

**THE HARD REALITIES OF INDIA'S FAST-TRACK COURTS****Context:**

- ▶▶ Recently Minister for Women and Child Development has informed the Rajya Sabha that the government has proposed to set up fast-track courts to clear the cases under the (POCSO) Act.

**Introduction:**

- ▶▶ Recently the Supreme Court in a suo motu petition had issued directions, stating that districts with more than 100 cases pending under the POCSO Act need to set up special courts that can deal specifically with these cases.
- ▶▶ Minister for Women and Child Development, informed the Rajya Sabha that the government has proposed to set up 1,023 fast-track courts to clear the cases under the Protection of Children from Sexual Offences (POCSO) Act.
- ▶▶ Increasing the number of courts as a recourse to deal with the mounting backlog has been a common practice.

**About Fast track courts:**

- ▶▶ A 'special court' is one which is to deal with special types of cases under a shortened and simplified procedure.
- ▶▶ Fast-track courts (FTCs) have been around for a long time, with the first ones being established in the year 2000. Fast-track courts (FTCs) are created primarily to deal with the judicial backlog. The 11th Finance Commission had recommended a scheme for the establishment of FTCs for the expeditious disposal of cases pending in the lower courts.
- ▶▶ As per Ministry of Law and Justice, at the end of March, there were 581 FTCs operational in the country, with approximately 5.9 lakh pending cases, Uttar Pradesh having the most number of cases.
- ▶▶ In terms of money, ₹870 crore was released by the Centre between 2000-2001 and 2010-2011 towards these FTCs.

**Inter- State variations:**

- ▶▶ With all these years of experience and money spent, it is discomfoting to see not only the decline of FTCs across the country but also systemic issues prevalent in the States that have the courts.

- ▶▶ As per National Law University Delhi, it was observed that there is a huge variation in the kinds of cases handled by these courts across States, with certain States primarily allocating rape and sexual offence cases to them and other States allocating various other matters.
- ▶▶ However, 56% of the States and Union Territories, including Karnataka, Madhya Pradesh and Gujarat, had no FTCs.

### Subordinate courts hold's the highest pendency:

- ▶▶ According to the latest 'National Judicial Data Grid statistics', as of April 2018, there are over three crore cases pending across the Supreme Court, the High Courts, and the subordinate courts.
- ▶▶ The subordinate courts account for over 86% pendency of cases, followed by 13.8% pendency before the 24 High Courts. The remaining 0.2% of cases are pending with the Supreme Court.
- ▶▶ The main reasons for the long delay in the disposal of cases is the high number of vacancies in position for judges in the High Courts and the District Courts of the country.
- ▶▶ The court has put the actual figure at 5,133 out 22,036 sanctioned posts. There are more than 5,000 vacancies in the subordinate courts.

### Co-relation between number of Judges and Pendency Rate:

- ▶▶ While the Centre is promising to set up FTCs across the country, the moot question is whether a mere increase in the number of judges can result in direct reduction in pendency of cases.
- ▶▶ For instance, in Karnataka, the number of working judges increased between 2012 and 2017 (with occasional dips in certain years) but pendency did not reduce.
- ▶▶ Similarly in other States, such as Maharashtra, Kerala, Delhi and West Bengal, increase or decrease in the number of judges did not affect pendency of cases.
- ▶▶ Furthermore, given the vacancies in subordinate courts across the country, it also needs to be seen whether States will hire additional judges or appoint FTCs from the current pool of judges.
- ▶▶ For instance, in the case of commercial courts, several States designate special judges from the current pool of judges. Such a move could prove to be problematic as it would increase substantially the workload of the remaining judges.

### Existing Systemic Issues:

- ▶▶ While a large sum of money and attention are being devoted to creating additional posts, little is being done to identify and address the prevalent systemic issues.

- ▶▶ Without fully optimising the current mechanisms and resolving the problems, sanctioning more judges may not provide the intended results.
- ▶▶ Several FTCs lacked technological resources to conduct audio and video recordings of the victims and many of them did not have regular staff.
- ▶▶ Other factors that have an impact on disposal of cases are Inadequate staff and IT infrastructure, delay in getting reports from the understaffed forensic science laboratories, frivolous adjournments and over-listing of cases.

### Key Recommendations:

1. **Addressing the systematic Issues:** Increasing the number of judges: Law Commission in 1987 had recommended that India should raise the number of judges to 50 for every million population.
2. **Filling up of the Vacancies:** the administrative hurdles and the unwillingness of the state governments is the cause of increase in vacancies. The respective state governments must work towards reducing the vacancies.
3. **Rationalisation of Judicial Structures:** Fast-track courts and special courts are administered under different judicial bodies, with little coordination or uniformity among them. Therefore, a lead agency to be established by Central and State Governments to review the functioning of courts in a systematic and streamlined manner.
4. **Capacity building and Improving Infrastructure:** The training of staff as per the demand of FTC is need of the hour. The FTCs must be provided with the adequate infrastructure to provide justice in a fair way and reduce the pendency of cases.
5. **A Holistic Approach** of fast tracking the investigation to complement the Fast track courts (FTCs) and providing a special procedure different from the procedure followed in the regular courts is required.

### Way Ahead:

- ▶▶ Identifying systemic issues and addressing the concerns is as important for timely disposal of cases as increasing the number of judges.
- ▶▶ The final responsibility of making sure that the entire exercise results in a positive change vests with the States. For the FTCs to become successful, States will need to take stock of the issues at the ground level.
- ▶▶ It is often noted that policies and regulations are passed without keeping in view the ground realities. It is important that States engage with the principal and senior district judges to get a sense of issues the courts are facing in various districts.
- ▶▶ Equal attention must be paid to both the metropolitan and far-flung non-metropolitan areas.

- ▶▶ Critical issues such as inadequate court staff, improper physical and IT infrastructure and understaffed forensic labs, which affect the day-to-day functioning of the FTCs, must be comprehensively addressed.
- ▶▶ For the overall system to work productively, it is important to ensure that its various components work efficiently and without any hindrance.

**Source: The Hindu**

