

COURT DECORUM:

JUDICIAL CONTROL OVER PROCEEDINGS

Beenish Ismail Syed

April, 2026

ABSRACT

Traditional litigation was often stymied by delays and backlogs. It was generally party driven with the role of a judge as a neutral umpire. In contemporary legal landscape, litigation explosion has necessitated prompt and cost- effective resolutions. Thus, it evolved a proactive role of a judge with a focus on case management protocols and performance metrics. This transition has triggered cynicism. It is contended by proponents that in modern massive litigation regime, active judicial management only can steer the dockets effectively. On the other side, critics argue that judicial oversight may compromise the fundamental right to a fair trial. This paper seeks to harmonize the divergent accounts by considering academic debates, analyzing relevant legal framework and examining case law on the subject. It concludes that while judicial control can contribute to smoother judicial operations and expeditious justice, there is a strong need for safeguards to protect the stakeholders from unfettered discretion and to ensure that justice is not compromised in pursuit of efficiency.

1.INTRODUCTION

Judicial control is a salient yet contested jurisprudential domain. Judicial discipline demonstrates universal doctrine, but its reinforcement varies in various jurisdictions depending upon the adjudicative model. In inquisitorial (Civil law) system as in France, Germany, Italy, the courts take a more active role in controlling the legal process. On the other hand, countries like the US, UK, Canada, India, and Pakistan, with a common law (adversarial) system, adopt a more reactive approach to judicial control, where the parties involved in a case drive the process and previous court decisions are binding. Nevertheless, modern litigation explosion has necessitated transition towards managerial judging, from a passive arbiter model. Due to recent surge in lawsuits, case management system has been adopted by many countries such as the United States, United Kingdom and Australia to manage docket congestion. This shift has escalated a new debate. Supporters contend that judges should take a more active role in managing cases to counter the rising caseload, however, opponents apprehend that managerial assertiveness might prejudice the fair trial principles.

This paper aims to address and resolve the inconsistencies by exploring theoretical and practical perspectives and global benchmarks.

2.LITERATURE REVIEW

Judicial control is a nuanced concept with many facets. Case management system is an effective management of a case by a judge so as to achieve a prompt resolution. This involves early identification of issues, establishment of a calendar for case and looking into alternative ways to resolve disputes. Judicial decisions are enforced through contempt and other inherent powers. Administration of justice takes the form of case and court management. Court management though interconnected with case management essentially involves stakeholders. Case management is the focus of this research paper.

2.1. RESEARCH METHODOLOGY AND RESEARCH QUESTIONS

This is a doctrinal study employing a qualitative approach to find out the answers to the following questions:

- What is the impact of judicial control over modern litigation in the backdrop of global shift from traditional party-led dynamics to proactive judicial oversight?
- How to navigate the competing mandates of expeditious justice and fair trial rights?

