



Case Management System in the High Court of Tanzania: An Empirical Exposition of the Missing Elements

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ACADEMIC ARTICLE



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ABSTRACT

This article examines the effectiveness of the Case Management System (CMS) in the High Court of Tanzania, with a focus on its essential elements. It utilizes both documentary review and empirical research, gathering data through semi-structured interviews with Justices of the Court of Appeal, Judges of the High Court, Registrars and Deputy Registrars, State Attorneys, and Senior Advocates. Despite the implementation of legal and administrative measures by the High Court to ensure the timely dispensation of justice, the High Court has, on average, disposed of less than 60% of all the cases processed in the past four years. Such rates led to case delays and backlogs. This article examined the existence of essential elements of CMS in the applied system. The analysis indicated that scrutinization or early screening, scheduling of time and events, and supervision or control over proceedings are the essential elements for an effective CMS. Additionally, the applied CMS partly contains such essential elements. Although in practice all the CMS elements are missing to a varying frequency, the supervision or control over the proceedings element of CMS is the most important missing element. This empirical exposition is indicative of the possibility that case delays and backlogs in the High Court result from a lack of this specific element.

KEYWORDS:

Case Management System and Timely Justice Dispensation; Scrutinization, Scheduling of Time and Events, and Control Over Proceedings; Missing Element; Cause of Delay; High Court of Tanzania

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The United Republic of Tanzania (URT) is a union state made up of mainland Tanzania and Zanzibar with two governments one for Zanzibar and one for the union.¹ It follows that some national issues fall within the purview of the government of URT and are referred to as union matters,² while matters concerning Zanzibar or mainland Tanzania exclusively are referred to as non-union matters.³ The Judiciary of Tanzania (the Judiciary) is a mix of union and non-union matters. In both instances, it is the arm of the government that has the final authority to dispense justice in the URT.⁴ In its structure, the Judiciary has the Court of Appeal of the URT (Court of Appeal) as its apex court.⁵ Courts subordinate to the Court of Appeal constitute the non-union matter part of the Judiciary. Such courts hierarchically include: the High Court of the URT (hereinafter the High Court or the Court), the Resident Magistrate's Courts, the District Courts and the Primary Courts.⁶ For this article, the discussion focuses on the High Court and delves into the court's constitutional mandate to dispense justice in a timely manner.

2. THE HIGH COURT AND ITS MANDATE

Originating from the period of the British regime over Tanganyika, the High Court is the second-highest court in mainland Tanzania.⁷ Since its establishment in 1920 and re-establishment in 1961, the High Court has enjoyed criminal and civil, original, and appellate jurisdiction. The High Court applies an adversarial system of court proceedings.⁸ Being the second court of record after the Court of Appeal, the High Court makes law by setting precedent on the interpretation and application of the legislation in line with URT's common law tradition.⁹ The High Court is a crucial component of the Judiciary and indispensable in the dispensation of justice in the URT. The Principal Judge heads the High Court and is constitutionally required to have

¹ Constitution of the United Republic of Tanzania 2002, Cap 2 [hereinafter Constitution], art. 2 (1).

² Constitution *supra* note 2 art. 4 (1, 2 & 3), First Sched.

³ Ibid.

⁴ Ibid., art 107A (1).

⁵ Ibid., art 4 (2 & 3), First Sched item 21.

⁶ Ibid., art 108 (1); Magistrates Court Act (2023) Cap 11 (Tanz.) [hereinafter MCA], § 3–5.

⁷ Tanganyika Order in Council 1920, Cap 3 [hereinafter Tanganyika Order in Council], art 17 (1) and 22 (1) (Tanz.); Constitution *supra* note 2, art 108 (1).

⁸ Tanganyika Order in Council *supra* note 8, art 17 (1 & 2) and 20; Tanganyika (Constitution) Order in Council (1961) [hereinafter Tanganyika Constitution], art 58; Constitution *supra* note 2, art 108 (2); Robert Makaramba, "Breaking the Mould; Addressing the Practical and Legal Challenges of Justice Delivery in Tanzania: Experience from the Bench," paper presented at the Annual Conference and General Meeting (AGM) of the Tanganyika Law Society held at the Arusha International Conference Centre, Arusha, Tanzania, February, 2012. 22. <https://www.comcourt.go.tz/comcourt/download/papers/The-Practical-and-Legal-Challenges-of-Justice-Delivery-in-Tanzania-Experience-from-the-Bench.pdf>>; Ntemi N. Kilekamajenga, "Learning from Contemporary Examples in Africa – Referral Mechanisms for Restorative Justice in Tanzania", *South African Crime Quarterly* 63, (2018): 18, <http://doi.org/10.17159/2413-3108/2018/v0n63a4368>; DPP v. Mategwa Paulo Itembe and Others, Criminal Appeal 165 of 2019 (Tanz.) 7.

⁹ Tanganyika Order in Council *supra* note 8, at Art 17 (1); Judicature and Application of Laws (2019) Cap. 358 (Tanz.) [hereinafter JALA], § 6; Yoram Paulo Ndumizi and Others v. Permanent Secretary of the Ministry of Defence and National Service and Another, Miscellaneous Land Application No. 36 of 2021 (Tanz.).

at least 30 other sitting judges, all of whom are appointed by the President of the URT.¹⁰ The number of judges of the court has fluctuated over the years, and in 2024, that number reached 108, excluding the Principal Judge.¹¹ The High Court of Tanzania is composed of twenty registries and four specialized divisions.¹² Across its registries and divisions, the court processes between 34,000 and 37,000 cases annually.¹³

The High Court has nationwide jurisdiction and exclusive jurisdiction for certain cases, depending on the subject matter, the pecuniary value at issue, or the severity of the charge and sentence. The High Court's exclusive jurisdiction is synonymous with its original jurisdiction and an antonym to its appellate or revisional jurisdiction. In fulfilling its mandate to dispense justice, like other courts in the hierarchy, the High Court is bound to do so *inter alia* expeditiously. Statistically, in the judicial hierarchy, the High Court does not process the most cases per annum; that honor goes to the Primary Courts, which, in 2023, processed 183,898 cases.¹⁴ That notwithstanding, capital offences such as murder, treason, and certain economic offences, constitutional and fundamental rights questions, national elections petitions, prerogative orders, and a pecuniary demarcated cadre of civil and commercial disputes, are in the purview of the High Court's original jurisdiction.¹⁵

With this understanding, it is apparent that the original jurisdiction of the High Court attracts cases that require careful handling, are consequential to the economy, can spark civil unrest, or result in a life being taken. While the Court must use as much time as necessary to dispense justice and afford parties the right to be heard, the time should not be inordinate to safeguard the ultimate value of justice.¹⁶ The amount of time considered inordinate for the adjudication of a case is generally not fixed by law; however, for the High Court, any case that has been pending for over 24 months from its filing date is considered a backlog case.¹⁷

Accordingly, many legal and administrative measures have been adopted to ensure that cases in the High Court are determined justly and as expeditiously as possible. These include the adoption of non-session plea taking and preliminary hearings, alternative dispute resolution, various speed tracks, overriding objectives, 90-days judgment rule,

¹⁰ Constitution *supra* note 2, art 109 (1 & 2).

