

A Welfare Transition from Women's Exploitation to Empowerment: A Special Emphasis on Fast Track Courts in India

DR. ANINDITA CHOUDHURY

Assistant Professor, ICFAI Law School, ICFAI University Tripura

Abstract— It is a known reality that women have long been exploited in a variety of contexts, both psychologically and physically. The media frequently draws attention to several factors that contribute to sexual and moral abuse, many of which go unresearched. When analyzing its primary causes, it becomes clear that a major factor impeding women's empowerment is due to the fact that the courts are overburdened with such unresolved cases. And as delay in justice led to denial in justice, a unique kind of court known as a "fast-track court" is created to streamline the legal system and provide justice more quickly. Cases involving major offenses like rape, murder, sexual assault, etc., or cases of significant public interest like corruption, fraud, etc., are sent to the fast-track courts. Their goals are to improve the efficiency of the legal system and reduce the accumulation of pending cases. Fast Track Courts may benefit women by providing a swift justice system through their expeditious case resolution and thus may accelerate the process from women's exploitation to their empowerment.

Index Terms— Exploitation, Empowerment, Fast track Court, Swift Justice system, Justice denial, Delay in justice

I. INTRODUCTION

"Injustice anywhere is a threat to justice everywhere"
The abovementioned lines were given by Martin Luther King rightly describe the term "justice delayed is justice denied." Democracy believes in the judicial system. It is dignified & has jurisdiction and control over any other systems. Regardless of our religious conviction, caste, creed, gender, or region, we all have devotion and faith in our judicial system. But many a times it is seen that we do not get timely justice in our courts. It shudders the collective faith towards the legal system. The judicial system is believed to be fair & just. It should bring the offenders to justice & should make sure no injustice is happening in the state.

The phrase "justice delayed is justice denied" has been used for centuries. It was first used by the English philosopher and jurist Sir Edward Coke in the early 1600s. Coke was writing about the right to a speedy trial, but his words are just as relevant today. In a society where justice is often slow, people can feel that they are powerless and that the system is against them. "Justice delayed is justice denied is an adage/maxim which means if justice is not served timely, it is as if no justice is served. This phrase is often used to describe the negative consequences of delayed justice. When people are not given a timely response to their grievances, they may feel that they have been wronged and that the system has failed them. Delayed justice can lead to frustration, anger, and even violence.

- How Justice is delayed?

There are many reasons why justice can be delayed. Sometimes it takes a long time to gather evidence or to conduct a trial. In other cases, the system may be backlogged with cases. Whatever the reason, delayed justice can have a negative impact on people's lives. One of the most obvious impacts of delayed justice is frustration. When people have to wait a long time for a response to their grievance, they may feel angry and frustrated. This can lead to violence and chaos.

Fair and speedy justice is a cornerstone of any society that values the rule of law. When people feel that they can get a fair hearing in a timely manner, they are more likely to trust the government and its institutions. Delayed justice, on the other hand, can lead to frustration and even violence. In some cases, it can also lead to a loss of faith in the justice system. There are many reasons why justice should be swift. One of the most important is that it helps to maintain order in society. When people feel that they have been wronged and that the system is not working for them,

they may take matters into their own hands. This can lead to vigilante justice, which is often more brutal and less effective than the justice that is dispensed by the government.

Another reason why swift justice is important is that it helps to ensure that innocent people are not convicted of crimes they did not commit. If a person is accused of a crime and has to wait months or even years for their day in court, they may be tempted to plead guilty just to get the process over with. This can have devastating consequences for the accused and their families.

The judiciary is part of our democracy and all its implications must be imported into the judicial process. Whenever any person's rights are violated, it's the & responsibility of the judicial system to deliver justice to the victims & bring culprits to justice. However, if justice is not delivered within a specific period, it has negative impacts on the people. So let's discuss some.