3. DECORUM AND JUDICIAL CONTROL

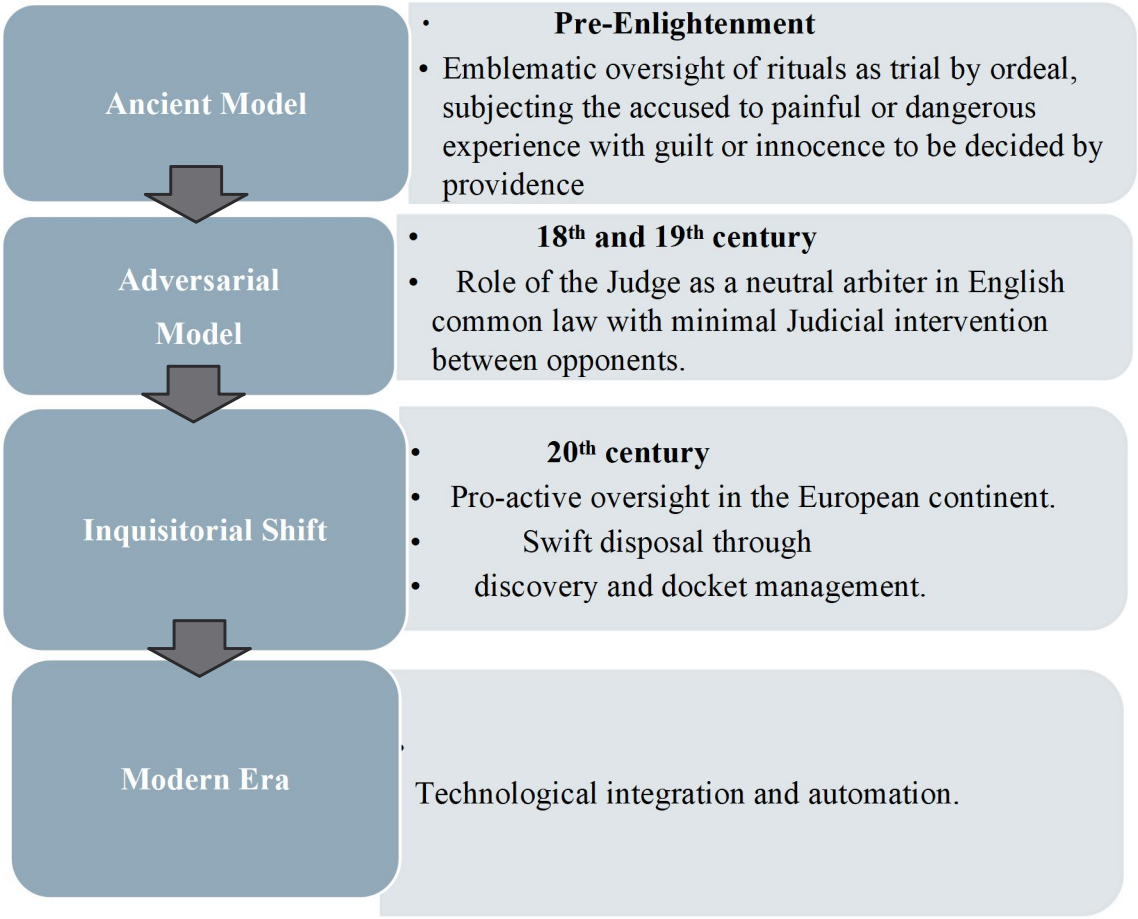
Decorum originates from the Latin word *decōrum*, meaning "proper, becoming, or handsome". It is derived from *decōrus* (suitable), which comes from *decus* (grace, beauty) and *decor*. It first appeared in England in the mid-1500s, originally referring to propriety in literary style and later, behavior[1].Correct or proper behavior that shows respect and good manners[2].Fitness or socially accepted behavior.[3]Behavior that is controlled, calm, and polite.[4]According to the *Britannica Dictionary*, court decorum refers to the "proper behavior in a courtroom."[5]

Decorum postulates etiquette and Judicial control refers to efficiency and docket management. In theory and practice, decorum and Judicial control are indispensable. Without decorum, control is seen as autocracy; without control, decorum is merely a ritual.

---

[1] https://www.britannica.com/dictionary/decorum
[2] https://www.britannica.com/dictionary/decorum
[3] https://www.merriam-webster.com/dictionary/decorum
[4] https://dictionary.cambridge.org/dictionary/english/decorum
[5] https://www.britannica.com/dictionary/decorum

4. EVOLUTION OF JUDICIAL MANDATE





5. PARADIGM SHIFT TO MODERN MANAGERIAL SYSTEM

HISRORICAL OVERVIEW

Conventionally, a "laissez-faire" approach was commonly adopted by many jurisdictions, with the litigation driven entirely by the parties involved. This passive approach often led to systemic delays and inefficiency.

