



# CASE MANAGEMENT AS AN APPROACH TO IMPROVE JUDICIAL SYSTEM



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## Key Messages

- Much judicial and legal work relates to economic transactions which are increasingly becoming more complex.
- Contract enforcement for these transactions requires effective and rapid judicial review for the resources to put to best use.
- Dr. Nadeem started the debate that economics recognizes that without good institutions we can't go anywhere; we can have all the money in the world, we can borrow whatever we like, but ultimately it's our institutions that determine our economic performance and where we are going.
- After highlighting the problems of court and judicial laws Dr. Nadeem highlighted the overall problems in the country like weak institutions, flawed democracy over-regulated markets, election, tenure, and voting laws, aversion to merit, competence of the civil services, mismanaged energy sector, and so on

- Then Dr. Nadeem came back to the actual agenda and stated that every institution is important but one institution that is peculiarly important everywhere in the world is the judiciary.
- The law is administered through courts. In Pakistan, law is inconsistent, complicated, and over-regulated which hinders the ability of the judiciary to interpret it.
- For a long time economists have been talking about the rule of law declining as the law becomes confused, lawyers proliferate, so it is no surprise law is the leading profession in Pakistan.
- The reason being is the huge number of cases in courts, they get stuck there because the number of laws keeps multiplying, and hence it becomes the best profession in Pakistan.
- The quality of institutions is declining due to the poor state of dispute resolution.
- In Pakistan, judicial processes are slow and often unaware of the economic consequences of their decisions.
- Dr. Nadeem gave examples of two countries, Poland and Ukraine. Poland has better institutions and has more engineers than lawyers, while Ukraine which has bad institutions has more lawyers than engineers.
- We cannot grow if our investments do not grow. The investment to GDP ratio in Pakistan is around 15% and decreasing, so if a law court system doesn't improve, investment will remain stunted, and we will not grow.
- Pakistan has a long history of loan programs through which the IMF and donors are in control and we are stuck in crises in a craggy landscape because of the fluttering mess that has been created through weak or say no institutions. We have been on dollar crutches since 1950 because of the institutional mess.
- The first speaker for the webinar, Dr. Osama stated that 95 percent of our court's attention is focused on the meta-constitutional and high-profile political cases and there is hardly any conversation about everyday cases in courts. We are operating in the 21st century with a 19th-century system.
- The problems in the judicial system are the result of an absence of an effective case-flow management system, which is an idea and set of culture and a specific set of prescription which seems to have worked all around the world.
- Case-flow management means that if there is a problem it doesn't necessarily mean that it should end up in court. Pre-trial communication should be made between both parties, to explore any possibility of resolving the case before it ends up in court. Second, if a case is filed and it is a serious matter, the system should determine the time frame of the case and strict penalties should be introduced if any case deadline is violated.

- It also involves hard administrative support, pre-trial conferences where the judge meets both parties to evaluate the case, and refers the case to the concerned or expert judge so that the decision can be heard on time.
- Moreover, the docket system and case track system should be used to monitor the speed of the case, reducing the load burden on judges will shift the low pace case to fast pace case, and eventually, the load on courts will reduce.
- On a visit to the Lahore High Court, Dr. Osama became aware of the fact that the Pakistan court system has already developed a case-flow management system. Unfortunately, there is virtually no awareness or use of the system, and it does not appear to be working.
- Drafted rules for the case-flow management haven't been notified and we have not still come to actual realization about the gravity of the situation. One of the main reasons for this is the entire discussion around the courts is so nuanced.
- Dr. Nadeem concluded that we absolutely need to bring in a modern management system to the court.
- Dr. Waqas described the effects of the existing (old-school) laws that prevail in the judicial system. It makes life really difficult for the clients and lawyers, in which cases are pending for years and years.
- As there is no pre-case scheduling, one feels obligated not to complain about any delay for fear of upsetting the judge who will the case.
- Also, the people are not in the position to file a case because the entire system runs on a faulty management system as no one in the system can tell about the time required for resolving the case.
- The recommendations proposed in the case management report are hard to implement because strong push back is expected from the bar given that there is an entire economy that hinges on delaying proceedings.
- All these problems and issues also deter foreign clients from picking Pakistan as an arbitration venue.
- Dr. Osama further added in the debate that the government can help the judiciary system because it has more experience. They can have a data-sharing arrangements and joint communication systems.
- The judiciary needs to hire administrative professionals through a competitive process because judges are overburdened.
- To handle the pushback mentioned by Dr. Waqas, one way forward was not to ruffle feathers at the start and not take too many people.
- The discussion from the floor highlighted that Punjab has notified and implemented a modern case management system, but the system suffers from discontinuity across changes in judicial

leadership, lack of training of staff, and unwillingness to commit to a reform process that will take considerable time.

The debate concluded with the suggestion that if we want to change the judiciary system we have to bring in a new management system and reduce the load on judges. ICT can play a role in helping identify whether a case is legit or is it frivolous or mischievous, as well as in case tracking, pace, and docket management.



[www.youtube.com/watch?v=vS50A\\_za86Y&feature=emb\\_logo](http://www.youtube.com/watch?v=vS50A_za86Y&feature=emb_logo)

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