¹¹ Principal Judge, Seniority List of High Courts' Judges – July, 2024 (Tanz.).

¹² High Court Registries (Amendment) Rules GN 611 of 2022 (Tanz.), Sched; High Court (Geita Sub-Registry Establishment) Order GN 853B of 2023 (Tanz.), o 2; High Court Registry Rules G.N. No. 96 of 2005 (Tanz.) [hereinafter Registry Rules], r 5A & 5E; Labour Institutions Act (2023) Cap 300 of 2019 (Tanz.) [hereinafter LIA], § 51; Economic and Organized Crime Control Act (2023) Cap 200 (Tanz.) [hereinafter EOCCA], § 3 (1); Chief Registrar, *Comprehensive Performance Report of Judicial Functions 2022* (Judiciary of Tanzania, 2023) [hereinafter Chief Registrar] 2.

¹³ Chief Registrar *supra* note 13, at Chapter II – 2; Chief Registrar, *Comprehensive Performance Report of the Judicial Functions 2021* (Judiciary of Tanzania, 2022) [hereinafter Chief Registrar A] 15; Chief Registrar, *Comprehensive Performance Report of the Judicial Functions 2020* (Judiciary of Tanzania, 2021) [hereinafter Chief Registrar A] 8.

¹⁴ Chief Registrar *supra* note 13, Chapter II – 2.

¹⁵ EOCCA *supra* note 13; Criminal Procedure Act (2023) Cap. 20 [hereinafter CPA], First Sched – Part A & B; MCA *supra* note 7, § 40 (2 & 3); National Elections Act (2023) Cap 343 [hereinafter Elections Act] § 138 (1); Law Reform (Fatal Accidents and Miscellaneous Provisions) Act (2023) Cap 310, § 17 (1); Basic Rights and Duties Enforcement Act (2023) Cap 3 [hereinafter BRADEA] § 4 & 8.

¹⁶ Ibrahim H. Juma (Chief Justice, Judiciary of Tanzania), in discussion with author at Kivukoni Road – Ilala CBD, Dar es Salaam, 05 May 2023. Transcript available on request.

¹⁷ Chief Registrar *supra* note 13, at Chapter II – 5.

use of witness statement, a bar against appeals on interlocutory matters, inhibition of unreasonable adjournments, first-in-first-out case scheduling and same day case admission and assignment, to mention just a few.¹⁸ These techniques, among many others, embody the intention to ensure timely justice dispensation, which can be objectively measured by the Court's disposal rate and the number of backlog cases.¹⁹

3. THE PROBLEM OF CASE DELAYS AND BACKLOGS

In 2020, the adoption and application of such legal and administrative measures assisted the High Court in disposing of 19,746 out of the 37,236 processed cases (including 18,922 cases carried over from 2019 and 18,314 cases filed in 2020). This accounted for 53% of the cases. The disposition of cases in 2021 amounted to 19,095 out of 34,505 processed cases (including 17,490 cases carried over from 2020 and 17,014 cases filed in 2021). This was equivalent to a 55% rate. In 2022, the case disposition amounted to 23,026 out of 35,781 processed cases (including 15,410 cases carried over from 2021 and 20,371 cases filed in 2022). This accounted for 64% of the cases. In 2023, the High Court disposed of 19,622 out of 31,916 cases that were processed (including 12,755 cases carried over from 2022 and 19,161 cases filed in 2023). This accounted for 61% of the cases.²⁰ Such disposal rates indicate an average efficacy of 58% for the implemented measures over the four-year period.

The 58% average disposal rate between 2020 and 2023 led to case delays and a growing backlog of cases in the High Court. The 2020 performance report of the Judiciary indicates that, by the end of that year, the High Court had a total of 1,779 backlog cases out of 12,702 pending cases. This amounted to 14% of all cases registered by the High Court.²¹ Likewise, in 2021, the Court had 1,803 backlog cases out of a total of 15,410 pending cases. This accounted for 11.7% of the cases.²² By 31st In August 2022, about 1,307 (9%) out of 13,778 pending cases across all High Court registries and divisions were in a backlog. Out of the backlog cases, 391 cases were in court for more than ten years.²³ By the end of 2022, the number of backlog cases rose to 896 out of 12,755 pending cases. This amounted to 7% of the cases.²⁴ At the end of 2023, the High Court had 292 backlog cases out of 12,294 pending cases. This represents 2% the cases. Although there is a decrease of the Court's backlog, the phenomenon is still persistent in High Court registries and divisions across the country notwithstanding the adopted measures aimed ensuring timely justice dispensation. This calls into question the efficacy of the case management system, in other words, the approach, techniques, and procedures, applied in the High Court to ensure timely justice dispensation.

¹⁸ Civil Procedure Code (2023) Cap 33 (Tanz.) [hereinafter CPC], § 3A, 3B, 28, O. VIII r22, 24–39, XVII r1, XVIII r2 – 5; CPA *supra* note 16 § 198, 293, 330 (1); Appellate Jurisdiction Act (2023) Cap 141 (Tanz.) [hereinafter APA] § 8 (2) (d); Chief Justice's Circular No. 1 of 1992 (Tanz.), para 14; Chief Justice's Circular No. 4 of 2018 (Tanz.), para 10; Principal Judge's Circular No. 5 of 2019 (Tanz.), para 6 (c & d), 7.

¹⁹ Chief Registrar *supra* note 13, at Chapter II – 6.

²⁰ Chief Registrar – A *supra* note 14, 16; Chief Registrar – B *supra* note 14, 10–11; Chief Registrar *supra* note 13, Chapter II – 3; Chief Registrar, *Comprehensive Performance Report of Judicial Functions – 2023* (Judiciary of Tanzania, 2024) [hereinafter Chief Registrar] 23.

²¹ Chief Registrar – A *supra* note 14, 15.

²² Chief Registrar – B *supra* note 14, 19.

²³ Director of Case Management, *Report* (Judiciary of Tanzania, 2022) 2; Chief Justice's Committee on Monitoring and Evaluation of Judicial Functions, *Judicial Functions Report* (Judiciary of Tanzania, 2022) 1–2.

²⁴ Chief Registrar *supra* note 13, at Chapter II – 6.

