



RECLAIMING THE BENCH: A CASE FOR REVERTING TO A REGISTRAR-LED ADMINISTRATIVE MODEL IN THE NAMIBIAN HIGH COURT

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I. Preface

The current workload crisis in the Namibian High Court is directly linked to the fundamental shift in procedural responsibility introduced by the 2014 Rules. This article critically evaluates the administrative burden of Judicial Case Management (JCM), which has arguably transformed the judiciary into a high-level clerical body.

The insights provided in this analysis are informed by a comparative understanding of different High Court divisions—specifically, Adv. M.G. Boonzaier's firsthand experience within the North Gauteng High Court—having served as a Judge's Clerk, including to the Acting Judge President—provides a practical foundation for our proposal to return to a Registrar-led administrative system. This firsthand knowledge of the Registrar's Office in a high-volume jurisdiction underscores the argument that a specialised administrative unit is essential to enable the Bench to focus on its constitutional mandate of adjudication.

II. The Procedural Shift: From Party-Driven to Court-Driven

The transition from the 1990 Uniform Rules to the 2014 JCM Rules represents a radical change in how litigation is managed in Namibia.

The 1990 System (Registrar-Led): Under the old rules, the pace of litigation was primarily dictated by the Legal Practitioners. The Registrar's role was strictly administrative: issuing process, uniquely numbering cases, and maintaining office hours for filing. Legal practitioners were responsible for taking steps among themselves—such as requesting further particulars or attending parties' conferences to curtail proceedings—before ever involving a judge.

The 2014 System (Judge-Led): The 2014 Rules explicitly mandate a "court-driven process". Control and management of every case now vest in the court from the moment an appearance to defend is entered. The Managing Judge now bears primary responsibility for the "progress of cases from initiation to conclusion".

III. The administrative burden of Judicial Case Management (JCM)

The 2014 Rules moved "case administration" from the Registrar's office directly onto the desks of judges through several intensive procedural steps:

- **Docket Allocation:** Unlike the 1990 rules, where the Registrar merely filed documents, the 2014 Rules require the Registrar to "docket-allocate" every case to a specific Managing Judge.
- **Compulsory Conferences:** Judges must now preside over multiple administrative milestones that were previously handled by practitioners or not required at all:
 - **Case Planning Conferences:** Held within 15 days of allocation to finalise a "case plan".
 - **Case Management Conferences:** To establish time schedules for all relevant events.
 - **Pre-Trial Conferences:** To finalise lists of exhibits and witnesses.

Under JCM, the Managing Judge must give directions for every interlocutory proceeding and conduct hearings within 30 days of them being brought. Under the 1990 rules, many of these steps were resolved between attorneys via notice.

IV. Comparison of finality and trial readiness

The 1990 Rules: A judge received a file only when it was "ripe for hearing." An attorney would request a trial date from the Registrar only *after* the close of pleadings and after attempting to reach an agreement to curtail the trial duration. The judge's involvement was limited to adjudicating the dispute.

The 2014 Rules: Judges must now "drive the case to resolution" through constant supervision. No matter can be enrolled for a hearing until a judge—not the Registrar or the parties—certifies it as "trial ready". This forces judges to act as administrative overseers for months or years before the trial begins.

V. Why revert to the registrar-led system?

The JCM system has transformed the judiciary into a high-level clerical body. By returning administrative responsibilities to the Registrar and requiring Legal Practitioners to handle case progression steps among themselves (as per the 1990 Uniform Rules), the following would be achieved:

- **Terminal Shift of Burden:** Judges would be freed from scheduling conferences, managing discovery deadlines, and overseeing the exchange of witness statements.
- **Expedited Finality:** If judges receive files only when they are truly ripe for hearing, they can focus exclusively on writing judgments and presiding over trials, reducing the current backlog.
- **Efficiency:** Re-establishing the Registrar as the "main administrative official" allows for a specialised administrative unit to monitor court files, while the Bench focuses on its constitutional mandate of adjudication.

The Registrar-Led Model in Practice. The recommendation to return administrative duties to the Registrar is supported by direct observation of successful Registrar-led systems. One of the authors of this analysis served as a Judge's Clerk to the Acting Judge President of the North Gauteng High Court. This role provided a front-row seat to the efficiency of a dedicated administrative Registrar's office, reinforcing the argument that freeing judges from "high-level clerical" tasks is essential for achieving expedited finality.

VI. How time-effective is the JCM system?

In support of the contention that the Registrar-led system should be reintroduced, the authors of this article created a sample size of three random cases, all of which are action proceedings.

Furthermore, these matters were evaluated using the following metrics: first, the time from issuance to allocation; second, the time from allocation to ripeness; and third, the time from hearing to judgment or final order. It is worth noting that the sample cases are available on the e-Justice filing system, and readers may verify these metrics at no cost. A comparative analysis of cases pre-dating and post-dating the Judicial Case Management (JCM) system would be methodologically unsound. This is because, under the 1990 Rules, the rules themselves prescribe the timelines for exchanging pleadings and notices from inception through to trial readiness.

