of Bangladesh.

Chapter 5

Trial Procedure in Civil Courts

Introduction

The trial procedure in civil courts constitutes the operational framework through which justice is administered at the trial level. While the jurisdiction of courts determines *which* court may hear a dispute, trial procedure governs *how* the dispute is adjudicated from the initiation of a suit to the final decree. Efficient trial procedures ensure fairness, transparency, and predictability in civil litigation, while also upholding the rights of parties and maintaining judicial economy.

The Code of Civil Procedure (CPC) of 1908, supplemented by the Evidence Act, 1872, provides a comprehensive legal framework for civil trials in Bangladesh. These laws standardize the steps of litigation, including the institution of suits, pleadings, framing of issues, evidence collection, hearing, and ultimately, judgment and decree. Understanding trial procedure is crucial not only for legal practitioners but also for scholars and policymakers, as procedural efficiency directly impacts the delivery of justice.

5.1 Institution of Suit

A civil suit commences with the presentation of a **plaint** under **Order VII CPC**, which sets out the essential elements required for filing. Proper **valuation of the suit** is mandatory, as pecuniary limits determine the competence of the court under the Civil Courts Act.¹¹ Additionally, compliance with **territorial and subject-matter jurisdiction** is essential to prevent dismissal on preliminary grounds. Filing a suit without satisfying jurisdictional requirements renders the proceedings liable to be declared null and void.

The institution of the suit marks the formal commencement of litigation and triggers procedural timelines for the defendant to respond. Proper drafting of the plaint is therefore not merely a formality but a critical step in ensuring the suit progresses smoothly.

¹¹ Civil Courts Act 1887; Code of Civil Procedure 1908, ss 15–20.

5.2 Pleadings and Framing of Issues

5.2.1 Complaint

The complaint is the primary document stating the facts of the case and seeking the remedy for the civil wrongs done to the plaintiff. It is the first kind of pleading. CPC provides what particulars a complaint should contain. Those are in the following:

1. Name of the Court to which the suit is brought;
2. The name, description and place of residence of the Plaintiff;
3. The name, description and place of residence of the defendant, so far as they can be ascertained;
4. Where the plaintiff or the defendant is a minor or a person of unsound mind, a statement to that effect;
5. The facts constituting the cause of action and when it arose¹².

5.2.2 Written Statement

The defendant responds to the complaint by filing a written statement under Order VIII CPC, wherein they may:

- Admit or deny the allegations
- Raise legal defenses or objections
- Assert counterclaims

The written statement provides the foundation for the trial by clarifying disputed points and allowing the court to structure the proceedings. Non-filing or late filing may result in the defendant being deemed to have admitted the facts alleged in the complaint¹³.

5.2.3 Framing of Issues

Under Order XIV CPC, the court frames issues based on the pleadings. Issues are essentially the questions of law or fact that the court must decide to resolve the dispute. They serve multiple purposes:

- Define the scope of the trial
- Clarify the points of contention between the parties
- Allocate the burden of proof

¹² Code of Civil Procedure 1908, Or VII r 1; C K Takwani (n 37) 219–224

¹³ M H Rahman (n 38) 102–104

Framing clear and precise issues is critical for judicial efficiency. It prevents unnecessary examination of irrelevant matters and ensures that evidence is evaluated in a structured and logical manner.

5.3 Evidence and Hearing

The Evidence Act, 1872 read with Section 30 and Order 18 of the Code of Civil Procedure, 1908 govern the collection, presentation, and evaluation of evidence in civil trials. Evidence can be classified as:

- **Oral evidence:** Statements of witnesses given on oath during examination-in-chief and cross-examination
- **Documentary evidence:** Written records, contracts, and official documents submitted to support factual claims

The court evaluates evidence based on **relevance, admissibility, and credibility**, applying rules of judicial scrutiny to ascertain facts. Cross-examination serves as a critical tool for testing the reliability and truthfulness of witnesses, while documentary evidence provides corroboration.