The reported ineffectiveness of the case management system used in the High Court called for a deeper investigation. While studies have been conducted to investigate the law governing the case management system and its application in criminal and civil cases before the High Court, this article aims to examine the missing elements of the case management system and the causes of delays in cases before the High Court.²⁵ The article aims to highlight the elements of a case management system that are essential for its effectiveness, as well as to provide empirical evidence of their presence in the case management system used by the High Court.

4. METHODOLOGY AND LIMITATIONS

Aiming to advance an empirical discussion, this article uses documentary review and empirical approaches of research. Stakeholders thought to be apt for responding to this article's quest were contacted. These included justices of the Court of Appeal who have appellate and revisional jurisdiction over the High Court, judges of the High Court themselves who discharge the adjudicatory function to that court, registrars and deputy registrars who facilitate judicial functions of the High Court, state attorneys practicing in the High Court and senior advocates with 10 or more years of experience, who represent parties before the High Court and are considered officers of the court. The considered state attorneys and senior advocates included those found within the jurisdiction of the Arusha, Dar es Salaam, Dodoma and Mwanza High Court sub-registries.

With their informed consent, primary data was gathered from in-person and teleconference semi-structured interviews with 252 respondents who were conveniently sampled. As its name suggests, convenience sampling entails the inclusion of elements of the population according to how easy to access those elements are.²⁶ Convenience sampling was chosen to give the researcher necessary flexibility to align with the work schedules and locations of the population of respondents. The 252 respondents included the Chief Justice of Tanzania, 18 justices of the Court of Appeal, 69 judges and 50 registrars of the High Court, 52 state attorneys, including the Attorney General (AG), Solicitor General (SG) and the Director of Public Prosecution (DPP) and 62 senior advocates with over ten years of practice experience. Senior advocates with over ten years of experience were chosen to ensure that the respondents have sufficient experience with the High Court proceedings and to create a manageable population. The interviews offered real life insights into the essential elements of the case management system and their existence in the system applied in the High Court.

Secondary data was collected for documentary review from books, journals, thesis, dissertations, conference papers, and authoritative reports. Moreover, the author's experiences as the Principal Judge of the High Court, were of profound utility in writing this article.

²⁵ Mohamed M. Siyani, "Examining Legal and Practical Challenges Affecting Case Management System on Timely Justice Dispensation in the High Court of Tanzania" (PhD thesis, University of Dodoma, 2024), 47–204; Mohamed M. Siyani et al., "Review of Case Management System in the High Court of Tanzania: Criminal Justice Perspective," *Commonwealth Law Review Journal* 10, (2024): 24–47, [10.55662/CLRJ.2024.1001](https://doi.org/10.55662/CLRJ.2024.1001); Mohamed M. Siyani et al. "The Quest for Timely Civil Justice Dispensation: A Discussion of Case Management System Applied in the High Court of Tanzania," *University of Bologna Law Review* 9, no. 2 (2025): 69–126, <https://doi.org/10.6092/issn.2531-6133/19219>.

²⁶ C.R. Kothari, *Research Methodology: Methods and Techniques* (Second Revised Edition, New Age International (P) Ltd, 2004), 15; Hossein Tavakoli, *A Dictionary of Research Methodology and Statistics in Applied Linguistics* (Rahnama Press, 2012), 109.

The article contains qualitative responses from the semi-structured interviews which were categorized and coded after being transcribed and put through additional content analysis. Using the coded responses, data sets were created and analyzed through the descriptive statistics function in IBM SPSS. This technique was used to produce response frequencies in tables and bar charts. IBM SPSS outputs are presented narratively in-text and through tables which show response 'Frequency'. The higher the frequency, the greater the prevalence of that particular response.²⁷ Then, the tables also use 'Percent' values which connote the value of the correlating frequency response. The 'Valid Percent' values indicate the percentage value of the respondents with valid variable entries, and the 'Cumulative Percent' indicator presents the cumulative summation of the 'Valid Percent' values.²⁸

It should be noted that, while analyzing nominal categorical data, the 'Cumulative Percent' value is not useful because nominal data does not have intrinsic order or ranking which are required for the cumulative percent to have meaning.²⁹ The 'Valid Percent', which excludes respondents with a 'Missing System' or without a valid variable entry, has not been referred to in the article.³⁰ Further, in each table presented, the indication 'Valid' represents the analyzed variable, 'Missing System' represents the respondents without variable entries, and 'Total' is the summation of the 'Frequency' and 'Percent' column values.

There were a few limitations to this article. It is worth noting that the essence of this article takes a novel look at the issue of case management system in Tanzania. As such, local literature on the topic is scant, resulting in the reliance on literature from other jurisdictions and their relation and inference to the High Court's applied case management system's context. Again, the article's quantitative component is unconventional to legal scholarship in Tanzania. To address this alternative approach to legal scholarship, experts with quantitative research and statistical analysis expertise were consulted.

5. DECIPHERING THE ESSENCE OF THE CASE MANAGEMENT SYSTEM

It is postulated that justice should be dispensed timely, fairly, and with minimum cost.³¹ However, in reality, justice dispensation is still hindered by inordinate delays and very high costs, creating doubts about the fairness of justice.³² Timely justice dispensation again falls victim to complexities in the law and the nature of cases.³³

²⁷ Morgan, George A., Karen C. Barrett, Nancy L. Leech, and Gene N. Gloeckner, 2020. *IBM SPSS For Introductory Statistics: Use and Interpretation*, 6th ed. (New York: Routledge, 2020), 54–5.

²⁸ Ibid.

²⁹ Ibid., 44–5.

³⁰ Inter-University Consortium for Political and Social Research, "A Student's Guide to Interpreting SPSS Output for Basic Analyses" (2016): 3. https://www.chapman.edu/wilkinson/_files/henley-pics/interpretingsspssoutput2016-2.pdf.

³¹ Gordon V. Kessel, "Adversary Excesses in the American Criminal Trial" *Notre Dame Law Review* 67, no. 3 (1993): 406, <http://scholarship.law.nd.edu/ndlr/vol67/iss3/1>.

³² *Abdul Rehman Antulay and Others v. R.S. Nayak & Another* 1992 AIR 1701 (India).

³³ Ummey Sharaban Tahura, "Case Management in Reducing Case Backlogs: Potential Adaption from the New South Wales District Court to Bangladesh Civil Trial Court" (Master's thesis, Macquire University, 2015), 157, <https://doi.org/10.25949/19441841.v1>.

The adoption of a case management system proposes a solution to these challenges.³⁴ While the meaning of case management systems is subjective, it denotes a procedural mechanism aimed at establishing court control in the administration of cases throughout their lifespan for expeditious, fair, and affordable resolution.³⁵ As such, the use of the word 'system' should be understood to mean the combination of procedural rules that govern the administration of cases in court, rather than information and communication technology or electronic tools.