Delays in justice drain the victims mentally, physically, & financially. As we all know, how much money lawyers charge for a single hearing. It becomes very difficult for the common man to pay such charges during court trials. He then prefers to settle the matter without availing justice.

Another major effect it has is that more and more people get involved in crimes. See, if the judicial system is not bringing culprits to justice, it's obvious that there would be no concept of law and order in a state. Moreover, people who have faith in the judiciary lose their expectations of the judicial system.¹

- Women as a subject to hindrance in justice:

The value of a Country can be judged from the eminence that it gives to women. Of the several aspects that validate the enormity of India's antique culture, one of the furthestmost is the honoured place attributed to women. Manu, the great law-giver, believed long ago, 'where women are honoured there reside the God'. According to ancient Hindu scriptures no religious rites can be performed with excellence by a man without the partaking of his wife. Wife's involvement is essential in every spiritual ritual. Married men along with their wives are allowed to

perform sanctified rites on the occasion of various important festivals. Wives are thus befittingly called 'Ardhangani' (betterhalf). They are given not equal position with men but also are treated as more crucial. According India's constitution, women are legal citizens of the country and have equal rights with men. Because of lack of acceptance from the male dominant society, Indian women suffer immensely. Although the country's Constitution says women have equal status to men, women are powerless and are mistreated inside and outside the home. India is a Nation where the male is greatly sacrosanct. Therefore women, especially the young girls, get very little respect and repute in this Nation. Aggression against women is evidently seen in the history to a large extent which is still getting practiced without any affirmative alteration.

- History witnessed Women persecution from primordial time:

Soon after gaining independence India witnessed serious discrimination of women in every society from the earliest stages of life, through her childhood and adulthood. Some of the atrocities were practiced specially against the women like female genital mutilation, child marriage, sexual exploitation, exploitation for meeting high demand of virgin girls.

Various laws were passed, modified, amended and encouraged. Indian constitution came into force with various special provisions for women and child. Initiatives were started for bringing effective change in the status of Indian girls through several legislations. But middle class and high-class women particularly in large urban agglomerations were much benefitted. In villages and small towns those reformations could not reach the door of the young girls to that extent.

Thus, the status of girls though was raised in the eyes of law, but practically they are still far from equality with men in every sphere of life. In practice, they continue to suffer discrimination, harassment, humiliation and exploitation both at home and outside home. Theoretically they might have been given more freedom, but in reality, they still suffer many hardships, inhuman dignities and unworthy treatment everywhere

- Status of Indian girls during Modern Period: 21st Century has seen tremendous changes in the status and position of Indian girls. Various legislations and many other emancipatory actions of the Social reformers no doubt raised their status. The constitution framers and other legislative bodies were very much conscious of the problem of women empowerment hence they ensured that the principle of gender equality is enshrined in the Indian constitution.

Various Govt. and non-govt organizations also are there who are trying their level best to uplift the status of girls in India. But girls of towns and cities are mostly benefitted. But in various Indian villages they are not aware about the rights the women. The long run supremacy of male power over the female in all respect in the patriarchal Society of India mainly is the reasons of some specific crimes against the girls.

Indian families till now cannot regard a woman as an asset of their family. Most tragically the woman is not only unwanted, but is also considered as liability by her own family. When the girl attains puberty, she becomes sexually vulnerable and requires protection, the burden has to be lifted as soon as possible and her marriage is considered as a priority. Even child marriages lead to early pregnancy, which in turn lead to a high rate of maternal mortality. It also increases higher number of low birth weight babies, child deaths and disabled children.²

After that comes the issue of domestic violence. Worldwide, the victims of domestic violence are overwhelmingly women, and women tend to experience more severe forms of violence.³ Domestic violence is among the most underreported crimes worldwide for both men and women.⁴

Thus violation of women rights occurs at every socio economic level, crosses ethnic and cultural lines, and is present within all religions and all levels of education. There are multiple types of violation in the form of abuse like social, physical, emotional and sexual.

