

THE HARD REALITIES OF INDIA'S FAST-TRACK COURTS

Relevant for: Indian Polity | Topic: Judiciary in India: its Structure, Organization & Functioning, Judges of SC & High Courts, Judgments and related Issues

Representational image.

Fast-track courts are in the limelight yet again. Smriti Irani, 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. A few weeks ago, 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.

Increasing the number of courts as a recourse to deal with the mounting backlog has been a common practice. However, while large sums 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.

Fast-track courts (FTCs) have been around for a long time, with the first ones being established in the year 2000. Since then, much has been spoken and written about them. To quote the 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. However, 56% of the States and Union Territories, including Karnataka, Madhya Pradesh and Gujarat, had no FTCs. In terms of money, 870 crore was released by the Centre between 2000-2001 and 2010-2011 towards these FTCs.

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. In a survey of FTCs conducted by 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. Further, several FTCs lacked technological resources to conduct audio and video recordings of the victims and many of them did not have regular staff.

While the Centre is promising to set up FTCs across the country, the moot question is: will a mere increase in the number of judges lead to a direct reduction in pendency of cases? Data collated from the Supreme Court's 'Court News' between 2010 and 2017 show otherwise. 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.

Hence, there are several other factors that have an impact on disposal of cases. Inadequate staff and IT infrastructure, delay in getting reports from the understaffed forensic science laboratories, frivolous adjournments and over-listing of cases in the cause list are some of the variables. Identifying systemic issues and addressing the concerns is as important for timely disposal of cases as increasing the number of judges.

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.

All said and done, 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.

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