The inception of the case management system or managerial judging was warranted by the need to change the status quo, where the litigants and the advocates were left to set the pace of litigation and the judge was merely an umpire regulating the rules of the court.³⁶ This trend was observed to cause delayed disposition of cases and growing litigation expenses.³⁷ Effectively, the case management system in judicial settings works to shift the control of proceedings and empower the so-called 'umpire' with supervisory powers over a suit.³⁸ The paradigm shift in the adoption of the case management system was not free of criticism among jurists. The vulnerability for misuse of the power given to judges by virtue of their control and having more discretion towards the conduct of the proceedings is a resonating criticism, together with the potential for partiality and bias.³⁹

The variant ways of defining and conceptualizing the case management system suggest a long development history and divergent implementation styles.⁴⁰ The way the case management system is adopted depends on the extent of the court's involvement in controlling the case. The courts' control can be absolute, exhibited from the initial filing and throughout the case, non-existent or staggered, exhibited at predetermined stages.⁴¹ A discussion of its types and essential elements is apt to elucidate further on the concept of case management system.

34 David Neubauer, "Judicial Role and Case Management," *Justice System Journal* 4, no. 2 (1978): 230, <https://www.ojp.gov/ncjrs/virtual-library/abstracts/judicial-role-and-case-management>.

35 David A Ipp, "Case Management," *Consultus* 10 (1997): 36, <https://www.gcbsa.co.za/law-journals/1997/may/1997-may-vol010-no1-pp35-39.pdf>; Erwin J Rooze, "Differentiated Use of Electronic Case Management Systems," *International Journal for Court Administration* 3, no. 1 (2010): 50–51, <https://doi.org/10.18352/ijca.53>.

36 Law Council of Australia (LCA) and the Federal Court of Australia (FCA), *Case Management Handbook* (Braddon: LCA and FCA, 2014), 16, https://lawcouncil.au/docs/41c88504-b430-e711-80d2-005056be66b1/Case_Management_Handbook_Mar17-2.pdf.

37 A.A.S. Zuckerman, "Lord Woolf's Access to Justice: Plus ça Change," *Modern Law Review* 59, no. 6 (1996): 773–774, <https://doi.org/10.1111/j.1468-2230.1996.tb02694.x>; Donald E. Elliott, "Managerial Judging and the Evolution of Procedure" *University of Chicago Law Review* 53, no. 2 (1986): 317–318, <https://chicagounbound.uchicago.edu/uclrev/vol53/iss2/3/>.

38 Anna Olijnyk, "Justice and Efficiency in Mega-litigation" (PhD thesis, University of Adelaide, 2014), 90, <https://digital.library.adelaide.edu.au/dspace/bitstream/2440/91442/3/02whole.pdf>.

39 Julia Hughes and Philip Bryden, "Implications of Case Management and Active Adjudication for Judicial Disqualification," *Alberta Law Review* 54, no. 4 (2017): 862–867, <https://albertalawreview.com/index.php/ALR/article/view/780>; Edward M. Johnston, "The Defence Lawyer in the Modern Era" (PhD thesis, University of the West of England, 2019), 43, <https://uwe-repository.worktribe.com/OutputFile/1840146>.

40 Carolyn L. Markram, "Case Management in the context of identifying and reforming undue delay in South African Civil Procedural Law" (LLM diss., University of Pretoria, 2016), 22, https://repository.up.ac.za/bitstream/handle/2263/56978/Markram_Case_2016.pdf?sequence=1&isAllowed=y.

41 Ipp *supra* note 36.

With the above understanding of the essence of the case management system, there are different models of the case management system as applied in different jurisdictions around the world in the adjudication of cases.⁴² From the array of ways by which case management system are defined and the manner of implementation, case management systems can be categorized into active, passive, and selective types.

5.1.1. Active Case Management System

The active case management system involves the court's active control over proceedings. Such control begins at the earliest stage of filing the case, continuing through to disposition by settlement or trial.⁴³ The time used for events other than those reasonably required and allowed is unacceptable and should be eliminated. One means of achieving this is to use the time taken as a performance criterion.⁴⁴ Under this type of case management system, the judge is no longer just an umpire or a mere presiding officer but is actively involved in setting the time frame of the case, narrowing the matters at issue, and advocating settlement where possible.⁴⁵ The judge is required to make sure that parties fulfil their procedural obligation for timely case disposal.⁴⁶ In the active case management system, courts take a leading role in ensuring that cases before them are competent through scrutinization, that the parties effectively prosecute their cases, and that the determination is not unduly delayed.

5.1.2. Passive Case Management System

As its name would suggest, the passive case management system means that the judge does not take an active role in supervising proceedings in the courtroom. A passive case management system is the norm of adversarial litigation where party autonomy and control render the judge a moderator.⁴⁷ Those who support these techniques are the ones who think that taking an active role means that advocates or parties will be left behind during the hearing of the case.⁴⁸ In this case management system, the court does not intervene in the narrowing of issues, setting the time frame,

⁴² Markram *supra* note 41, at 23.

⁴³ Attila Kiss, "Active case Management in the Hungarian Civil Procedure," *Studia Universitatis Babes-Bolyai Jurisprudentia* 2 (2022): 100, <https://heinonline.org/HOL/Page?handle=hein.journals/stubabe2022&id=325>; European Commission for the Efficiency of Justice (CEPEJ), *Compendium of "Best Practices" on Time Management of Judicial Proceedings* (Strasbourg, CEPEJ, 2007) 15, <https://rm.coe.int/09000016805d6942>.

⁴⁴ Richard V. Duizend, David S. Steelman, and Lee Suskin, *Model Time Standards for State Trial Courts* (Washington DC, National Centre for State Court, 2011) 45. https://www.ncsc.org/_data/assets/pdf_file/0032/18977/model-time-standards-for-state-trial-courts.pdf; Andreas Lienhard, "Performance Assessment in Courts – The Swiss Case – Constitutional Appraisal and Thoughts as to its Organization," *International Journal for Court Administration* 6, no. 2 (2014): 35, <https://doi.org/10.18352/ijca.145>.

⁴⁵ Alvaro J. Perez-Ragone, "An Approach to Case Management from the Horizontal and Vertical Structure of Court Systems," *Zeitschrift für Zivilprozess International* 23 (2018): 356, https://www.researchgate.net/publication/336677096_An_Approach_to_Case_Management_from_the_Horizontal_and_Vertical_Structure_of_Court_Systems; CEPEJ *supra* note 41, at 20.

⁴⁶ Kiss *supra* note 44.

⁴⁷ Markram *supra* note 41; Olijnyk *supra* note 39, at 240.