And the subject of women rights violation is still a taboo in India. Very often women do not even realize that they are being exploited. Some of the backgrounds of such crime are like:

- Ignorance of the society,
- Innocence of village women often make them more vulnerable to crimes,
- Illiterate villagers never bother about their special rights.
- Women belonging from lower social and economic status are more open to vulnerabilities,
- Gender discriminatory practices,
- Lack of proper care,
- Lack of awareness regarding the human rights of women and the presence of various women welfare laws.
- Delay in justice delivery system

Dr. Martin Luther King

Justice is properly referred to as the guard of the innocent and the defender of civil rights. Generally speaking, one knocks the door of court to attain justice, but when that justice is delayed, people mislay trust and the justice is therefore withheld. The idiom "Justice delayed is Justice denied" was rightly used. It signifies that if justice is not done at the suitable flash, even if it is done later, it will not be accurate for the reason that there was a lack of justice when justice was needed.

A nation to be a developed one needs the contribution of both male and female equally. Well established and deeply entrenched patriarchal value system which looks up to male children as future providers of all kinds of securities and even salvation for their parents, and looks down upon the women as liabilities and burdens, contributed towards total discrimination and family violence against the women. The validity of this factor is strengthened by the fact that the phenomenon of victimisation of women and women is reportedly found more commonly to be affecting those societies in which the status of women is distinctly inferior to men.⁵

- Need of Fast track court
- The main goal of fast-track courts in India is to endow with prompt justice to a large number of pending cases in a specified time.
- Fast track courts in India have turned out to be a good way of dealing with sexual assault and children's cases since they get the full attention of

the judiciary which lacked in high courts and district courts due to the abundance of pending cases.

- In a generation where technological advancements are taking place and increasing day by day and the nature of crimes is also changing and becoming critical; the judiciary cannot afford to lag, it has to keep up with the changing times to render speedy justice.
- Aimed at clearing the considerable number of pending cases: The main motive behind the establishment of fast-track courts was to solve the enormous number of pending cases and to reduce some burden off district and high courts. Another motive was to give proper attention and time to sexual assault cases.
- Expected to reduce the number of under trials in jails: India has one of the largest numbers of people in prison awaiting their trial or going through their trials and this number keeps increasing every day as new cases emerge and new accused are imprisoned. To reduce this number fast track courts are needed in the country.
- Need for Speedy Trial: In a country where thousands of crimes take place every day it is very important to provide speedy trial and justice. The speedy trial also being a constitutional right has yet to see its goals achieved and for the same, fast tracks courts are required. Judiciary's commitment to end sexual and gender-based violence: Fast track courts work to provide speedy and accurate justice to gender and sexual violence victims. It proves that the judiciary is committed to ending sexual and gender-based violence.

Fast Track Special Courts are dedicated thus courts expected to ensure swift dispensation of justice. They have a better clearance rate as compared to the regular courts and hold speedy trials. In 2019, the government approved a scheme for setting up 1,023 Fast Track Special Courts across the country for expeditious disposal of pending rape cases under the Indian Penal Code (IPC) and crimes under the POCSO Act. It also strengthens the deterrence framework for sexual offenders. As of June 2023, the FTSCs have successfully disposed of more than 1.74 lakh cases related to rape and POCSO Act. This reflects the significant impact of these specialized courts in

providing speedy justice to the victims of sexual offences. 763 Fast Track Special Courts are currently functional across 29 States and Union Territories. Among these, 412 courts are exclusive POCSO Courts.⁶

- A Brief History of Fast Track Courts In India:

Fast track courts were initially established by the Central Government to dispose off long pending cases, especially sessions court cases, across a variety of subject matters using a grant from the 11th Finance Commission (2000-2005). Pursuant to the scheme for which the grant was sanctioned, a total of 1,734 such fast track courts were established across the country.⁷ The term of this grant came to an end in 2005, and was renewed by the 12th Finance Commission for the maintenance of 1,562 existing fast track courts for another 5 years, up to 2010.⁸