The hearing stage is where the trial procedure culminates in the systematic presentation of arguments, examination of evidence, and judicial evaluation of facts and law. Proper conduct of the hearing ensures fairness and allows both parties an equal opportunity to present their case.

5.4 Judgment and Decree

A civil trial concludes with the pronouncement of judgment and decree, which must satisfy the following principles under Order XX CPC:

- **Reasoned judgment:** The court must explain the rationale for its decision
- **Based on evidence:** Findings must be supported by factual and documentary evidence presented during trial
- **Compliance with procedural law:** The judgment and decree must adhere to statutory requirements

The decree is the operative part of the judgment, which gives effect to the court's decision and serves as the enforceable order against the parties. Timely and reasoned judgments are essential to maintain public confidence in the civil justice system and ensure the effective enforcement of legal rights.

The trial procedure in civil courts of Bangladesh provides a structured framework for the fair and orderly resolution of disputes. From the institution of a suit to the final decree, each stage—pleadings, framing of issues, evidence collection, hearing, and judgment—serves a distinct function in ensuring that justice is delivered efficiently and impartially.

Adherence to procedural law, coupled with the proper exercise of judicial discretion, safeguards the rights of parties while upholding the rule of law. Challenges such as procedural delays, case backlog, and inconsistent application of rules highlight the need for continuous reforms, including court modernization, digital case management, and enhanced training of judicial officers.

Ultimately, an effective trial procedure is the backbone of civil justice. When combined with well-defined jurisdictional boundaries, it ensures that disputes are resolved in a manner that is not only legally sound but also equitable, transparent, and credible in the eyes of the public.

Chapter 6

Challenges at Trial Level

Introduction

The civil judiciary at the trial level in Bangladesh serves as the primary forum for resolving civil disputes, safeguarding legal rights, and upholding the rule of law. While the structure of civil courts and procedural rules are designed to facilitate the efficient and fair adjudication of cases, in practice, the trial system faces a range of systemic challenges. These challenges significantly compromise the delivery of justice, prolong litigation, and diminish public confidence in the judicial system.

The inefficiencies at the trial level do not merely cause inconvenience to the parties involved; they have broader implications for society. Delayed justice can exacerbate social and economic inequalities, encourage informal or extrajudicial dispute resolution, and weaken the overall legitimacy of the legal system. Procedural abuse, infrastructural inadequacies, and barriers to access further compound the problem, highlighting the urgent need for institutional reforms¹⁴. This chapter explores the major challenges confronting trial-level civil courts, including delays and backlog, procedural misuse, infrastructure and human resource constraints, and limited access to justice, while analyzing their causes, consequences, and potential solutions.

6.1 Delay and Backlog

One of the most persistent and widely recognized problems in the civil trial system is the excessive delay in adjudication. Many civil suits in Bangladesh languish in the courts for years, and in some cases, decades, before reaching a final judgment. The backlog of pending cases is fueled by multiple factors:

- **Overburdened courts:** The number of civil cases filed each year far exceeds the judicial capacity of trial-level courts. Judges often handle hundreds of cases simultaneously, limiting the time available for each matter.
- **Procedural complexities:** The Code of Civil Procedure, while comprehensive, contains intricate procedural requirements that can slow down proceedings. Parties may exploit procedural technicalities to delay trials further.

¹⁴ Shahdeen Malik, 'Access to Justice and Legal Aid in Bangladesh' (2008) *Bangladesh Journal of Law* 1, 2–5

- **Adjournments:** Frequent adjournments, sometimes granted for legitimate reasons but often misused strategically, contribute significantly to prolonging cases.

The consequences of delays are profound. Prolonged litigation imposes financial, emotional, and social burdens on the parties, reduces public trust in the judiciary, and may force litigants to resort to informal dispute resolution mechanisms that lack legal protection. In the long term, delayed justice undermines the effectiveness of legal remedies and weakens the enforcement of contractual and property rights, which are essential for economic development and social stability.