⁴⁸ Kiss *supra* note 44, at 111.

or proposing a settlement. Passive case management has been historically done as a means to ensure the independence and impartiality of the judges and to prevent abuse of their powers.⁴⁹ This mode of case management supports an adversarial system of justice administration.⁵⁰

5.1.3. Selective Case Management System

The selective case management system involves a management approach invoked only at specific points.⁵¹ It is selective in the sense that it is not applied throughout the life of a case but rather at certain determined stages.⁵² It is a system that combines the attributes of active and passive case management systems. Thus, it could lead to its activation or pause at several stages of case management, based on the need to secure an effective/efficient case handling. This system can be deployed in circumstances where parties and their advocates appear to be procrastinating, or it can take a backseat where litigants vigilantly and proactively prosecute their matter as expected in the passive case management system.

Subject to the nature of the case and the parties involved, active or passive case management systems can be opted for.⁵³ The management style to be adopted is consequently on a case-by-case basis. Another determinant of which case management system style to adopt is the nature of the evidence that the parties are expected to present.⁵⁴ In the end, the selective case management system has at its disposal all the techniques available to both active and passive case management systems, and can make use of all, either or neither, for the ends of justice.

5.2. ESSENTIAL ELEMENTS FOR AN EFFICACIOUS CASE MANAGEMENT SYSTEM

The elements of a case management system are consequential and synergic building blocks of an effective case management system. They are components or techniques whose application determines the effectiveness of the applied case management system. Literature from common and civil law jurisdictions reveals that important elements of case management systems include: case screening; scheduling of time and events; and control or supervision of proceedings as they progress.⁵⁵ The purpose of these elements is to minimize delay and facilitate expedient resolution of disputes.⁵⁶

⁴⁹ Judith Resnik, "Managerial Judges," *Harvard Law Review* 96, no. 2 (1932): 375, <https://heinonline.org/HOL/P?h=hein.journals/hlr96&i=392>.

⁵⁰ Kiss *supra* note 44, at 121.

⁵¹ Markram *supra* note 41, at 36.

⁵² Ipp *supra* note 36.

⁵³ Markram *supra* note 41, at 37.

⁵⁴ Ibid, at 28 & 41.

⁵⁵ Courts Administration Division (CAD), *Case Flow Management: An Assessment of the Ontario Pilot Projects in the Ontario Courts of Justice* (Ontario, Ministry of the Attorney General, 1993) 1; Victorian Law Reform Commission (VLRC), *Civil Justice Review: Report No. 14* (Melbourne, VLRC, 2008) 72. <https://www.lawreform.vic.gov.au/wp-content/uploads/2021/07/VLRCCivilJusticeReview-Report.pdf>.

⁵⁶ CAD *supra* note 56, at 4.

5.2.1 Case Screening

The facilitation of just, speedy, and affordable proceedings is predicated on the system in place shaping the direction of the case from its inception to resolution.⁵⁷ It was observed by Byron, on early judicial intervention, that ‘the court should manage the progress of the case from inception and provide guidance and regulation to the litigants to ensure performance in accordance with expectations of the bench.’⁵⁸ Management of progress from the inception creates the duty to ensure compliance with the requirements of the law in the form and substance of suits brought to court. This prevents unmeritorious or defective cases from proceeding further in the judicial system.⁵⁹ The propriety of the pleadings and documents filed at the admission stage must be ascertained before they are allowed to progress any further. The early identification of defective pleadings or incompetent cases and their rejection embodies the case screening element of the case management system and, in that circumstance, serves as the initial screening filter.

After the assignment of the case, the presiding judge becomes the second level of screening and is accordingly required to satisfy themselves of the propriety of the case filed. He will do this by scrutinizing pleadings and documents filed in court.⁶⁰ By doing so, the judge ascertains the real issues in dispute (if any) at the earliest stage of the case. This also allows the judge to, understand the case’s complexities, the evidence needed, the time required to resolve it, and its viability for ADR.⁶¹

The screening of filed cases presents a means by which to avoid using the court’s time in determining the propriety of the suit, at least on format grounds. This enables the court to focus on substantive justice from the outset.⁶² The case screening element of the case management system argues for a systematic mechanism to inhibit the progression of defective cases within the justice system. This gives the court the time to concentrate on the cases it is competent to handle, contributing to timely justice dispensation.

5.2.2. Scheduling of Time and Events

The definition of a case management system is the management of a case’s time and events throughout its lifespan, encompassing the steps a case will undergo until its conclusion.⁶³ As such, planning the steps a case will go through and the

57 William W. Schwarzer, and Alan Hirsch, *The Elements of Case Management: A Pocket Guide for Judges*, 3rd ed. (Washington DC: Federal Judicial Centre, 2017), 3, https://www.utsd.uscourts.gov/sites/utsd/files/Elements%20of%20Case%20Management_Third%20Edition.pdf.

58 Dennis Byron, “Case Management for the African Court on Human and Peoples’ Rights” paper presented on the Occasion of Judicial Education Programme for Judges of the African Court of Human and Peoples’ Rights (Arusha – Tanzania), March 5–7, 2014, 8, https://ccj.org/wp-content/uploads/2021/03/Remarks-at-the-Judicial-Education-and-Training-Programme-for-African-Judges-of-Human-and-Peoples-Rights-on-Case-Management-_Sir-Dennis-Byron_20140305.pdf.

59 VLRC *supra* note 56, at 355.

60 Victoria Court of County (VCC), ‘Civil Trial Process’ (Fact Sheet No.7) 1. <https://www.countycourt.vic.gov.au/files/documents/2018-08/factsheet-7-civil-trial-processes.pdf>.

61 Ibid.

62 Ibid., at 23.

63 CAD *supra* note 56, at 4.

time allocated for each presents a picture of the case's lifespan and a roadmap to its conclusion. Such scheduling can be a matter of law or a matter of initiative from the bench and or bar. With the former, the law provides for time limitations of when a suit can be commenced, when a response to a suit has to be made, the effect of non-appearance, the pre-trial and scheduling conferences and preliminary hearings, the general lifespan of a case and the time within which a decision ought to be made to mention some of the steps.⁶⁴ With the latter, the initiatives include, but are not limited to, scheduling each step with a specific date, arranging the steps in a manner that avoids reasons for adjournments, and the prompt issuance of decisions. The scheduling of steps that the case will go through, along with the time allocated for each step, specifically when the case will be called for a hearing, is a catalyst for settling cases.⁶⁵

The purpose of pre-trial and scheduling conferences is to schedule time and events. During the conferences, issues can be framed, potential witnesses and duration of the case agreed upon, preliminary matters addressed, settlement pursued, and dates for different steps set.⁶⁶ The framing of issues presupposes the prior and continued review of the pleadings and other documents by the judge and the parties, as well as their discernment of the true contention.⁶⁷ This leads to a focused trial, further enhances the settlement chances, and abridged disposition if it becomes apparent that any further proceedings will be in vain or a preliminary issue is upheld against the matter.⁶⁸ Such an undertaking allows the court and the parties to understand the true nature and breadth of the potential litigation to follow, prepare accordingly, identify possible challenges that the proceedings may face and plan on how to address the same from the outset, all which make for an effective manner of managing a case from when it is filed to when rights and liabilities are pronounce and realized.