During the 2000s, the idea of fast track courts enjoyed much popularity, with the Law Commission of India making recommendations for the establishment of different kinds of fast track mechanisms. For example, the 188th report of the Law Commission issued in 2003, recommended setting up a fast-track commercial division at every High Court as a permanent fast track mechanism to deal with high value commercial disputes.⁹

In 2008, the Law Commission again wholeheartedly recommended the setting up of fast track courts, which it saw as the only way to address the backlog of cheque bouncing cases – this time, though, they were recommended as an ad hoc measure only for the clearance of backlogs and not as a permanent feature.¹⁰ Few years later, the December 2012 'Nirbhaya' sexual assault case led to nationwide introspection on the question of the normalisation of violence against women and the problems that survivors of sexual assault experienced when traversing the criminal justice system. One such exercise was the scrutiny of our legal system carried out under the leadership of (Retd.) Justice J.S.Verma. The Verma Committee published its 'Report on Amendments to Criminal Law' on January 23, 2013, which noted that speedy justice was essential to securing the legitimacy and efficacy of the legal framework, as well as to serve as an effective deterrent to crime.¹¹

It also emphasized the significance of having judges and prosecutors who are aware of the problems at hand and observed that the way the courts handled complainants and evidence—including medical findings—was crucial to the administration of justice. In response to the Verma Committee Report's recommendations and the public's desire for prompt justice, states were asked to establish fast-track courts for sexual assault cases by utilizing the extra judges that had been assigned.

- Is Fast Track Court alone responsible for Speedy Disposal of Litigation:

In any case in any court, including Fast Track Court (FTCs), the certainty of justice, the passage of time, and the implementation of the law cannot be seen in isolation from one another. In all the cases court delays may not always result in delays in justice. There could be a number of outside causes, like delay in the charge sheet, an accused person running away, a lack of witnesses, etc. Thus, cases may still be delayed even after the fast track court's application of all prudence. The term fast-track itself seems like a great misnomer. The courts' protracted deadlines and allowance of adjournments are not the only reasons why the legal process is delayed. We must also consider the other organizations that support the legal system, such as the police, forensic labs, and investigation departments. There could be a delay in the charge sheets and forensic reports, a judge transfer, or a delay in the case by the defense attorneys.

II. REVIEW OF LITERATURE

For the purpose of the present proposal the below noted articles and books has been found significant among the plethora of literatures present in the public domain detailing about protection of Women's rights and the role of fast track Courts in this regard.

- Women and Criminal Law, by S.C Tripathi, ISBN: 9789382676454, Edition: Second Reprint, Year Of Publication: 2016

This book deals with crimes against women and describes women International Law, women under the Constitution of India, Women under IPC, 1860, The Protection of Women from Domestic Violence, Act,

2005, etc and the role of family court, Tribunal, ADR for protecting their rights

- Women, Crime and Criminal Justice: A Global Enquiry, By Rosemary Barberet, ISBN 9780415856362, Published April 10, 2014 by Routledge, 248 Pages 5 B/W Illustrations

It provides background, as well as specialized information that allows readers to comprehend the global forces that shape women and crime; analyze different types of violence against women (in peacetime and in armed conflict); and grasp the challenges faced by women in justice professions such as the police, the judiciary and international peacekeeping.

Provocative, highly topical, engaging and written by an expert in the field, this book examines the role of women in crime and criminal justice internationally. Topics covered include the role of globalization and development in patterns of female offending and victimization and how a human rights framework can help explain women's crime, victimization and the criminal justice response.

- Fast Track Courts in India: By Dr. Indu Bala, Published January 20, 2015 by Pacific Books Publication,

The Book deals with the motto of establishment of Fast track Court in India. It provides every detail how justice can be better served if delays can be stopped. This book also covers the way by which women can get just and speedy justice as justice is better delivered when it is delivered in perfect time.