“However, after 1930 the concept of a Judge-led system emerged in the Anglo-American jurisdictions and took the form of “case management”. Thus, the notion of “process direction” developed within the continental Europe.Likewise, the managerial judging was originated in the United States. The German expression “Prozessleitung des Richters” (Judge’s procedural management) and its analogues in the Roman languages were preferred. This took the form “dirección judicial del proceso” (Judicial direction of the process) in Spanish, “direzione delproceso” (process direction) in Italian, “direction (or maîtrise) du procès” (process control) in French, and finally “Gerenciamiento, conducao, direccao”(management, conduct, directon) in Portuguese.”(Rangone, A, Perez (2019): An Approach to Case Management from the Horizontal and Vertical Structure of Court Systems). In Australia, India and Pakistan, the system configured American “case management” as in UK.

6. JUDICIAL CONTROL AND COURT DECORUM: A COMPARATIVE ANALYSIS OF LEGAL FRAMEWORKS AND PRECEDENTS

6.1. INTERNATIONAL PARAMETERS

- **Bangalore Principles of Judicial Conduct (2002):**
  Bangalore principles mandate proactive judicial oversight and high standards of judicial conduct.

- **UN Basic Principles on the Independence of the Judiciary (1985):** Independence of Judiciary shall be guaranteed by the State and enshrined in the Constitution.

- **International Covenant on Civil and Political Rights (ICCPR):** Article14 of ICCPR guarantees a fair and public hearing by a competent, independent, and impartial tribunal established by law.

6.2. CASE MANAGEMENT LEGAL FRAMEWORK IN GLOBAL JURISDICTIONS

Case management systems are codified by many jurisdictions across the globe.



6.2.1. UNITED STATES

Case management system was codified in US in 1938 through Rule 16 of the Federal Rules of Civil Procedure. It empowers judges to ensure that litigation is speedy and efficient through pretrial and scheduling conferences besides facilitation of settlement. Conceived by Maureen Solomon's Individual Docket System, a Judge owns a case from filing to disposition, allowing for *sua sponte* dismissal and stay of proceedings to manage dockets. In 2015, amendments were made to incorporate proportionality principle to scale costs and the claim to make litigation cost effective. The judicial control is also manifested through "Inherent Powers" doctrine.

Maureen Solomon, a pioneer American consultant, introduced Individual Docket System and Case flow Management in 1970s. Solomon's doctrine served as the bedrock of Modern judicial landscape.

Case Law

- *Landis v. North American Co. (1936)*
  It affirmed that court can manage its calendar by granting a stay and the power to stay proceedings is incidental to the power inherent in every court to control the disposition of the causes on its docket.
- *Link v. Wabash Railroad Co. (1962)*
  On August 24,1954 William Link sued Wabash Railroad Co sued for damages over injuries he received when his car ran into a train at a crossing. After six years, pretrial hearing was fixed on 12th Oct,1962. Court dismissed the case, sua sponte (on its own motion) due to plaintiff's lawyer failure to appear at the pretrial conference. The United States Court of Appeal affirmed the decision.

6.2.2. UNITED KINGDOM

In UK, Woolf Reforms of 1999 introduced the "Overriding Objective" (CPR) to enable the court to deal with the cases justly and at proportionate cost. Lord Woolf's core philosophy supported the judge led proceedings. Court incorporated a three-track system (Small, Fast, and Multi-track) based on the value of the claim. Following the Jackson Reforms and cases like *Denton v TH White Ltd*, the UK has adopted a strict procedural discipline by imposing harsh sanctions for non-compliance of court schedules. Superior courts also possess an inherent power to prevent abuse of process.



6.2.3. AUSTRALIA

In Australia, superior courts possess inherent jurisdiction to prevent the abuse of process. Drawing from Maureen Solomon's 1970s "Individual Docket System" Federal Court of Australia Act, 1976 mandates the court to facilitate a just resolution. Australian law provides for

an "Overriding Purpose" through Civil Procedure Act, 2005 to facilitate “just, quick and cheap resolution” of disputes.

