

# LEGALFOXES LAW TIMES

## FAST TRACK COURTS : THE COMPLETE GUIDE

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### Abstract

The word "justice" should refer to a certain philosophy, one that is unaffected by external factors. But, due to recent developments in the field, the concept of justice has shifted from an objective to a subjective term. The concept of law-and-order states that "no matter how high you rise; the law will still be above you." However, it is often critical that the law begin its work in a legal manner. This is where the concept of "right to justice" enters the picture. This concept recognizes the likelihood that individuals with a position in society should have access to justice, and that access to justice should not be denied to someone who is reasonably eligible.

After considering the dire situation of Indian courts in terms of timely delivery of justice, the Indian government has taken a few steps toward judicial reform. One such advancement is the concept of Fast Track Court, which seeks to provide victims with swift justice. However, recent improvements have revealed that the most optimized plan of fast-track courts is on the verge of losing its effectiveness due to a variety of internal and external factors, raising fears among legitimate organizations to resolve this problem as soon as possible.

This article provides a comprehensive examination of the growth of fast-track courts in India, their role in improving the effectiveness of justice in the Indian legal system, and how this particular idea is still being undermined by irrelevant considerations. As a result, this article aims to include new courses in order to promote the concept of "Fast Track Courts" as an important method for ensuring "access to justice."

## Introduction

### History of fast-track courts in India

The Central Government led by example by establishing Fast Track Courts to expedite cases that were long in the making and, for the most part, involved session court legal disputes. The 11th Finance Commission approved a budget for the establishment of Fast Track Courts in India. It devised a proposal to build 1734 Fast Track courts across the country. The Ministry of Finance approved a measure of Rs. 502.90 crores for judicial administration as a "special issue and upgradation grant."

The term of this grant expired in 2005, but the Finance Commission extended it for another five years, until 2010, to maintain 1,562 existing fast track courts. In the year 2000, the concept of a fast-track court was supported by a number of different mechanisms. The 188th Law Commission Report recommended that each High Court create a fast-track commercial division as a permanent Fast track court to handle high-value business disputes. The Law Commission recognized the importance of Fast track courts in handling the issue of check bouncing cases again in 2008, but it was proposed only as an ad hoc measure.

By the end of the decade, the concept of Fast Track Courts (FTC) had changed, and it had begun to be recognized as a specially appointed mechanism for dealing with the problem of case pendency. After the Central Government started funding the FTCs in April 2011, the majority of them were twisted up. It's also worth noting that these FTCs were produced on their own and were not backed by legislation.

The Central Government's decision to stop funding the most efficient plan of fast-track courts was challenged in the case of Brij Mohan Lal v. Association of India, in which the Supreme Court decided to overturn the Union of India's decision not to finance the FTC conspiracy past March 31, 2011.

Regardless, the Supreme Court has issued a number of rulings aimed at strengthening the justice delivery system, assisting the judicial process in traditional courts, and bolstering the judiciary's independence. The Court cited the "constitutional requirement to accommodate fair and

expeditious trials to all litigants and residents of this republic," and ordered the state and federal governments to create extrajudicial positions within a quarter of a year of the judgment's date.

The Court also stated that the states have the option of terminating or continuing with the most efficient plan of fast-track courts conspire. The States, on the other hand, may not wish to implement the proposal on an ad hoc or temporary basis. Following the Nirbhaya case in 2012, the J. Verma Committee's recommendations and public opinion's preference for speedy justice served as catalyst for the establishment of more fast-track courts in India.

Following that, the most optimized plan of fast-track courts will be required to dispose of 14 session trial cases and 20 to 25 civil/criminal cases each month, according to the current Center's operation plan. The state governments and high courts have been asked to set up the prosecution in order to ensure a fast cycle administration. The proposal also calls for the selection of specially named judges from among retired session and additional session judges to pass judgment on cases that have been advanced and posted in these courts, as well as from among members of the Bar.

High Courts will make the final decision on who to name as judges. The plan also envisaged the establishment of an average of five fast track courts in each of the country's districts.