- Supreme Court Of India Handbook on Practice And Procedure And Office Procedure:

The handbook looks at the legal system and procedures from a layman's point of view. It incorporates most of the topics that we need to be familiar with. Apart from other practice and procedures it also deals with the objective and fruitfulness of establishment of Fast track Court.

- Encyclopaedia of Human Rights, Violence and Non-violence: Societal violence and unrest: By Dr. Kumr, Published January, 1998

The Book deals with the motto of establishment of Human rights. It explains in great detail how halting

delays can improve the administration of justice. Since justice is best served when it is given on schedule, this book also discusses how women might obtain fair and prompt justice.

III. RESEARCH OBJECTIVES

The work is planned in pursuance of the holistic approach to endorse and protect women's legal rights by promoting establishment of fast track Courts. Thus the present paper i.e., "The role of Fast track special Courts in delivering Justice to women" is approaching with the following objectives:

- To study the concept of rights of women within Indian Constitutional and legal framework
- To study the evolving dimensions of the protection of women's right in the light of some specific provisions of Procedural law.
- To study the issues and challenges faced by an average Indian women in realization of her right to get speedy justice in socio-politico-economic context of India
- To understand the necessity of establishing fast-track courts for women related issues to expedite the process of conviction, reduce the burden on regular courts and decrease the backlog of cases.

IV. RESEARCH QUESTIONS

Despite meticulous attempts made by the Central and State Governments in their support of the initiatives of fast-track courts in order to ensure justice for women, crime rates are increasing at galloping speed and pose a significant threat to the safety and security of women. A speedy trial is not only meant to provide quick justice but also acts as an integral part of the fundamental right of life and liberty. In order to substantiate the justice delivery system, women's safety needs to be safeguarded, and the cases relating to the violence against women need to diminish. In this context, there is a need to have an empirical study on the causes looming the justice delivery system under different circumstances and the factors associated with the effectiveness of fast-track courts in India.

This study broadly proposes to focus on the following research questions:

1. To what extent have fast-track courts been successful in disposing-off cases related to the violence against women?
2. What are the main obstacles impeding the justice delivery system under different circumstances?
3. To what extent and how has the budget been utilized while dealing with the cases of crimes against women?
4. What are the factors responsible for determining the effectiveness of fast-track courts in dealing with such cases?
5. What has been the response of Central and State Governments while dealing with these cases in the fast-track courts?
6. What are the merits and demerits of fast-track courts?

V. METHODOLOGY

Throughout the study doctrinal research is done. Doctrinal research, of course, involves analysis of secondary data by studying and compiling of case law, arranging, ordering and systematising books, journals, established doctrines etc. Using this method, the researcher composed a descriptive and detailed analysis of rules found in primary sources.

VI. RESULTS AND DISCUSSION

After a thorough discussion and doctrinal analysis it has been seen that the Fast track Court plays a vital role in giving justice to women, as the concept of this court is to participate against delay which is a prominent reason behind injustice. There are many results or outcome which arose from the research. Some of those results or findings are stated below:

- Fast track courts in our Country resulted to a good way of handling and solving with some category of offences which are very common in nature as they get the specific attention of the judiciary which lacked in high courts and district courts due to the abundance of pending cases.
- This 21st century is witnessing such an era where scientific progressions are taking place and increasing at a galloping rate and the character of crimes and offences is also changing and becoming grave; the judiciary cannot afford to delay, it has to keep up with the changing times to render speedy justice.