5.2.3. Court Supervision of the Case Progress

Generally, court supervision of the proceedings by judges, registrars, or magistrates is a proven path towards cost efficiency, timely resolution of disputes, and one possible way to enhance justice.⁶⁹ Although compliance with procedural rules can be voluntary, supervision plays a vital role in ensuring conformity when voluntariness is scarce or negligence is prevalent in moving the case through pre-trial stages.⁷⁰ To give effect to the scheduling orders produced by the pre-trial and scheduling conferences, supervision is essential.⁷¹ At the trial stage, such supervision would require a judge to act as both an adjudicator to determine the dispute and a

⁶⁴ CPC *supra* note 19; CPA *supra* note 16.

⁶⁵ VLRC *supra* note 56, at 342–343.

⁶⁶ Schwarzer and Hirsch *supra* note 58, at 13–15.

⁶⁷ Ibid, at 5.

⁶⁸ Ibid, at 5 and 6; *Barclays Bank Tanzania Limited v. Sharaf Shipping Agency T. Limited & Others*, Consolidated Civil Appeal No. 117 of 2019 (Tanz.), 14.

⁶⁹ VLRC *supra* note 56, at 291; Bell, Evan. 2009. "Judicial Case Management." *Judicial Studies Institute Journal* 2: 97. <https://www.ijcj.ie/assets/uploads/documents/pdfs/2009-Edition-02/article/judicial-case-management.pdf>; Byron *supra* note 59, at 5.

⁷⁰ VLRC *supra* note 56, at 343; *Econet Wireless Kenya Ltd v. Minister for Information & Communication of Kenya & Another*, (2005) 1 KLR 828 (Kenya).

⁷¹ VLRC *supra* note 56, at 339; CAD *supra* note 56, at 4.

manager to ensure that the determination is made within the agreed-upon timeline. To ensure that the parties fulfil their tasks as scheduled and that the scheduling orders are complied with.⁷²

The mandate to supervise and control proceedings, being a creature of the law, and management skills personal to a judge, are vital components for supervision to take form and achieve the goals it is envisaged to achieve.⁷³ Courts have a responsibility, by their essence and case law, to supervise and control proceedings before them, lest their mandate be undermined and their construct ineffectual.⁷⁴ Court supervision is expected to facilitate early resolution, resulting in time and cost savings for both parties and the court.⁷⁵

6. MISSING ELEMENT

An effective case management system is predicated on the court exercising significant control over each case, including its stages in the court proceedings and its pace.⁷⁶ This prerequisite is stratified into three essential elements as its building blocks, namely: scrutinization or early screening, scheduling of time and events, and supervision or control over proceedings.⁷⁷ With the understanding of what each element seeks to achieve and how their collective existence is indispensable for an effective case management system, this article presents summative field research findings on the missing element in the case management system applied by the High Court.

Through semi-structured interviews, the 252 respondents were asked to identify the essential elements of a case management system. In their clustered responses, when required to identify the essential elements of case management system, among others 97 respondents identified scrutinization or early screening, scheduling of time and events and supervision or control over proceedings as the elements, 42 respondents identified scheduling of time and events and supervision or control over proceedings as the elements, 32 respondents identified supervision or control over proceedings as the element, and 28 respondents identified scrutinization or early screening and scheduling of time and events as the elements (Table 1).

⁷² Doron Menashe, "The Manager-Judge and the Judge-Manager: Towards Managerial Jurisprudence in Civil Procedure," *North Dakota Law Review* 94, no. 2 (2019): 431. <https://ssrn.com/abstract=3691579>.

⁷³ Ibid.

⁷⁴ *Director of Public Prosecution v. Erasmus John*, Criminal Appeal No. 80 of 2021 (Tanz.), 12.

⁷⁵ CAD *supra* note 56, at 4.

⁷⁶ Ipp *supra* note 36, at 36; Brian J. Ostrom et al., *Success in Criminal Case-flow Management: Lessons from the Field* (Washington DC, National Centre for State Courts 2020), 6. https://www.ncsc.org/_data/assets/pdf_file/0018/53217/Success-in-Criminal-Caseflow-Management-Lessons-from-the-Field.pdf; Brian J. Ostrom, Lydia E. Hamblin, and Richard Y. Schauffler, *Delivering Timely Justice in Criminal Cases: A National Picture* (Washington DC, National Centre for State Courts, 2020), 9, 12. https://www.ncsc.org/_data/assets/pdf_file/0017/53216/Delivering-Timely-Justice-in-Criminal-Cases-A-National-Picture.pdf.

⁷⁷ CAD *supra* note 56, at 1; VLRC *supra* note 56, at 72.

ELEMENTS		FRE- QUENCY	PERCENT	VALID PERCENT	CUMULATIVE PERCENT
Valid	Control and Others	1	.4	.4	.4
	Non	5	2.0	2.0	2.4
	Other (Sound Procedures and Decisions)	6	2.4	2.4	4.8
	Others	16	6.3	6.3	11.1
	Scheduling of Time and Events	5	2.0	2.0	13.1
	Scheduling of Time and Events, and Control	42	16.7	16.7	29.8
	Scrutinization and Control	13	5.2	5.2	34.9
	Scrutinization or Early Screening	7	2.8	2.8	37.7
	Scrutinization, and Scheduling of Time and Events	28	11.1	11.1	48.8
	Scrutinization, Scheduling of Time and Events, and Control	97	38.5	38.5	87.3
	Supervision or Control Over Proceedings	32	12.7	12.7	100.0
Total		252	100.0	100.0	

Table 1 Response of all interviewees to the question on what they consider to be the essential elements of case management system.

Such identification by respondents offered insight on the understanding of the case management system and its prerequisite among Justices of Appeal, Judges of the High Court, Registrars and Deputy Registrars, State Attorneys and Senior Advocates. These responses support this article’s theoretical basis of the elements of the case management system, as the majority of such respondents indicate the elements of the case management system to be scrutinization or early screening, scheduling of time and events, and supervision or control over proceedings.