Action proceedings:

Case Number	Time elapsed to allocation	Time elapsed to <i>ripeness</i>	Time elapsed to judgment	Total days elapsed to final adjudication
HC-MD-CIV- ACT-OTH- 2024/00921	34 days ¹	361 days ²	207 days ³	602 days
HC-MD-CIV-	168 days ⁴	288 days ⁵	122 days ⁶	578 days

¹See: e-Justice filing system issuance of summons to the allocation of a managing judge done by notice of case planning conference, i.e. 15 March 2024 and 19 April 2024 respectively.

² See: e-Justice filing system filing of the Case Management Report to the Pre-Trial Order marking it ready for trial, i.e. 28 June 2024 to 24 June 2025.

³See: e-Justice filing system Pre-Trial Order marking the matter ready for trial to the date of judgment, i.e. 24 June 2025 to 16 January 2026.

⁴ See: e-Justice filing system issuance of summons to the allocation of a managing judge done by notice of case planning conference, i.e. 28 November 2023 and 13 May 2024 respectively.

⁵See: e-Justice filing system filing of the Case Management Report to the Pre-Trial Order marking it ready for trial, i.e. 23 October 2024 to 6 August 2025.

ACT-OTH- 2023/05293				
HC-MD-CIV- ACT-DEL- 2024/03619	34 days ⁷	51 days ⁸	223 days ⁹	318 days

From the preceding data, the following inferences can be made as they pertain to action proceedings –

- The majority of the time spent on a matter by a judge is during the JCM phase and can be upwards of one year in certain instances.
- From the sample, the fastest time in which a matter was fully resolved was a period of 318 days.
- The data suggests that the current pace at which matters are resolved falls outside of the internal benchmarks imposed by the practice directives.
- Further, a cost-benefit analysis of the present system must be conducted to determine how much the taxpayer is spending on the system.
- The internal benchmarks of Practice Directive 62¹⁰ are unreasonable and impose timelines which cannot be reasonably complied with,

⁶See: e-Justice filing system Pre-Trial Order marking the matter ready for trial to the date of judgment, i.e. 6 August 2025 to 5 December 2025.

⁷See: e-Justice filing system issuance of summons to the allocation of a managing judge done by notice of case planning conference, i.e. 26 September 2024 and 29 October 2024 respectively.

⁸See: e-Justice filing system filing of the Case Management Report to the Pre-Trial Order marking it ready for trial, i.e. 5 February 2025 to 27 March 2025.

⁹See: e-Justice filing system Pre-Trial Order marking the matter ready for trial to the date of judgment, i.e. 27 March 2025 to 4 November 2025.

considering the number of cases registered with the High Court, which, according to governmental statistics, amounts to 614 per judge.¹¹

VII. Conclusion

The transition from the 1990 Uniform Rules to the 2014 Judicial Case Management (JCM) system was intended to streamline litigation; however, data and practical experience suggest it has instead created a procedural bottleneck. By shifting the administrative burden from the Registrar and Legal Practitioners directly onto the Bench, the 2014 Rules have transformed judges into "high-level clerical" overseers. This shift forces the judiciary to manage minute procedural milestones—such as docket allocation, case planning, and witness statement exchanges—that were previously handled efficiently through notice between practitioners.

The evidence presented underscores the inefficiency of the current model:

- **Administrative Overload:** Judges are currently managing an average of 614 cases each, operating under Practice Directive 62 timelines that are increasingly viewed as unreasonable and unattainable.
- **Delayed Finality:** Sample data indicates that the JCM phase can consume upwards of a year, with even the fastest resolved matters taking over 300 days to reach final adjudication.
- **Erosion of Judicial Focus:** Constant supervision of case "ripeness" prevents the Bench from focusing on its core constitutional mandate: adjudication and the timely delivery of judgments.

The core constitutional mandate of the High Court is to authoritatively pronounce the law by interpreting and applying the Constitution and existing statutes. Under the

¹⁰See: Consolidated Practice Directives Government Notice 67 of 2014 accessible online at <https://ejustice.moj.na/High%20Court/LegislationAndDirectives/Directives/Practice%20Directions%20issued%20in%20terms%20of%20the%20Rules%20of%20the%20High%20Court%20GN%2067-2014%20as%20amended.pdf>

¹¹See: <https://neweralive.na/judiciary-under-duress/>

doctrine of the separation of powers, the judiciary serves as a neutral arbiter whose primary function is the adjudication of disputes. By returning administrative file management to the Registrar and focusing exclusively on this adjudicative role, the court more effectively fulfils its overriding objective: the just and speedy resolution of the real issues in dispute.

To resolve this crisis, the Namibian High Court should revert to a Registrar-led administrative model. Re-establishing the Registrar as the primary administrative official would enable a specialised unit to monitor case progression, thereby freeing judges to receive files only when they are truly "ripe for hearing". Such a move, supported by successful precedents in other high-volume jurisdictions, would restore the court's balance, expedite finality, and ensure that the judiciary remains a body of adjudication rather than an administrator.

To conclude, one is reminded of the anonymous adage: "In the old days, you could manage a major case on the back of a cigarette packet." While such informal brevity is now a relic of the past, its disappearance underscores the necessity of a robust pre-hearing framework. Only through the support of a well-organised administrative functionary can the legal system ensure the truly efficient delivery of justice.