

CASE MANAGEMENT & COURT MANAGEMENT

- Roshan Dalvi

MANAGEMENT

- Elements of management
 - Planning
 - Organising
 - Directing
 - Co-ordinating
 - Controlling

As propounded by the Management Guru, Peter Drucker

The best way to predict the future
is to create it

- Peter Drucker

SYSTEMIC PROBLEM SOLVING

5 stage Scientific Thinking Mechanism –

- Identify problems – Think
- Make plans for improvement - discussions, suggestions, broad themes
- Apply improvement techniques – Eliminate / find waste
- Put plans into practice – the Japanese way



Failing to plan
Is planning to fail.

Best Practices

- Non-value added items – big rocks
- Core competence – specialist Officers /court managers
- Time Management – 80/20 rule/ time & motion study
- Procedural simplification – codes / rules /moon story
- De-centralization – Service / administrative work
- Latest first – Prioritizing of cases - Frivolous/False defenses

Management is doing things right;
Leadership is doing the right things.

- Peter Drucker

Best Practices (Contd...)

- Sharing best practices – emulating the habits of the most successful
- Blamestorming – To identify problem areas
- Systemic challenges - Circle of control, influence & concern
- Single (what) / double (why) loop thinking – Goal vs.Task / change task to reach goal / OODA loop
- Continuous education – National Centre for State Courts, US
- TEAM – Officers, Lawyers and Litigants - Leadership training

If you change the way you look at things, the things you look at change. – Wayne Dyer

BEGINNINGS IN THE UK

Practice Directions of Lord Chief Justice Mathew Taylor in 1995 – Shorter and Flexible Trial Schemes Civil Procedure Rules of the Ministry of Justice

- ❑ Judges to assert control; Attorneys to reduce delay and costs
- ❑ Courts to limit discovery, oral submissions, examination, cross examination, reading of documents and judgments
- ❑ Checklist for ADR

Law is an instrument of social change

WHAT IS CASE MANAGEMENT?

Practitioners and Judges becoming better at what they do – i. e.,

Achieving the same end with less resources and in less time.

- Lord Justice Woolf,
Master of the Rolls, UK

If our business methods were antiquated as our legal methods, we should be a bankrupt country. There is need for a comprehensive inquiry into the roots of our procedure – Lord Devlin

CASE MANAGEMENT - for what?

- Improving efficiency
- Reducing delays
- Cutting costs



How to do
MORE with less

Judges who think they are too busy to manage cases are really too busy not to. Indeed, the busiest Judges with the heaviest dockets are the ones most in need of sound case management practices.

- William Schwarzer

CASE MANAGEMENT IN U.K.

Aspects under the Lord Woolf Report:

(incorporated in the Civil Procedure Act, 1997)

- Length of time for litigation
- Fast-Track and Multi-Track
- Fixed time-table
- Controlling Inspection
- Exchanging witness statements
- Video recording of evidence
- Summary procedure for all suits below 10K

**All great detectives spot the trail
using an entirely different point of view**

CASE MANAGEMENT IN U.K. (Contd...)

Aspects under the Lord Woolf Report:

- Defining important issues
- Time-table deadline
- ADR
- Judicial Team – Training Judges & Lawyers
- Interest & Costs
- IT kiosks in courts
- Permanent advice centers in larger courts
- Evening & Weekend courts

Most geniuses prosper not by de-constructing intricate complexities,
But by exploiting unrecognized simplicities

AREAS OF CASE MANAGEMENT

- Length of time for each step
- Key issues
- Listing cases
- Pre-trial Conference (CM Conference)
- Setting a time-table deadline - preparatory hearing

No case is inherently complex or protracted.
Cases are made complex or protracted by
inefficient practices

- Chief Judge, Alfred Marrah, Federal Court, USA

Lord Woolf Report

Basic Features

- Procedural simplicity for expedition
- Control by Judges as soon as defense filed

Peculiar to England

- Costs
- Expert witnesses
- Unlimited Legal Aid

It is not the strongest species that survives, nor the most intelligent, but the one most responsive to change.