Through their cluster responses, the respondents identified both singular elements and a combination of elements. An analysis of the cluster responses of the respondents to determine the frequency with which each element was identified as an element of the case management system revealed that scrutinization or early screening was identified by 145 respondents, equivalent to 57.5% (Table 2). Scheduling of time and events was identified by 172 respondents, equivalent to 68.3% (Table 3). Supervision or control over proceedings was identified by 185 respondents, equivalent to 73.4% (Table 4).

SCRUTINIZATION OR EARLY SCREENING					
		FREQUENCY	PERCENT	VALID PERCENT	CUMULATIVE PERCENT
Valid	1	145	57.5	100.0	100.0
Missing	System	107	42.5		
Total		252	100.0		

Table 2 Frequency table for the identification of scrutinization or early screening as an element of case management system.

SCHEDULING OF TIME AND EVENTS					
		FREQUENCY	PERCENT	VALID PERCENT	CUMULATIVE PERCENT
Valid	1	172	68.3	100.0	100.0
Missing	System	80	31.7		
Total		252	100.0		

Table 3 Frequency table for the identification of scheduling of time and events as an element of case management system.

SUPERVISION OR CONTROL OVER PROCEEDINGS					
		FREQUENCY	PERCENT	VALID PERCENT	CUMULATIVE PERCENT
Valid	1	185	73.4	100.0	100.0
Missing	System	67	26.6		
Total		252	100.0		

Table 4 Frequency table for the identification of supervision or control over proceedings as an element of case management system.

Such frequency figures support the finding that the court’s control over proceedings is the most consequential element for an effective case management system. After such identification, the respondents were asked for their opinion on whether these elements are featured in the case management system applied in the High Court. In the examination, 37 out of 252 respondents, equivalent to 14.7%, confirmed the existence of the identified elements in the case management system applied in the High Court (Table 5). Further, 177 out of 252 respondents, equivalent to 70.2%, opined that the applied case management system partly contains the essential elements (Table 5). The remaining 22 respondents, equivalent to 8.7%, indicated that the case management system applied in the High Court did not contain the essential identified elements (Table 5).

ELEMENTS CONTAINED IN APPLIED CMS					
		FREQUENCY	PERCENT	VALID PERCENT	CUMULATIVE PERCENT
Valid	Yes	37	14.7	14.7	14.7
	Partly	177	70.2	70.2	84.9
	I don't know	6	2.4	2.4	87.3
	No	22	8.7	8.7	96.0
	Confounding	10	4.0	4.0	100.0
	Total	252	100.0	100.0	

Table 5 Frequency table on whether the case management system applied in the High Court contains all the essential elements.

After establishing the opinions of the 252 respondents on the essential elements of case management and whether these elements are contained in the case management system applied by the High Court, the respondents were asked to provide their opinions on what elements were missing in the applied system. In analyzing the responses, it was observed that, among others, 148 respondents identified control as the missing element, 16 respondents identified scheduling of time and events, and control as the missing elements, and 14 respondents identified scrutinization as the missing element (Table 6). Having been statistically identified as the vital element of the case management system (Table 4), control over proceedings was again indicated as the leading missing element in the applied case management system.

MISSING ELEMENT		FREQUENCY	PERCENT	VALID PERCENT	CUMULATIVE PERCENT
Valid	Scrutinization or Early Screening	14	5.6	5.6	5.6
	Scheduling of Time and Events	9	3.6	3.6	9.1
	Supervision or Control Over Proceedings	148	58.7	58.7	67.9
	Scheduling of Time and Events and Control	16	6.3	6.3	74.2
	Scrutinization and Control	8	3.2	3.2	77.4
	Non	37	14.7	14.7	92.1
	Confounding	12	4.8	4.8	96.8
	I don't Know	8	3.2	3.2	100.0
Total		252	100.0	100.0	

As respondents could indicate more than one missing element, an analysis of the frequency with which each element was identified as missing was carried out. From the frequency analysis, the control element was identified as the missing element by 172 respondents, equivalent to 68.3%, the scheduling element was identified as the missing element by 25 respondents, equivalent to 9.9%, and the scrutinization element was identified as the missing element by 22 respondents, equivalent to 8.7% (Tables 7, 8 & 9).

SCRUTINIZATION OR EARLY SCREENING		FREQUENCY	PERCENT	VALID PERCENT	CUMULATIVE PERCENT
Valid	1	22	8.7	100.0	100.0
Missing	System	230	91.3		
Total		252	100.0		

SCHEDULING OF TIME AND EVENTS		FREQUENCY	PERCENT	VALID PERCENT	CUMULATIVE PERCENT
Valid	1	25	9.9	100.0	100.0
Missing	System	227	90.1		
Total		252	100.0		

SUPERVISION OR CONTROL OVER PROCEEDINGS		FREQUENCY	PERCENT	VALID PERCENT	CUMULATIVE PERCENT
Valid	1	172	68.3	100.0	100.0
Missing	System	80	31.7		
Total		252	100.0		

Table 6 Frequency table on the missing element in the case management system applied in the High Court.

Table 7 Frequency table on identification of scrutinization or early screening as the missing element.

Table 8 Frequency table on identification of scheduling of time and events as the missing element.

Table 9 Frequency table on identification of supervision or control over proceedings as the missing element.

While each element is considered to be missing, as indicated above, the breakdown of the individual response frequencies suggests that the supervision or control over proceedings element is the leading missing element in the case management system applied in the High Court. Such response frequencies indicate that the procedural rules and actual practice, which form the basis of the case management system applied in the High Court, are not adequately addressed by the law to ensure that the Court has effective control over court proceedings. This is in line with the norms of adversarial systems, which afford greater control over proceedings to the parties rather than the court.⁷⁸ Control over proceedings being inclined to the parties renders the adversarial system a cause of delay.⁷⁹ Similarly, the missing elements, as demonstrated above, and especially the supervision or control over proceedings element, can also be argued to cause delay.

7. CAUSE OF DELAY

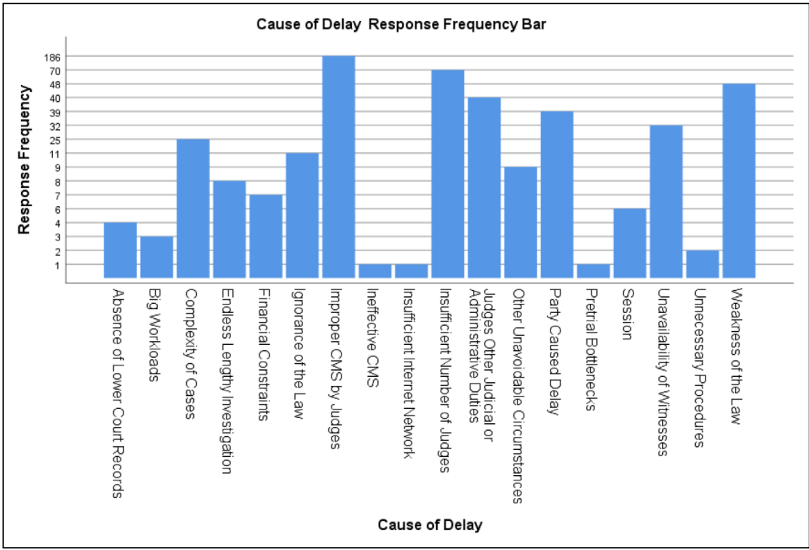
The identification of the elements that are missing in the case management system applied in the High Court can be used to explain the persistence of case delays and backlogs in the High Court. To further explore the ineffectiveness of the applied case management system, respondents were asked to identify what they perceived as the causes of case delays.