### **Contemporary challenges to fast-track courts in India**

For a long time, the adequacy of both special fast track courts and other fast track courts in providing justice to the people of this country has been questioned. Only 107 cases have been resolved out of 623 cases assigned to the special fast track courts since their inception, with only 18 cases resulting in convictions. In India, there are approximately 1192 fast track courts with a total of 6, 05,813 pending cases.

There is no single reason for such a poor performance. Individuals who have served in the most optimized plans of fast-track courts refer to it as "fast track discrimination," since these courts are often given an arbitrary deadline for completing cases. They are advised not to get too personally involved in the matter and to simply declare the individual to be liable if they believe he is guilty, and to declare him to be innocent if they believe he is honest.

This isn't how the criminal justice system, or any other system for that matter, operates. Justice cannot be served based on hunches or mystery, but rather on deliberate thought and attention. Judges have also been found to be erasing evidence, refusing to allow complete cross-examinations, and, in general, allowing trials without legal representation, implying that the system is not very effective at providing justice. The fear of potentially failed justice labors is heightened by hurried and husky courts, as the Law Commission of India put it: "justice delayed is equality denied, and justice rushed is justice buried."

The following are the main factors that have consistently been mentioned:

### **I. Funding**

A large portion of the country's fast track courts are still in use fifteen years after they were first established, according to the Law Ministry, which announced that they still have their fast-track courts in service as licensed in 2000. The fast-track courts were formed to appear in cases that had been left pending for a long time, but they were later guided to take on specific cases. Just 976 of the 1,734 Fast track courts approved in 2000 are still operational, according to Justice Ravi Shankar Prasad. Fast track courts were developed with a financial plan of Rs 500 crore from the central government for their establishment in the states.

The underlying plan was to operate these courts for a period of five years, and according to information from the Law Ministry, 1562 were operational by 2005. The support was extended for an additional 5 years on the Supreme Court's orders, and it was halted in March 2011. At that time, the number of operational means had dropped to 1,192. After the Delhi Gang Rape case, the Center broadened the programme in part until March 2015, giving up to 80 crores a year as coordinating with the award to meet the pay scales of the additional judges, but the number of fast-track courts had dropped to 976 by July 2014.

The base of 1,800 FTCs was sponsored by the Fourteenth Finance Commission. Rajasthan, Uttarakhand, Himachal Pradesh, and Arunachal Pradesh have the worst records, with none of their endorsed fast track courts operating. Just 61 of Gujarat's 166 fast track courts are operational, compared to 39 in Karnataka, 92 in Maharashtra, and 85 in West Bengal.

## II. The judicial procedure

Given that the 120th Law Commission Report unmistakably stated that legislative representation can be determined by the people, there is no reason why a similar approach cannot be applied to judicial service. Population must be seen in the context of being both a demographic and a political unit at the same time. As a result, the State is obligated to provide people with democratic rights, such as the option of admission or access to justice.

The 120th Law Commission Report also proposed a five-fold increase in legal strength at all levels of the Indian Judiciary, from 10.5 to 50 appointed authorities per million of the population, highlighting the fact that India's adjudicator population proportion remains in a powerless difference as compared to a few other countries.

The Fast-Track Court concept called for the appointment of ad-hoc judges from among the retired session or additional session judges for a period of two years. The High Courts will make the judges' decision, and the Center has also given instructions to the state governments to renew the opportunities that might arise as a result of ad-hoc promotions through a special push. the end of one's working career.

It has been observed that even the most optimized proposals for fast-track courts are often subjected to outlandish pressure from the general public to dismiss instances of enormous public importance. According to the Department of Justice, these courts have discarded approximately 32.34 lakh cases and have transferred approximately 38.90 lakh cases to these courts, leaving approximately 6.56 lakh cases awaiting disposition. As a result of looking at this data, one question that arises is whether natural justice principles have been observed in any of these cases or whether the legal way to provide justice has been circumvented.

### **The Best Bakery Case**

This case is a prime example of how expediting a case can have serious consequences if the system and evidence are not taken into account by the Court at the outset of the case. In one of Gujarat's post-Godhra riots in the city of Vadodara in 2002, about 14 people were burned alive.