Case Law

Aon Risk Services Australia Ltd v Australian National University (2009): The High Court declared that parties did not have an absolute right to amend their pleadings at any stage and Judges were empowered to refuse late amendments keeping in view concerns of case management. This judgement overturned an earlier case decision *in Queensland vs JL Holdings Pty Ltd*.

6.2.4. CANADA

In Canada, case management is governed by federal (Federal Court Rules) and provincial rules. These rules ensure the just, expeditious and least expensive resolutions. Since, Supreme Court’s landmark decision in *Hryniak n Mauldin (2004)*, proportionality principle has been introduced. This principle ensures that litigation cost is congruent with the complexity and value of the dispute.

6.2.5. INDIA

Under section 151 of CPC and section 482 of Cr.PC the courts possess inherent powers.

Commercial Courts Act, 2015 introduced Order XV-A to CPC for commercial disputes and shifted control to the judge, prescribing rigid statutory deadlines.

Case Flow Management Rules (2005) specify timelines for case disposal to shift control of the case from lawyers/litigants to the court. These rules were adopted pursuant to Supreme Court’s judgement in *Salem Advocate Bar Association vs Union of India (2005).* The judgement is revered for endorsing case flow management in the Indian Judiciary for speedy and efficient justice. It validated the constitutional amendments of 2002. Under these rules, classification of cases in fast, normal or complex tracks, is introduced based on the subject matter or complexity of claim. These rules further provide for time-bound stages and adjournment control. ADR referral is mandatory under section 89-A of CPC.

6.2.6. PAKISTAN



The state is obligated to provide “expeditious and inexpensive” justice under Article 37(d) of the Constitution of Pakistan. As such, the domestic legal framework prioritizes an active case management strategy with judge as a proactive manager over a simple disposal-oriented policy.

Constitutional and Statutory Mandate

- **Constitutional Domain:** Supreme and High Courts have got the powers to punish contemptuous designs under Article 204 of the 1973 Constitution.
- **Contempt of Court Ordinance, 2003:** This act categorizes contempt in three categories. Civil contempt addresses willful flouting of court orders, criminal contempt punishes the obstruction of administration of justice, and judicial contempt penalizes the scandalization of the court.
- **Code of Civil Procedure, 1908:** Section 151 provides for inherent powers for the ends of justice. Order XVII restricts adjournments. Orders IX-A and XV-A read with order X, XI. XII. and XIII formally incorporated active case management through KPK CPC Management Rules, 2018 and KPK CPC (Amendment) Act, 2020 and order IX -A, IX- B with amendments in order XI and XII in Punjab.
- **Code of Criminal Procedure, 1898:** Section 480 prescribes procedure for taking cognizance and punishment for contemptuous acts.
- **Family Courts Act, 1964:** Judge's role as a mediator is provided in the Act through mandatory reconciliation attempts both at the pretrial and post-trial stages
- **The Qanun-e-Shahadat Order, 1984**
- **Admissibility:** Under Articles 18 and 19, A judge has to allow only admissible and relevant evidence. Article 161 enunciates judge's power to put any question at any time to obtain proper proof.
- **Examination of witnesses:** The court dictates the order and admissibility of witness examination under Article 130-131 and has the power regulate cross-examination and to forbid scandalous or offensive questions under Articles 143 to 148**.** The judge has got discretion over leading questions under Articles 136 to138.

Case Law

- **Imran Khan vs Shahbaz sharif (2023 SCMR 636):** It was held that "toothless court is the worst form of injustice" reaffirming that "a radical approach to tackle the problem of delay in litigation process is by court-controlled case management system which should ensure that once a litigant has entered the litigation process, his case proceeds in accordance with a time table prescribed by rules of the court".
- **Farooq Hussain vs Sheikh Aftab (PLD 2020 SC 617):** It was held that" nothing is cast in stone. Old practices evolve with changing times. Burgeoning population and the rapid increase in litigation requires imaginative solutions. Courts all over the world have moved on to efficient time and case management techniques."



