



# The Big Picture: Sexual Crime - Fast-tracking Justice

## Why in News

Recently, the Union Government of India approved the [continuation of Fast-track Special Courts](#) to ensure **faster delivery of justice to victims of sexual offences**, as a [Centrally Sponsored Scheme](#) for another two years.

## Key Points

- **Continuation of Fast-Track Special Courts:** The proposal has been accepted for the continuation of **1023 fast-track special courts**.
  - These include **389 exclusive** [POCSO \(Protection of Children from Sexual Offences\)](#) Courts to expedite trials and provide immediate relief to minor girls who are victims of sexual crimes.
- **Total Outlay:** The continuation of the scheme, which was started on October 2, 2019, involves a total outlay of more than Rs 1,572 crore.
  - Rs 971 crore is provided by the Centre from the [Nirbhaya Fund](#), the remaining amount is expected to be provided by states.
  - The initiative is regarded as a major step towards de-clogging the justice system.
- **Aim of the Initiative:** Besides providing quick justice to the hapless victims, the Fast Track Court mechanism **strengthens the deterrence framework** for sexual offenders.

## Fast-Track Special Courts (FTSCs)

- **About:**
  - FTSCs are dedicated courts expected to ensure swift dispensation of justice. They have a **better clearance rate as compared to the regular courts** and hold speedy trials.
- **Background:**
  - Fast track courts (FTCs) were first recommended by the **Eleventh Finance Commission in 2000**.
  - The Government of India, following the recommendation, granted Rs. 502.90 to create 1,734 additional courts in different states for a period of five years.
    - In 2011, the central government stopped funding fast-track courts.
  - Following the December 2012 gangrape and murder, the Union Government set up a 'Nirbhaya Fund', amended the [Juvenile Justice Act](#) and set up **fast-track Mahila Courts**.
- **Scheme for Fast Track Special Courts:**
  - In 2019, the government approved a scheme for setting up 1,023 fast-track special courts (FTSCs) across the country for expeditious disposal of pending rape cases under the Indian penal Code (IPC) and crimes under the POCSO Act.
- **Other Initiative of Government:**
  - In 2018, the Government of India amended the criminal laws to provide more stringent punishments to the rape accused in the cases where the rape victims are minors.
    - The amendment declared a **death sentence** the punishment for the accused where the victim is below 12 years of age.
    - **Life imprisonment** was the punishment if the victim was below 16 years of age.

## Issues Associated

- **High Pendency of Cases:** Expeditious justice and a fair trial are a part of the [Fundamental Rights](#) of a citizen. Due to the high pendency of cases in the courts, it takes too long for justice to be delivered.
  - According to [National Crime Records Bureau \(NCRB\)](#), at the end of 2019, rape cases had a **pendency rate of 89.5% and the conviction rate of 27.8%**.
    - For POCSO cases, **88.8% cases were pending** at the end of the year, and of those disposed of, **34.9% ended in a conviction**.
- **Ineffective Working of Courts:** As per a report of the [Ministry of Home Affairs](#), by December 2020, out of sanctioned strength of 1023 fast-track courts, **only 597 courts were functioning out of which 321 were POCSO courts**.
  - As per the timelines prescribed, cases under the jurisdiction of POCSO courts are required to be solved within 60 days which is also not the case in reality.
- **Issues with the Lawyers and Witnesses:** The lawyers are also to be blamed for the delayed hearing of the cases too as they **seek frequent and unnecessary adjournments** and witnesses are also found **unwilling to come** to the courts again and again.
  - Delay due to **absence of witnesses** was seen as one of the main reasons for adjournments
- **Lower Judge to Population Ratio:** Currently, 20% of the posts in the lower [judiciary](#) at the district and magistrate level are still vacant. These are **perpetual vacancies which are not being filled up**.
  - Simply constituting special courts but not filling up the vacant posts itself increases the burden of the court.
  - Also, these judges are more or less judges from session courts who are **given the extra responsibility of fast-track courts**.

## Way Forward

- **Collaborative Effort of Judiciary and Government:** The very purpose of FTSCs can be fulfilled only with the effective coordination of [High Courts](#) and State Governments.
  - Both of them should be equally vigilant to ensure that the **courts are constituted, infrastructure is provided and cases are tried as expeditiously as possible**.
- **Equality in Justice:** Every accused person has the right to try to prove himself/herself innocent till the last court; from district level court to the [Supreme Court](#).
  - The judicial system has to ensure that in the haste to provide justice to the victim, it **does not deny the justice to the accused** too.
- **Protection of Witnesses:** There is a need to have witness protection laws. The lack of stringent laws for providing protection to the witness creates fear in his/her mind when confronting the accused.
  - Lack of proper protection provided to the witness **prevents him/her in providing any assistance** for the expeditious delivery of justice.
- **Capacity Building and Reducing Stress of Judges:** The FTSCs **must have dedicated judges** so that cases can be heard on a regular basis.
  - There must be **sufficient judges with proper knowledge** of their field/jurisdiction.
  - The number of cases present before a judge in a day should be limited too.
- **Special Procedures for FTSCs:** The legal process is in need of strengthening. **Same trial procedure for a normal court and a special court will create no difference** and will further increase the pendency of more and more cases.
  - Without compromising with the fair trial, an **easier process and mechanism can be laid down** for the special courts.
  - An effort in this direction shall be made so that **special courts apply a special procedure** and also reduce the timelines for hearing the cases.
- **Judiciary in Rural and Backward Areas:** The sexual crimes in the rural and backward sectors often go unreported.
  - **Augmenting technological, judicial and legal infrastructure** in the rural and tribal areas where not only the number of cases is increasing day by day but also the lack of delivery of justice is even worse.
- **Sensitisation Towards Victim:** Sensitisation has to be done too, not just in the courts but in the

home itself. **Nipping the evil in the bud** is the way ahead.

- Making the fast-track courts alone is not the panacea; the **society has to be made more empathetic towards women.**
- The other ways of sensitizing the society include **introducing sex education classes in the schools** in rural areas and government schools.
- **Sensitisation on the part of the lawyers and police** is also required.

## Conclusion

- Time bound justice to victims of sexual offences is one of the major concerns regarding justice delivery in our country.
  - The government has to ensure that the common man seeking justice does not have to run pillars to poles.
  - This type of fast-track mechanism has the potential to reduce the chances of such kind of situation but requires effective implementation.
- Timely and effective implementation of laws is essential to create a deterrent effect. The effect is not likely to be created if there is a large pendency of cases and it takes years for justice to be delivered.

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