The case was tried by the Baroda Fast Track Court No. 1, which acquitted 21 accused despite the allegations of a faulty system. The trial lasted a total of 44 days. The court chastised the cops for

not doing their job properly, and a number of witnesses retracted their testimony in court. Indeed, it was only after the National Human Rights Commission intervened and the matter was taken up by the Supreme Court, which requested a retrial, that the High Court upheld the verdict. As a result, it should be noted that timely inspection and investigation are of incredible importance.

### Miscellaneous

- a) **Hostile Witnesses:** One of the main reasons for the large number of acquittals in cases handled by the fast-track courts is that the complainants, claimants, or other witnesses have become aggressive. This can be perceived as the preliminary cycle's own dissatisfaction. The problem of witnesses becoming violent in fast-track courts isn't new; many related incidents have been recorded in the past and are still being handled in the same manner.
- b) **Consideration of Evidence:** Recent research has also shown that judges in some cases lack experience when it comes to weighing evidence.

### The necessity of fast-track courts in India

#### A. Pendency of cases in the Indian Courts

Currently, there are approximately three crore cases pending in Indian courts. In the next thirty years, the cry for expedient justice will be quieter, according to a moderate judicial prediction that case pendency will increase by five times to reach 15 crores, but judicial power will only increase by a few times to settle at 75,000. Currently, nearly 19,000 judges, including 18,000 for criminal courts, are overseeing a backlog of 3 crore cases, resulting in a civil case that has been pending for nearly 15 years and proving the proverb "justice delayed is justice denied."

The "Mission Mode Program for Reducing Case Pendency in Courts" has been dispatched by the Union Law Minister. According to media reports, the initiative aims to resolve 40% of the pending cases in subordinate courts throughout the state. There were 2.8 crore cases pending in lower courts as of September 30, 2010, and 42 lakh cases pending in the high courts.

Approximately 9% of these cases have been on hold for more than ten years.

The primary reasons given by the Union Law Minister for delaying each of these cases are as follows:

- Increase in institution of fresh cases.
- Inadequate number of judges and vacancies.
- Inadequate physical infrastructure and staff.
- Frequent adjournments.

In recent years, the government has taken a number of steps to ensure that cases are resolved quickly. One such practice was turned into these days, welcomed by the Modi Government, whose law ministry desired that the Supreme Court reveal more prominent insights concerning itself, including court-by-court pendency of civil and criminal cases, range of adjournments in each particular case, and endorsed and working strength of judges to increase accountability in the criminal system.

The suggestions were made to the Supreme Court's e-court committee, which is part of the National Judicial Data Grid, with the aim of increasing transparency in judge evaluations (NJDG). In either case, regardless of such practices, the rate of case disposition has fallen behind the rate of case institution.

Additionally, there are a lot of vacancies in the courts. Currently, 33% of the endorsed vacancies in the High Courts are empty. The Allahabad High Court has the highest number of vacancies (60 percent), followed by the Punjab and Haryana High Court (38 percent) and the Calcutta High Court (38 percent) (28 percent).

### **B. Right to speedy justice**

The Law Commission of India had regarded the importance of expedited trials as right on time as in 1958 in its 14th Report. The Law Commission recognized that in an enlightened and government-assisted society, it is in the best interests of people for disputes to be resolved in the

courts within a reasonable time frame, in order to provide certainty and definiteness to rights and commitments.

As held in the case of *Ansunaben Kantilal Bhatt v. Rashiklal Manilal Shah*, relief granted to an aggrieved party after a period of time loses a lot of its value and sometimes turns out to be completely infructuous. The case of *Hussanaira Khaton v. State of Bihar* established this particular right, with J. Bhagwati observing that:

*“No procedure which doesn't guarantee a reasonably fast trial can be viewed as 'fair, reasonable or just' and it would fall foul of Article 21 of the Constitution.”*

Part XIV-A of the Indian Constitution, including Articles 323A and 323B, was inserted by the Constitutional (42nd Amendment) Act, 1976. Article 323A provides for the establishment of Administrative Tribunals for the settlement or trial of disputes and objections relating to enrolment and related matters, while Article 323B provides for the establishment of Tribunals for the adjudication or trial of queries, charges, and other matters.