- **Muhammad Arshad vs The State (PLD 2011 SC 350):** It was held that "Presiding officers of the courts to note that their job is not to sit as silent spectators' watching about being played before them. It is, in the final analysis their duty to regulate and control the proceedings in their courts".

7. JUDICIAL OVERSIGHT AND FAIR TRIAL

A fair trial is a fundamental human right as provided in the Sixth Amendment in the US, Article 6 of the ECHR, and Article 10-A of Pakistan's Constitution,1973. Its tenets include rights to a defense, an audience, and an impartial tribunal.

The introduction of vigorous case management has prompted resistance, particularly among American academics. Professor Resnik questioned its effectiveness 38 years ago.[6] Others worry that the latitude managerial judges have, gives them too much unconstrained power.[7]

Managerial judge's drive for expedited disposal often clashes with the adjudicatory judge's aim to ensure a fair hearing. "Justice delayed is justice denied" but at the same time maxim "Justice hurried is justice buried" holds field. Case management system focuses on proportionality of cost to claim but fair trial ensures universal justiciability that every legal issue can be tried in court, irrespective of the complexity of the subject matter. Fair trial principle vouchsafes evidentiary latitude for holistic fact finding but the evidentiary scope is curtailed in case management to expedite proceedings.

Case management is confronted on the score that it can compromise a fair trial in many ways: a judge might form an opinion before recording of evidence; a self-represented party might not be able to follow strict schedules; judicial boost of ADR mechanisms is seen as a denial of the right to a fair trial.

A comparison has to be drawn between efficiency and effectiveness, as the first views the civil justice system as a whole with a focus on flow of cases and the backlogs clearance, while the procedural economy focuses on the resolution of a case in a most cost-efficient way. The management of justice thus leads to a clash between a market logic (systemic throughput) and a logic of human rights (individual due process). In other words, the flow is to be managed without breaching the guarantees of a fair trial.

As Professor Caponi remarks, "if one maintained that judicial protection of rights and efficiency are incompatible, one would be bound to believe that individuals do not care about judicial



[6] Resnik, J (1982) Managerial Judges, RAND, The Institute for Civil Justice
[7] Marcus, R (2017) Controlling the Cowboy Lawyers: How American Judges are Managing American Cases. National Report USA

protection of rights".[8] Judicial "managerial" theories must assure that proportionality will be considered on case-by-case basis, according to constitutional standards. The subject is part of the connection between constitutional and procedural law. Constitutional limitations certainly apply in the sub-constitutional law sphere (statutes or common law)[9]. Case management induced limitations on fundamental rights to participate in a proceeding could thus be challenged. The constitutionality of the entire case and court management could be tested within the framework of the rule of law from the perspective of limiting fundamental rights.[10]

In Modern jurisprudence, case management is an indispensable corollary of due process. The argument is that a trial cannot be "fair" if it is delayed or expensive. If a case takes a decade to resolve, the fairness of the process is moot. Managerial judging, ensures that the case management corresponds to the complexity and value of the case.

Modern case management serves as an attribute of due process by balancing economic efficiency and proportionality with constitutional protections for a fair trial. Consequently, the legitimacy of managerial judging rests on a case-by-case calibration that ensures performance metrics do not dilute fundamental procedural rights. Efficiency is achieved through the protection of systematic rights.