-Charles Darwin

Lord Woolf Report - Applicability

England

- Simple Rules
- Defense
- Exchanging Witness statements
- Small claims / Fast Track / Multi Track
- Specialist Judges
- Fixed Fees either for one stage or as a whole
- ADR – A M C
- Capping of costs

India

- Amendment to CPC / HC Rules
- WS / Affidavit-in-Reply
- Affidavit of examination-in-Chief
- Summary suits / Fast Track / Commercial Causes
- Civil / Criminal Judges
- Original / Appellate Sides
- Package Deal
- ADR – A M C & Lok Adalat
- Imposing realistic costs

**The secret of success is being a good thief;
Emulating the habits of the most successful practitioners.**

5 ISSUES OF CASE MANAGEMENT

R K M M O for DAR raised by NJA, India

- Role & Responsibility of Judges
- Knowledge of Law
- Judicial Method
- Management
- Organisational Efficacy

The only difference between a winner and a loser is how well they use their time

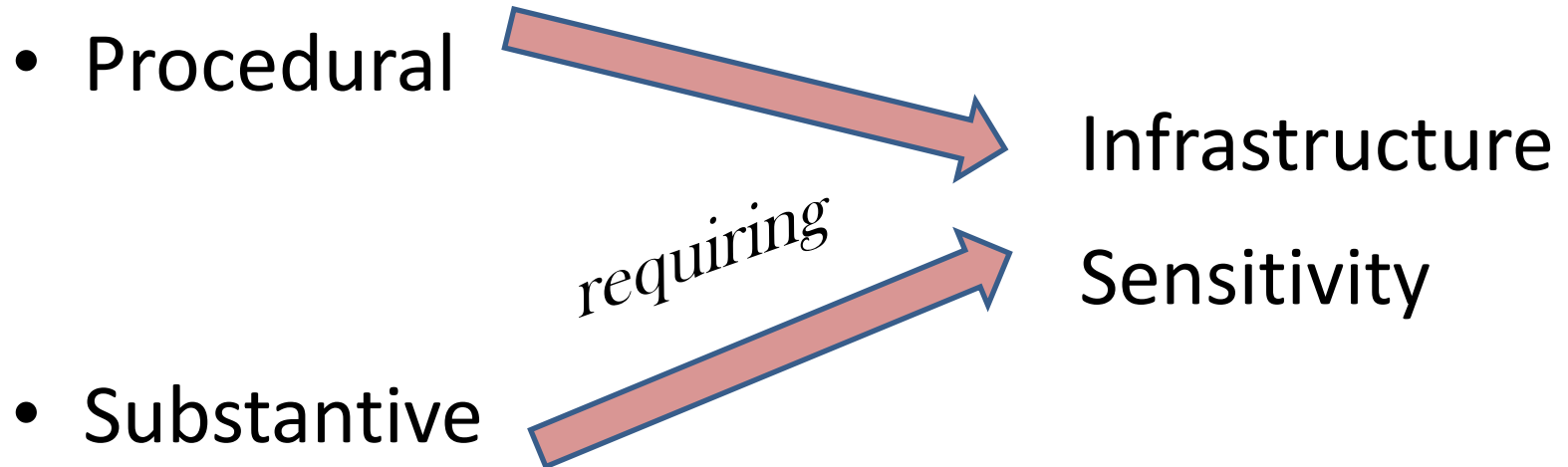
APPEM APPROACH TO TIME MANAGEMENT

A P P E M for DAR raised by NJA, India

- AIM – Secure justice, do justice
- PRIORITISE – e.g. Liberty of persons in the UK
- PLAN – absent in the 5 year plans
- EXECUTE – Put plans into practise
- MONITOR – Research / impact assessment

The formulation of a problem is far more essential than its solution. – Albert Einstein