6.2 Procedural Abuse

Procedural abuse represents another major challenge to the efficiency and credibility of civil trials. While procedural safeguards such as adjournments, injunctions, and temporary relief are intended to protect the interests of the parties, they are often misused to obstruct the progress of cases. Common forms of procedural abuse include:

- **Unnecessary adjournments:** Lawyers or parties may request repeated adjournments to delay proceedings, often without substantial justification.
- **Misuse of interim orders:** Injunctions or temporary restraining orders may be sought strategically to gain an advantage, delay enforcement, or pressure the opposing party.
- **Dilatory tactics:** Parties may file excessive applications or procedural objections to complicate or prolong the trial¹⁵.

Such practices not only slow down individual cases but also congest the courts, exacerbating the backlog and undermining the principle of timely justice. Addressing procedural abuse requires stricter judicial discretion, clear guidelines on the grant of adjournments and interim relief, and robust mechanisms to penalize intentional delays.

6.3 Infrastructure and Human Resource Constraints

¹⁵ M H Rahman (n 38) 178–182

Trial-level civil courts in Bangladesh face significant infrastructural and human resource challenges that impede the smooth administration of justice. Key issues include:

- **Shortage of judges:** There is a chronic imbalance between the number of civil cases filed and the availability of qualified judges. Many courts operate with understaffed benches, which increases the workload per judge and delays case disposal¹⁶.
- **Inadequate court facilities:** Physical infrastructure, such as courtrooms, hearing halls, and record-keeping systems, is often insufficient. Overcrowded courts, poorly maintained offices, and outdated filing systems hinder effective case management.
- **Limited technological integration:** Despite some efforts toward digitization, many courts lack modern case management systems, electronic filing platforms, and digital archives. This limits efficiency, transparency, and the ability to track case progress systematically¹⁷.

These constraints create operational bottlenecks that prolong trials and reduce the quality of judicial decision-making. Investing in human resources, modern infrastructure, and technological solutions is essential to enhance court efficiency and reduce systemic delays.

6.4 Access to Justice

Access to justice remains a critical concern, particularly for marginalized populations, rural communities, and economically disadvantaged individuals. Several factors impede equitable access to trial-level courts:

- **High litigation costs:** Legal fees, court charges, and associated expenses often make civil litigation unaffordable for low-income individuals.
- **Lack of legal awareness:** Many citizens are unaware of their rights or the proper procedures to enforce them, leading to underutilization of the courts.
- **Geographical and logistical barriers:** Residents of rural or remote areas face difficulties in reaching courts, especially when multiple hearings are required.

¹⁶ B M Bari, *Judicial Independence in Bangladesh* (UPL 2015) 241–244

¹⁷ Bangladesh Law Commission, *Judicial Reform Reports*.

- **Limited availability of legal aid:** Although legal aid services exist, they are often insufficient to meet the demand, leaving disadvantaged parties unable to secure competent representation¹⁸.

Restricted access to justice undermines the legitimacy of the judicial system and perpetuates inequality. Promoting legal awareness, expanding affordable legal aid, and simplifying procedural requirements are necessary to ensure that all citizens can exercise their right to a fair trial.

The trial-level civil judiciary in Bangladesh faces a combination of structural, procedural, and socio-economic challenges that hinder the effective delivery of justice. Delays and backlogs, procedural abuse, inadequate infrastructure, human resource shortages, and limited access to justice collectively weaken public confidence in the civil legal system.

Addressing these challenges requires a comprehensive and multi-faceted approach. Streamlining procedural rules, enhancing judicial capacity, investing in modern court infrastructure, integrating technology, and expanding access to legal aid are critical measures to improve efficiency, transparency, and fairness. Reforms must also focus on discouraging procedural abuse, reducing unnecessary adjournments, and strengthening case management practices.

