

THE SPEED OF JUSTICE

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

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The writer is chairman, Economic Advisory Council to the PM. Views are personal.

The Eleventh Finance Commission's report was submitted in 2000 and its recommendations were for the period between 2000 and 2005. The report said, "We have observed that there is a pendency of about two crore cases in the district and subordinate courts of the states. We are providing a grant of Rs 502.90 crore for creation of additional courts specifically for the purpose of disposing of the long-pending cases... This will enable the states to create 1,734 new additional courts." This provision was based on an estimated cost of Rs 29 lakh for each additional court.

Though the Eleventh Finance Commission didn't use the expression, these 1,734 courts were fast track courts (FTCs). The state governments were supposed to establish FTCs after consulting the high courts. The term for the schemes recommended by the Finance Commission for FTCs ended on March 31, 2005. By that date, state governments had notified 1,711 FTCs, of which 1,562 were functional. The performance of these courts varied widely across states. The all-India average of cases disposed per month by a FTC was 15. Originally, the cases disposed per month was meant to be a per judge norm — and not a per FTC norm.

In *Brij Mohan Lal versus Union of India*, the Supreme Court instructed that one shouldn't disband FTCs overnight. Hence, the Union government approved Rs 509 crore for the 1,562 functional FTCs to continue till March 31, 2010; this deadline was extended by the year. In 2012, in the *Brij Mohan Lal* case again, the Supreme Court observed, "The Union of India has stated that it would not, in any case, finance expenditure of the FTC Scheme beyond 30th March, 2011 but some of the states have resolved to continue the FTC Scheme up to 2012, 2013 and even 2016. A few states are even considering the continuation of the FTC Scheme as a permanent feature... This, to a large extent, has created an anomaly in the administration of justice in the states and the entire country. Some of the states would continue with the FTC scheme while others have been forced to discontinue or close it because of non-availability of funds. Being a policy decision which has already taken effect, we decline to strike down the policy decision of the Union of India vide letter dated 14th September, 2010 not to finance the FTC Scheme beyond 31st March, 2011. The states which are in the process of taking a policy decision on whether or not to continue the FTC Scheme as a permanent feature of administration of justice in the respective States are free to take such a decision."

On balance, were the FTCs a good idea? That is tough to say. Their performance varied across states. Up to a maximum of Rs 80 crore per year, till 31st March 2015, the Centre provided a matching grant to states for the FTCs. Then along came the Fourteenth Finance Commission, for 2015-2020. There was a Rs 4,144 crore proposal for grants-in-aid from the Department of Justice to FTCs, in addition to grants for additional courts and family courts. On December 31, 2018, there were 699 FTCs (some of the courts that were established earlier had closed down). These were for cases against women, children, senior citizens, differently-abled, those with terminal ailments and civil property disputes that were more than five years old. The crime data for 2017 has been published recently. "Crime in India" has information on the IPC crimes tried by the FTCs. The SLL (special and local law) crimes are unlikely to be transferred to FTCs. But

yes, those data does not include civil cases handled by FTCs. When will one think that a court is fast track? Probably, when a court disposes the case transferred to it within a year.

In 2017, FTCs in Jharkhand, Karnataka, Madhya Pradesh, Rajasthan and Tamil Nadu disposed off at least half their cases within one year. Chhattisgarh and Punjab missed the cut marginally. If the cut-off is changed from one year to three years, a few other states — Gujarat, Haryana, Telangana, West Bengal and Delhi — will not have poor records. However, the picture in some states is dismal. For example, FTCs in Bihar settled 6,704 cases in 2017. Two thousand five hundred and seven of these cases lasted more than 10 years and 1,655 cases took between five and 10 years. There is nothing “fast” about these courts. Between 2016 and 2017, some definitions and headings in “Crime in India” have changed. Therefore, a comparable table doesn’t exist in last year’s version. But trends aren’t likely to be different.

There is now (2019) a scheme for fast track special courts (FTSCs) to adjudicate on rape and POCSO (Protection of Children against Sexual Offences) cases. “The 1,023 FTSCs will dispose of 166,882 cases of Rape and POCSO Act, that are pending trial in various courts. There are 389 districts in the country where the number of pending cases under POCSO Act exceeds 100. Therefore, as per the order of Hon’ble Apex Court, in each of these districts one exclusive POCSO court will be set up which will try no other cases. Depending upon the pendency of POCSO Cases the State/UT Governments in consultation with the High Court could however decide if more number of exclusive POCSO Courts need to be established within overall number of FTSCs provided under this scheme.” The Centre will meet part of the expense of FTSCs with a matching grant by the State/UT — this scheme is till 2020-21. However, the incentive structure of judges presiding over FTCs has a lesson also for FTSCs.

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