An analysis of the cluster responses given by the respondents revealed 18 individual causes of delay. Out of the 18 causes of case delays, improper case management, insufficient number of judges, weakness of the law, judges' administrative duties and party caused delays were the leading identified causes of case delay (*Bar Chart 1; Tables 10, 11, 12, 13 & 14*). Such causes and others suggest the existence of weaknesses in the law and practical challenges facing the case management system applied in the High Court. Again, coupled with the responses on the missing elements, such causes further confirm the ineffectiveness of the applied case management system in ensuring timely justice dispensation.

The leading findings of the present examination are that cases before the High Court are delayed due to improper management. Other elements that cause case delays include the insufficient number of judges, the weakness of the law, the judges' administrative duties, and the actions and/or inaction of the party/parties. Hence, it can be argued that, by the applied system missing the essential element of a case management system to the indicated extent, it forms a breeding ground for such reasons behind the ineffectiveness of the efforts made in the High Court, towards timely justice dispensation.

⁷⁸ Ikenga K.E. Oraegbunam, "The Jurisprudence of Adversarial Justice," *OGIRISI: A New Journal of African Studies* 15, (2019): 29, <https://www.ajol.info/index.php/og/article/view/187809/177102>; Makaramba *supra* note 9, at 22; Ipp *supra* note 36, at 35; Olijnyk *supra* note 39, at 82; Fulgence Massawe, (LHRC Director of Advocacy and Reforms), in discussion with author at Kijitonyama – Kinondoni, Dar es Salaam, 02 May 2023. Transcript available on request; Fakil A. Jundu (Retired Principal Judge of the High Court), in discussion with author at Kivukoni Front – Ilala CBD, Dar es Salaam, 03 May 2023. Transcript available on request.

⁷⁹ Juma *supra* note 17; Ferdinand L.K Wambali (Justice of Appeal and Retired Principal Judge), in discussion with author at Kivukoni Road – Ilala CBD, Dar es Salaam, 04 May 2023. Transcript available on request; Rehema Mkuye (Chairperson of the Chief Justice's Rules Committee), in discussion with author at Kivukoni Road – Ilala CBD, Dar es Salaam, 04 May 2023. Transcript available on request; John R. Kahyoza (Judge in Charge of the Manyara High Court sub-registry), in discussion with Rashid A. Pima and Mutandzi A. Matovelo at Bagara – Babati CBD, Manyara, 01 March 2023. Transcript available on request; Eliezer M. Feleshi (Attorney General of Tanzania), in discussion with author at Shaaban Robert Street – Ilala CBD, Dar es Salaam, 01 April 2023. Transcript available on request; Boniphace N. Luhende (Solicitor General of Tanzania), in discussion with author at Kivukoni Front – Ilala CBD, Dar es Salaam, 29 April 2023. Transcript available on request.



Bar Chart 1 Y/X Bar Chart on the response frequency with which each cause of delay was identified.

IMPROPER CMS BY JUDGES					
		FREQUENCY	PERCENT	VALID PERCENT	CUMULATIVE PERCENT
Valid	1	186	73.8	100.0	100.0
Missing	System	66	26.2		
Total		252	100.0		

Table 10 Statistics on the response frequency identifying improper case management system as a cause of delay.

INSUFFICIENT NUMBER OF JUDGES					
		FREQUENCY	PERCENT	VALID PERCENT	CUMULATIVE PERCENT
Valid	1	70	27.8	100.0	100.0
Missing	System	182	72.2		
Total		252	100.0		

Table 11 Statistics on the response frequency identifying insufficient number of Judges as a cause of delay.

WEAKNESS OF THE LAW					
		FREQUENCY	PERCENT	VALID PERCENT	CUMULATIVE PERCENT
Valid	1	48	19.0	100.0	100.0
Missing	System	204	81.0		
Total		252	100.0		

Table 12 Statistics on the response frequency identifying weakness of the law as a cause of delay.

JUDGES OTHER JUDICIAL OR ADMINISTRATIVE DUTIES					
		FREQUENCY	PERCENT	VALID PERCENT	CUMULATIVE PERCENT
Valid	1	40	15.9	100.0	100.0
Missing	System	212	84.1		
Total		252	100.0		

Table 13 Statistics on the response frequency identifying judges' other judicial and administrative duties as a cause of delay.

PARTY CAUSED DELAY					
		FREQUENCY	PERCENT	VALID PERCENT	CUMULATIVE PERCENT
Valid	1	39	15.5	100.0	100.0
Missing	System	213	84.5		
Total		252	100.0		

Table 14 Statistics on the response frequency identifying Judges’ administrative duties as a cause of delay.

8. CONCLUSION

The analysis of the empirically collected data on the case management system applied in the High Court found that 89.4% of the respondents variably identified the three elements discussed in this article – scrutinization or early screening, scheduling of time and events, and supervision or control over proceedings – as the collective essential elements of the case management system. Out of the three elements, supervision or control over proceedings was the most identified essential element by 73.4% of the respondents. Furthermore, 70.2% of the respondents stated that the applied case management system partially contained the identified elements or was missing some elements. Finally, 68.3% of the respondents identified supervision or control over proceedings as the leading missing element.

These findings suggest that the High Court’s ability to control the pace of cases before it and oversee their unimpeded and smooth progress to completion is hindered by the lack of essential elements for the timely dispensation of justice in the applied case management system. This can be used to contextualize the finding that improper case management by judges is the leading cause of case delays. The two findings help explain the prevalence of the indicated case delays and backlogs, despite all the initiatives implemented to ensure timely justice dispensation. To address the situation of missing elements and the causes of case delays, legal reform is recommended. This would ensure that the law sufficiently provides for the essential elements of the case management system. Since not all causes of delay stem from weaknesses in the law, practical initiatives can support the process of securing better results and outcomes. Such additional actions could concern carrying out training on how the applied case management system works and the role stakeholders play in its success. Other actions include increasing the number of judges and reducing the administrative duties assigned to them.

COMPETING INTERESTS

The author has no competing interests to declare.

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