The Legal Services Authority Act, 1987 was established to provide free and capable legal services to the more vulnerable parts of society, in order to achieve the goal set forth in Article 39A of the Indian Constitution. In a roadmap for improving justice in 2010, the 13th Finance Commission recommended prizes. These funds were used to create Morning/Evening/Shift Courses, which included various types of special courts, with the goal of reducing the backlog of cases. Gujarat is said to have been effective in resolving 57, 384 cases involving the framework.

### **Recommendations and solutions**

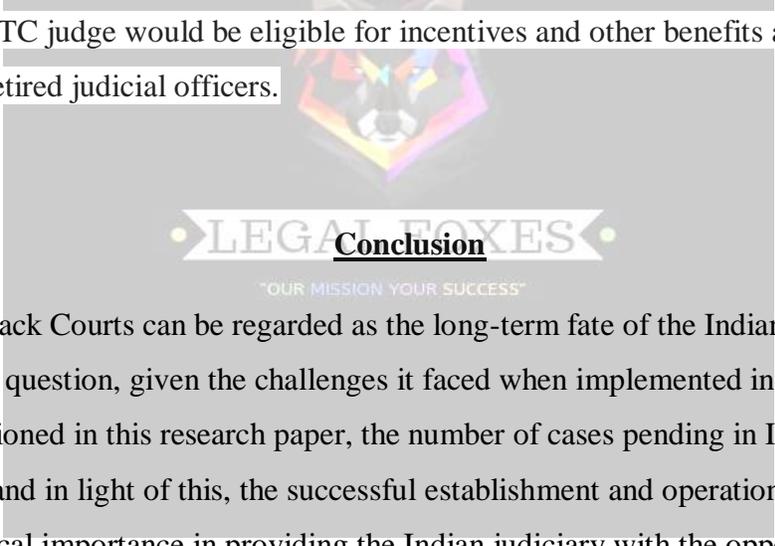
In the midst of the desire to create more Fast track courts, deliberate changes in the system are critical in the current situation in order to protect the concept of fast-track courts in India and to ensure the premium of vulnerable litigants.

Answers for the issue:

- 1. Special Legislation:** The lack of enactment in India is the most serious problem with fast-track courts. These courts were primarily established to respond to

political pressure on an ad hoc basis, and as a result, they lack the necessary mechanisms to operate effectively. The lack of a unique norm or method of operation exacerbates the problem, causing these courts to function similarly to any other traditional court. As a result, an adequate enactment laying out the methodology for expeditious case disposition is critical.

2. **Training:** Specialized training will be given to judicial officers, lawyers, and registrars, and more importantly, the enactment will include certain provisions for planning and training.
3. **Periodic Monitoring:** To keep an eye on the performance of the Fast-Track Courts, they will be subjected to random observation.
4. **Procedure for judges selection:** The Supreme Court has repeatedly noted that the judges assigned to these Fast track courts lack veracity, and as a result, the instructions provided by the Court must be strictly followed. Similarly, a former FTC judge would be eligible for incentives and other benefits available to other retired judicial officers.



### Conclusion

Whether Fast Track Courts can be regarded as the long-term fate of the Indian justice system remains an open question, given the challenges it faced when implemented in the first place. As previously mentioned in this research paper, the number of cases pending in Indian courts is unprecedented, and in light of this, the successful establishment and operation of Fast Track Courts is of critical importance in providing the Indian judiciary with the opportunity to reduce the number of pending cases.

Fast-track courts, with the help of legitimate funding from the central government and familiarity with relevant legislation to resolve all of their problems and keep a check on their operations, will have a significant impact on the country's justice system. Access to prompt and appropriate justice is a fundamental right of the people of this country, and it is the government's responsibility to take steps to acquaint new components with the concept of a Fast Track Court and to make justice available to ordinary citizens.