A civil judiciary that is timely, efficient, and accessible not only resolves disputes effectively but also reinforces the rule of law, safeguards individual rights, and strengthens public trust in democratic institutions. By systematically addressing these challenges, Bangladesh can ensure that its trial-level civil courts fulfill their mandate as accessible and reliable forums for dispute resolution, thereby promoting justice for all.

¹⁸ Ridwanul Hoque, 'Judicial Independence and Access to Justice' (2010) 22(2) *Journal of South Asian Studies* 45, 52–55

Chapter 7

Comparative Analysis and Reform Proposals

Introduction

Civil judicial systems worldwide face the dual challenge of ensuring timely justice while maintaining procedural fairness. Bangladesh's trial-level civil courts, despite having a structured statutory and constitutional framework, continue to grapple with delays, procedural abuse, limited access to justice, and infrastructural constraints. Comparative legal analysis provides valuable insights into how other jurisdictions address similar challenges and offers models for reform that can be adapted to the Bangladeshi context.

This chapter examines the practices and innovations in selected foreign jurisdictions, including India and the United Kingdom, to identify strategies that have improved trial efficiency and reduced case backlog. Drawing on these comparative insights, the chapter proposes targeted reforms for the Bangladeshi civil judicial system, focusing on procedural amendments, alternative dispute resolution, technological integration, judicial capacity enhancement, and institutional restructuring. The aim is to identify practical, feasible, and sustainable measures to enhance the efficiency, accessibility, and fairness of civil trials in Bangladesh.

7.1 Comparative Insight

7.1.1 India

India's civil judiciary shares a common historical and procedural foundation with Bangladesh, as both inherited the Code of Civil Procedure from British India. In response to chronic delays and case backlogs, India has implemented several procedural and institutional reforms:

- **Case Management Rules:** The amendments to the CPC¹⁹ introduced comprehensive case management provisions, empowering courts to monitor the progress of cases, set timetables for pleadings, evidence, and hearings, and control interlocutory applications. These rules reduce unnecessary adjournments and help ensure time-bound disposal.

¹⁹ Code of Civil Procedure (Amendment) Act 2002 (India).

- **Alternate Dispute Resolution (ADR)²⁰:** India has institutionalized mediation and conciliation under the Legal Services Authorities Act, 1987, and through court-mandated pre-litigation mediation, which diverts suitable disputes from formal trials. ADR mechanisms help reduce court congestion while providing parties with quicker and less adversarial dispute resolution.
- **Fast-Track Courts:** Specialized courts for high-priority cases, such as commercial or property disputes, have been established to expedite adjudication and reduce pendency²¹.

7.1.2 United Kingdom

The United Kingdom has adopted a proactive approach toward judicial case management and alternative dispute resolution:

- **Active Judicial Control:** UK civil judges exercise active case management powers, including setting strict procedural timelines, limiting the number and scope of evidence, and controlling the conduct of parties. The courts can penalize parties for unnecessary delays, ensuring accountability.²²
- **ADR Emphasis:** The UK emphasizes mediation, arbitration, and negotiation, often requiring parties to attempt ADR before proceeding to full trial. The Civil Procedure Rules 1998 encourage early settlement and minimize unnecessary litigation.²³
- **Technology Integration:** UK courts have implemented extensive e-filing systems, digital document management, and virtual hearings, improving procedural efficiency and accessibility.²⁴

7.1.3 Lessons for Bangladesh

From the Indian and UK experiences, several lessons are relevant to Bangladesh:

- Empowering judges with active case management authority can reduce procedural delays and improve efficiency.
- Mandatory ADR for suitable disputes can alleviate court congestion and provide faster resolution.

²⁰ Legal Services Authorities Act 1987 (India)

²¹ Law Commission of India, *Fast Track Courts Report*.

²² Civil Procedure Rules 1998 (UK).

²³ Lord Woolf, *Access to Justice* (Final Report, 1996).

²⁴ HM Courts & Tribunals Service, *Digital Courts Programme*.

