



Special Courts

For Prelims: [Scheduled Castes and the Scheduled Tribes \(Prevention of Atrocities \(PoA\)\) Amendment Act, 2015](#), [Special Jurisdiction](#), [Chief Justice of India \(CJI\)](#), [Fast Track Courts \(FTCs\)](#).

For Mains: [Special Courts](#), Challenges Regarding Special Courts, Recommendations to Tackle the Challenges.

What are Special Courts?

▪ Background:

- In 2017, the [Supreme Court \(SC\)](#) ordered that [special courts](#) be set up across the country **to fast-track the long-pending trials of lawmakers**.
 - Following this, **12 special courts were set up across 11 States** exclusively to try sitting [MPs](#) and [MLAs](#).
- In September 2020, an SC-appointed [amicus curiae](#) (friend of the court), in his two reports, highlighted that **despite the best efforts by the court to constitute special courts** for trying cases against legislators, close to 4,442 **criminal cases involving 2,556 sitting MP and MLAs are pending**.
 - These **cases have now crossed the 5,000 mark**, with 400 of them concerning heinous offences.

▪ About:

- A Special Court is a court that **has limited jurisdiction and deals with a specific area of law rather than a specific geographical location**.
 - In India, **these courts are established under the Special Courts Act of 1979**.
- These courts have been **established for various trials related to specific offenses** such as securities transactions, [atrocities against Scheduled Castes \(SCs\) and Scheduled Tribes \(STs\)](#), [narcotics](#), violations of the [National Investigation Agency \(NIA\) Act 2008](#), [corruption](#), etc.
- The establishment and operation of Special Courts **falls under the jurisdiction of State and Union Territory Governments**.
- The Union Government's proposal to strengthen the legal framework in States was supported by the [14th Finance Commission](#), **which included setting up 1800 Fast Track Courts (FTCs)**.
 - These courts were established to handle cases involving marginalized and disadvantaged sections of society.

▪ Composition:

- A Special Court shall **consist of a sitting Judge of a High Court** nominated by the Chief Justice of the High Court within the local limits of whose jurisdiction the Special Court is situated, **with the concurrence of the Chief Justice of India (CJI)**.

▪ Jurisdiction:

- [Special jurisdiction](#) is the **Court's jurisdiction over certain types of cases** such as bankruptcy, claims against the government, probate, family matters, immigration, and customs, or **limitations on the court's authority to try cases involving maximum amounts of money or value**. Special jurisdiction is also known as limited

jurisdiction.

- Special Courts **only hear cases in a very narrow jurisdiction and the judges serve for a specific term**, while the constitutional court's main authority is to rule on whether laws that are challenged are unconstitutional, for example- whether they conflict with constitutionally established rights and freedoms.

▪ Example:

- For instance, **under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities (PoA)) Amendment Act, 2015**, some of the special courts are established by the respective governments as per their requirements and available resources, **in consultation with the High Courts following Section 14 of the respective act to deal with the related issues.**
- The Act requires the State Government to identify a Special Court, also **known as a Court of Session**, for each region in which there are fewer cases under this Act. This is to ensure that **the constitution of such Courts in each state is not neglected.**

What are Fast Track Courts (FTCs)?

- FTCs are special courts that are **set up with the aim of expediting the trial and disposal of cases**, especially those that have been pending for a long time.
- The main objective of FTCs is **to reduce the backlog of cases in the regular courts and ensure speedy justice.**
- Fast track courts **handle a wide range of cases**, including criminal cases, civil cases, and cases related to the violation of human rights.

How Do the Special Courts Differ from General Courts?

- Special Courts differ from general courts in several ways besides having a narrower scope. In Special Courts, **cases are more likely to be dismissed without a trial**, and if there is a trial, it is usually conducted more expeditiously than in a court with general jurisdiction.
 - Furthermore, **Special Courts do not typically adhere to the same procedural rules as general courts.**
- Often, these courts **operate without the benefit or expense of legal representation** or even judges with legal training. The judges who serve in Special Courts are a diverse group, with varying backgrounds and qualifications.
 - Unlike general jurisdiction **courts where judges are appointed based on merit**, most Special Court judges are appointed through the political process. Additionally, **many Special Court judges are not lawyers.**

Difference Between Tribunals & Special Courts:

- The special court is similar to regular courts but **deals with only specific matters**. A special court is created **similar to that of tribunals**.
 - However, **special courts come under the guidance and control of high courts.** Whereas the **tribunals are created by statutes.**
- To ease the burden on regular courts, tribunals and special courts were set up. However, **tribunals are a quasi-judicial body** which is established to deal with specific matters.
 - A special court is similar to it but it is **essentially a court only where all procedures are applied.**

What are the Challenges Regarding Special Courts?

- **Lack of Inadequate Infrastructure:** Special courts in India often suffer from the same challenges as regular courts, as they are usually designated rather than established as new

infrastructure.

- This leads to overburdened judges who are assigned other categories of cases in addition to their existing workload without the necessary support staff or infrastructure.

Consequently, the disposal rate of cases in these special courts slows down.

- **Lack of Streamlined Processes:** Additionally, faster case disposal cannot be achieved without simplifying procedural requirements or making special courts more streamlined. These challenges hinder the effectiveness of special courts in providing speedy trials and addressing the backlog of cases in India.
- **Prioritization of Certain Offences Over Others:** The establishment of special courts in India is often determined by ad-hoc decisions made by both the judicial and executive branches of government. This approach means that certain categories of offences are arbitrarily prioritised for faster disposal over others.
- **Limited Jurisdiction:** These courts are established with a specific jurisdiction, which can limit their ability to deal with related cases. This can lead to delays in justice delivery and a lack of consistency in the application of laws.
- **Interference from Other External Forces:** Special Courts are often vulnerable to political and external interference, which can undermine their independence and impartiality.

What can be the Way Forward?

- **Increase Funding:** There is a need to allocate more funds for the establishment and maintenance of special courts in India. This will help in providing the necessary infrastructure and resources for the smooth functioning of these courts.
- **Training and Capacity Building:** Judges and staff in special courts should be provided with regular training and capacity-building programs. This will help them to stay updated with the latest legal developments and improve their skills to handle complex cases efficiently.
- **Independence and Impartiality:** Special courts should be made independent and free from external interference. The appointment of judges should be made on the basis of merit and experience, rather than political considerations. This will help in ensuring impartiality and fairness in the dispensation of justice.
- **Expansion of Jurisdiction:** The government should consider expanding the jurisdiction of special courts to cover more categories of cases. This will help in reducing the burden of cases on regular courts and expedite the process of justice delivery.
- **Simplification of Procedures:** The procedural requirements in special courts should be simplified to ensure the speedy disposal of cases. This can include the adoption of alternate dispute resolution mechanisms and the reduction of unnecessary delays.