8. CASE MANAGEMENT ACROSS INTERNATIONAL JURISDICTIONS:

SUCCUSS OR FAILURE

In US and Australia Case management system is considered as a success as it realizes docket rationalization. The underpinning factors and catalysts are digitized framework and statutory mandate with stringent enforcement. Pendency crisis in India serves as a red flag. This setback is attributable to systematic lapses, decrepit infrastructure and traditional systems. Pakistan observes docket contraction, however, resource constrained infrastructure and resistance to change lawyer-led system fetters right to a remedy. Despite statistical inversion of the pendency curve, the district judiciary continues to face an influx of cases and high litigation costs according to the reports of Law and Justice Commission of Pakistan. While superior courts are achieving backlog attrition, district courts often struggle to maintain a 1:1 ratio. Ultimately, Pakistan's low global standing on the 2025 Rule of Law Index (130th out of 143 countries) highlights a critical gap between backlog attrition and ensuring substantive justice across all judicial tiers.

---

[8] Caponi, R (2016) European Minimum Standards for Courts. Independence, Specialization, Efficiency. A Glance from Italy

[9] Ferresres Comella, V (2009) Constitutional Courts and Democratic Values: A European Perspective.

[10] Emiliou Nicholus (1998) The Principle of Proportionality in European Law: A comparative Study. Kluwer, London

9. PERSISTENT CHALLENGES

- **Inept Handling of Case Management**: Deep-seated cultural resistance to transition away from lawyer-led dynamics, traditional systems and lack of proactive judicial oversight hinders swift disposal of cases.
- **Logistic Impediments**: Infrastructure deficiency with courts housed in overcrowded buildings lacking basic amenities contributes towards delay. In KP only few districts have Judicial complexes. Many districts still encounter logistical impediments. Limited funding and infrastructural shortfalls impede performance.
- **Judicial Vacancies:** Shortage of Judges lead to disproportionate case to judge ratio which exacerbates delay.
- **Failure to Comply Court Orders and Deadlines**: Timelines provided for a case at case management conference including deadlines for filing a defence, disclosure of relevant documents or exchanging witnesses statements are not followed. This failure brings a case to halt.
- **Malpractices by Staff:** Involvement of support staff in corruption and malpractices hampers case flow. Common instances include bribes for date fixation, summons delay and record tempering.

- **Litigation Delays**: Statutory disposal timelines are not followed. Similarly, the time frame provided for each stage of case as for instance written statement is often ignored.

- **Adjudicative Quality:** As the evaluation criterion focuses on quantitative disposal ratios, quality of judgement is often compromised.

- **Case Listings:** Listing a number of cases in the cause list, to be heard by the court, however, not even half of them get heard and most of the cases are adjourned without any substantial proceedings**.**
- **Lack of Oversight:** Inconsistent data monitoring and lack of oversight in case flow management leads to systematic failure in the identification and mitigation of backlogs.
- **Frequent Adjournments:** Courts are passive and grant easy adjournments. Pendency crisis exacerbates due to postponement culture.
- **Technological Stagnation**: Case records remain largely paper based. Although few districts have introduced online portals and virtual courts, most districts lack comprehensive digital systems. Outdated systems and connectivity issues in many areas besides technological gap with global standards are persistent challenges.

10. RECOMMENDATIONS



A perfect theoretical framework is in place but we are lagging behind in practical implementation. Efficacy requires unwavering institutional commitment to enforce scheduling timelines and docket management.

Strategic and Administrative Reforms

- **Proactive Judicial Approach:** Effective court and case management, case prioritization, manageable cause list, adjournment restrictions through costs besides checking frivolous litigation is necessitated.

- **Skill-Based Training**: Judicial training aimed to foster practical skills in courtroom decorum and proactive case management for judges, staff, and lawyers is suggested.

- **E-Processing:** According to the Rule of Law Index by World Bank and UNDP, 40 percent of the cases are stuck in attendance stage due to failure of manual process serving. Introducing E-Processing across all the districts is thus required.

- **Capacity Enhancement of Staff:** Staff should be equipped with specialized skills in the field of IT. Regular capacity building of staff through regular trainings at the local level and also at Judicial academies is mandatory.

- **Court Annexed Alternative Dispute Resolution (ADR):** Creation of ADR centers annexed to the courts for quick resolution of disputes with clear referral procedures as ADR mechanisms deliver more effective results.