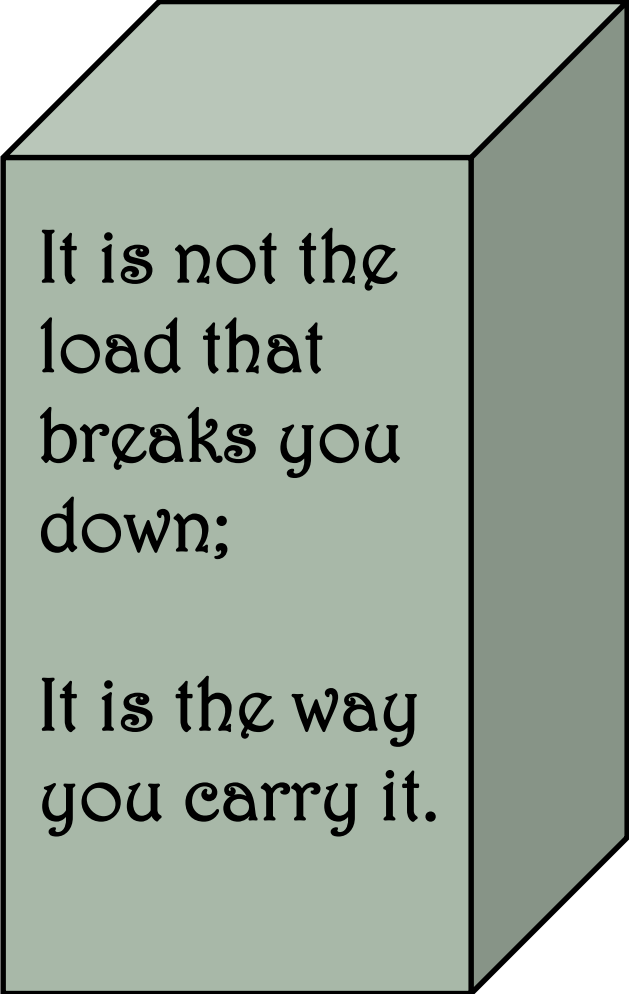
Ambit of Court Room Management



Human mind is like a parachute;
It works only when it is open

STAGES OF CASE MANAGEMENT

- **Plaint / Complaint**
- **Service**
- **Interim Applications**
- **Oral Applications**
- **Defense**
- **Admissions**
- **Issues**
- **Evidence**
- **Original Documents**
- **Compilation**



It is not the
load that
breaks you
down;

It is the way
you carry it.

STAGES OF CASE MANAGEMENT (Contd...)

- Arguments
- Judgment (oral & reserved)
- Summary Judgments (on Arguments)
- Costs

Case Management is an art which must be compulsorily cultured under the adversary system – Justice Krishna Iyer

ASPECTS OF COURT MANAGEMENT

- ❖ Scrutiny
- ❖ Technicalities
- ❖ Directions
- ❖ Certified Copies
- ❖ Group matters
- ❖ New cases
- ❖ Case tracking
- ❖ Expedition Orders
- ❖ Bench book/handbook / propositions of Law

*When it is obvious
that goals cannot be
reached,
Don't adjust the
goals;
Adjust the action
steps.*

-Confucius

ASPECTS OF COURT MANAGEMENT (Contd...)

- ❖ Dates - Discharge of cases on Board / website
- ❖ Assignment period / part heard matters
- ❖ Classification of Cases
- ❖ Subordinate Officers' Powers – enhanced
- ❖ Facilitation Counter

*Successful people do not do different things,
They do things differently.*

MANAGEMENT SYSTEMS

- National Court Management System
 - Macro level
- State Court management System
 - Micro level

*I am not trying to change you.
I am trying to change myself,
so I don't have to change you.*

REMOVAL OF ROAD BLOCKS

- Pleadings as evidence
- Evidence of all witnesses together in related cases
- Simplification of proof of documents
 - Old seemingly genuine documents
 - Electronic documents
 - Documents in a group

**None stands taller
than those willing
to stand corrected**

REQUIREMENTS FOR EFFECTIVE MANAGEMENT

- ⇒ Amendment to Rules as merited
- ⇒ Practice Directions
- ⇒ Legal & Judicial Education & Training
- ⇒ Precedents
- ⇒ Court Administration

You cannot do today's job

With yesterday's methods

And be in business tomorrow

The best 10 two-letter words –

If it is to be,

It is up to me.