- Technology-driven reforms, including e-filing, online hearings, and digital case tracking, enhance transparency, reduce administrative burdens, and improve access to justice.
- Specialized or fast-track courts can be introduced for commercial, property, and high-volume civil cases to ensure timely disposal.

7.2 Reform Proposals for Bangladesh

Based on comparative insights and the specific challenges faced by trial-level civil courts in Bangladesh, the following reforms are recommended:

7.2.1 Amend the Code of Civil Procedure for Time-Bound Trials

The CPC should be amended to incorporate strict timelines for each stage of civil proceedings, including pleadings, framing of issues, evidence, and judgment. Time-bound procedures, combined with enforceable penalties for unjustified delays, can significantly reduce pendency and improve judicial efficiency.

7.2.2 Introduce Mandatory Mediation and ADR

Courts should require parties to engage in court-referred mediation or other ADR mechanisms before proceeding to full trial, except in cases where interim relief is critical. Establishing a formal ADR framework within civil courts can reduce case loads, provide faster dispute resolution, and encourage amicable settlements.

7.2.3 Strengthen Case Management Powers of Judges

Judges should be empowered to actively manage cases, including setting procedural timelines, limiting interlocutory applications, controlling evidence presentation, and monitoring compliance with court orders. Effective case management discourages procedural abuse and ensures focused, efficient hearings.

7.2.4 Digitize Court Processes

The integration of technology is essential for modernizing trial-level civil courts. Measures should include:

- E-filing of complaints, written statements, and other pleadings
- Digital case management systems to monitor pendency and progress
- Virtual hearings to reduce the burden of travel and improve accessibility
- Online publication of judgments and decrees for transparency

7.2.5 Increase the Strength of Trial Courts

Addressing the shortage of judges is critical to reducing backlog. This may include:

- Recruiting additional judges proportionate to case volume
- Establishing specialized courts for commercial, property, and high-volume civil disputes
- Enhancing training programs to improve judicial capacity and procedural competence

7.2.6 Additional Measures

Beyond the primary proposals, further reforms may include:

- Revising procedural rules to simplify complex processes and reduce technical objections
- Strengthening legal aid and pro bono services to ensure equitable access to justice
- Implementing public awareness campaigns about judicial processes and ADR options
- Encouraging performance audits and accountability measures within trial courts

Comparative analysis demonstrates that civil judicial systems worldwide have adopted proactive case management, alternative dispute resolution, and technological integration to address delays, inefficiency, and access barriers. Bangladesh's trial-level civil courts can draw on these experiences to implement context-specific reforms that improve efficiency, fairness, and accessibility.

By amending the CPC for time-bound procedures, mandating ADR, empowering judges with case management authority, digitizing court processes, and increasing judicial capacity, Bangladesh can modernize its civil judiciary while preserving the principles of justice and procedural fairness. These reforms, if implemented holistically, have the potential to reduce case backlog, enhance public confidence, and ensure that the civil courts effectively fulfill their constitutional and statutory mandate. Ultimately, a reformed and responsive trial judiciary will not only deliver timely justice but also reinforce the rule of law and the equitable resolution of civil disputes in Bangladesh.

Chapter 8

Conclusion

The civil judicial system of Bangladesh, particularly at the trial level, constitutes the foundational pillar of civil justice delivery and plays a decisive role in safeguarding private rights, enforcing legal obligations, and maintaining social order under the rule of law. This monograph has undertaken a comprehensive examination of the structure, jurisdiction, and functioning of trial-level civil courts, situating them within their historical, constitutional, and statutory contexts. Through doctrinal analysis and critical evaluation, the study has demonstrated that while the legal framework governing civil justice in Bangladesh is robust in theory, significant challenges persist in its practical implementation.