- **Following Statutory Timelines:** Courts are required to ensure observance of statutory time lines and scheduling orders through imposition of costs and invoking penal provisions.

- **NJPMC Disposal Targets**: Mandatory timelines have been set by The National Judicial Policy Making Committee (NJPMC) for various categories of cases, including 6 months for family suits and 12 to 24 months for land disputes. Regular follow up will help in workload attenuation.

Technological Integration and Automation

- **E-Courts**: Implementing comprehensive E-Court systems across all the courts, including e institution, evidence recording and hearings.

- **Digital Dashboards and AI:** Digital integration and monitoring case status through digital checklists and cause lists with case categorization. Additionally, Artificial intelligence is recommended for assistance in legal research, drafting case summaries and case scheduling.



- **Digital Evidence:** In modern judicial landscape, integrate forensic and digital evidence management tools into the court processes.
- **Lawyers database**: Creation of integrated lawyers' database for facilitation in trial scheduling.

Accountability

- **Performance Monitoring:** Performance monitoring must ensure both qualitative and quantitative assessments and not mere disposal figures. This involves tracking performance indicators, such as:
  - **The Disposal-to-Institution Ratio:** That is percentage of disposal as against institution.
  - **Structured Evaluation:** Case scheduling mechanisms be included as a performance indicator.
- **Incentives and Accountability:** Rationalization of incentives to reward good judicial performance and adoption of case management techniques is recommended. It may include certification and international training. At the same time, judges should be held accountable for failure to meet targets. It may include withholding of increments, training for professional development and adverse notions in dossiers.
- **Transparency:** Transparency is to be ensured by creating a no tolerance regime for corruption. Proven misconduct must ensue major penalties rather than minor penalties or censures.

11. CONCLUSION

Modern legal regime has transitioned from a passive umpire model to an active managerial framework but this shift has stirred a new debate. Though managerial system is lauded for docket fluidity and reduced costs but the critics argue the potential risks of compromising procedural fairness. Borrowing from US, many jurisdictions have codified doctrine of case management to improve efficiency. Indubitably, managerial oversight can manage modern dockets by augmenting case disposal ratios. However, it is crucial to ensure that the focus on efficiency does not lead to unfair trial. International standards emphasize the importance of balancing efficiency with fairness. The courts have to follow principle of proportionality from case-to-case basis to balance efficiency against prejudice to either party. The goal is to ensure that justice is served. Ultimately, the justice system must prioritize fairness and transparency over convenience.



"The pursuit of efficiency shall not be detrimental to the right of access to court and the effective protection of rights" Caponi (2010)

REFERENCES

- Rangone, A, Perez (2019): An Approach to Case Management from the Horizontal and Vertical Structure of Court Systems
- Kassar, G, R& Kusar, S& Laghari, A, R (2024): Evolving Case Management Systems: Technological and Administrative Reforms to Address Judicial Delays in Pakistan, *Annals of Human and Social Sciences (AHSS), July-September, 2024 Vol 5, Issue 3*
- Abbas, S& Mahmood, T & Kasuri, M, R (2024): Adversarial and Inquisitorial; Two Rival Models of Criminal Procedure and Theory of Convergence: An Appraisal; Journal of Law Social Studies, vol 6, Issue 1, pp73-84
- Lyons, A: Recasting the landscape of interlocutory Applications: Aon Risk Services Australia Ltd vs Australian National University; Sydney Law Review (Vol 32-549)
- Qanoon e Shahadat Order,1984
- Constitution of Pakistan,1973
- Code of Criminal procdure,1898
- Code of Civil Procedure,1908 by M.Mehmood, Vol I and II, Al Qanoon Publishers
- www.pakistanlawsite.com
- Bi-Annual and Annual Judicial statistics Reports: Law and Justice Commission of Pakistan
  www.ljcp.gov.pk