The historical evolution of the civil judicial system reveals a continuity of legal traditions from the Hindu and Muslim periods through the colonial era and into the constitutional framework of independent Bangladesh. This historical inheritance has shaped the present-day civil courts, particularly through statutes such as the Civil Courts Act, 1887 and the Code of Civil Procedure, 1908. Although colonial in origin, these laws have been adapted to constitutional principles, especially judicial independence, separation of powers, and access to justice. The Constitution of the People's Republic of Bangladesh, through Articles 94 to 116A, provides a firm constitutional foundation for an independent judiciary, while recent institutional developments such as the establishment of the Supreme Court Secretariat have strengthened administrative autonomy and judicial control over subordinate courts.

At the structural level, the hierarchy of trial-level civil courts—ranging from Civil Judges to District Judges—reflects a rational distribution of jurisdiction based on pecuniary value, subject-matter competence, and territorial limits. This structure, reinforced by Section 15 of the Code of Civil Procedure, ensures decentralization of litigation and promotes accessibility for litigants. Trial courts, as courts of first instance, carry the primary responsibility of fact-finding, evidence evaluation, and determination of civil rights. Consequently, their effectiveness directly influences the credibility and legitimacy of the entire civil justice system.

Jurisdiction has emerged as a central theme of this study. Territorial, pecuniary, and subject-matter jurisdiction, along with the doctrine of implied bar, collectively define the lawful authority of civil courts. Judicial precedents consistently affirm that jurisdiction is not a mere procedural technicality but a substantive legal requirement, without which judicial action is void. Proper allocation and exercise of jurisdiction prevent forum shopping, ensure procedural order, and uphold legislative intent. However, jurisdictional complexities and overlapping forums occasionally create confusion, underscoring the need for clearer statutory guidance and judicial consistency.

The analysis of trial procedure demonstrates that the Code of Civil Procedure, 1908 and the Evidence Act, 1872 provide a comprehensive and systematic framework for civil adjudication. From the institution of suits and framing of issues to evidence, hearing, and judgment, procedural law aims to ensure fairness, transparency, and predictability. Yet, procedural efficiency remains undermined by excessive delays, frequent adjournments, and misuse of interim remedies. These procedural weaknesses dilute the effectiveness of substantive rights and erode public confidence in civil courts.

The study has identified several structural and systemic challenges confronting trial-level civil courts, including chronic case backlog, procedural abuse, shortage of judges, inadequate infrastructure, limited technological integration, and restricted access to justice for marginalized populations. These challenges are not merely administrative shortcomings but fundamental obstacles to the realization of timely and effective justice. Delayed justice disproportionately affects economically vulnerable litigants, increases litigation costs, and, in some cases, renders judicial remedies meaningless.

Comparative analysis with jurisdictions such as India and the United Kingdom illustrates that these challenges are neither unique nor insurmountable. Reforms such as active judicial case management, time-bound trials, mandatory alternative dispute resolution, technological modernization, and judicial capacity enhancement have proven effective in reducing delays and improving efficiency. Drawing on these comparative experiences, this monograph has proposed targeted reforms tailored to the Bangladeshi context, including amendments to the Code of Civil Procedure,

institutionalization of mediation, digitization of court processes, expansion of judicial strength, and strengthening of legal aid mechanisms.

In conclusion, the trial-level civil judiciary of Bangladesh stands at a critical juncture. While the constitutional and statutory framework provides a solid foundation for independent and effective civil justice, systemic inefficiencies hinder its full potential. Strengthening trial courts through procedural reform, institutional modernization, and capacity building is essential not only for reducing backlog but also for restoring public trust in the judiciary. A responsive, efficient, and accessible civil judiciary is indispensable for the protection of rights, the enforcement of contracts and property interests, and the overall stability of democratic governance.

Ultimately, the effectiveness of the civil judicial system must be measured not solely by the existence of laws and courts, but by the ability of ordinary citizens to obtain timely, fair, and enforceable justice. Reforming and empowering trial-level civil courts is therefore not merely an administrative necessity but a constitutional imperative. By implementing coherent and sustained reforms, Bangladesh can ensure that its civil judiciary fulfills its role as a true guardian of justice, equity, and the rule of law.

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