- Fast track courts aspire at solving the extensive number of pending cases: The main intention behind the founding of fast-track courts was to solve the enormous number of pending cases and to reduce some burden off district and high courts. Another motive was to give proper attention and time to sexual assault cases.
- Where some states like Gujarat, Rajasthan, Karnataka, Punjab, Madhya Pradesh and Kerala have rejected the idea of FTCs, there are some that have no special courts like Assam and Odisha which are also the state that feature in the list of having the most number of crimes reported against women. The capital city of Delhi has 14 FTCs but it needs 63 courts in total. The only state to have more FTCs than needed is Uttar Pradesh with 273 FTCs, when it needed 212. Tamil Nadu, Kerala, West Bengal and Andhra Pradesh also have a decent number of FTCs.

The 14th finance commission stated that centre wants to set up 1800 FTCs at a cost of 4,144 crores to conduct trials of cases of women, children and the elderly. It also directed the state governments to use the additional funds but to no cognizance.¹²

IV. SUGGESTIONS

In the midst of the interest for setting up all the more Fast track courts, deliberate changes in the framework are of utmost significance in the current situation to secure the idea of fast track courts in India and to ensure the premium of the needy litigants.

- Special Legislation setting down the methodology for rapid disposal of cases is the need of great importance
- Specialized training shall be given to the judicial officials, attorneys and registrars and all the more significantly
- Periodic Monitoring shall be made exposed to intermittent observing to keep a check on the efficiency of such courts.
- Procedure for judges selection to these Fast track courts should have the veracity and accordingly the guidelines issued by the Court shall be strictly adhered to.

- The government must bolster its efforts and hold law enforcement agencies accountable for how they handle sexual assault cases. Our forensic labs are woefully understaffed—we don't have enough personnel to handle the workload that is expected of them. How the system handles victims who seek legal recourse is another crucial problem pertaining to situations of sexual violence.

CONCLUSION

It is logical to speculate that Fast Track Courts are optimal for expeditiously resolving cases and minimizing the queue of cases. But if justice is served is a whole different matter. Case adjournments are not permitted in Fast Track Courts. Even in circumstances when they permit adjournments, they have a deadline by which they must settle a case or a maximum number of cases they must resolve in a specific span of time. Justice gets delivered promptly as a result of this. The right to a prompt trial is a component of the right to life and liberty guaranteed by Article 21 of the Constitution, as the Supreme Court has repeatedly emphasized. According to Article 39A, the state is required to make sure that the nation's legal system upholds justice. Fast Track Courts are used to implement these rights and principles. Though Fast Track Courts face several impediments to their functioning. However, the courts have to be refined and reformed to best cater to the interest of justice. Some of the lacunas that needed to be addresses are:

- Lack of special training for the judges. For instance, even a civil judge can be appointed as a presiding officer of the FTC dealing with POCSO cases. In the absence of training, the judge might not be efficient in dealing with POCSO cases.
- Lack of victim support services.
- Lack of regular monitoring and performance evaluation.
- Lack of legislative backing as the courts were not constituted statutorily but through a government order.

If these issues are addressed then the disputes against women in our country will be expected to be resolved within a standard time period. This will be a benevolent step towards empowering and giving utmost justice to our female.

REFERENCES

news/fast-track-courts-doing-more-harm-than-good-experts/

- Kumar, A. (1998, January 1). *Encyclopaedia of Human Rights, Violence and Non-violence: Societal violence and unrest*. http://books.google.ie/books?id=tZozvgAACAAJ&dq=Encyclopaedia+of+Human+rights+Violence+and+non-violence+series,+societal+violence+and+unrest&hl=&cd=1&source=gbs_api
- Tyagi, A. (n.d.). *JUSTICE DELAYED JUSTICE DENIED :: JURIS ACADEMY*. JURIS ACADEMY. <https://www.jurisacademy.com/justice-delayed-justice-denied>
- Medhi, K. (1996, January 1). *Status of Women & Social Change*. http://books.google.ie/books?id=IF3aAAAAMAAJ&q=Dr.+Gurusamy:+Women,+APH+Publishing+corporation,+New+Delhi%3B+2015%3B+p-+12&dq=Dr.+Gurusamy:+Women,+APH+Publishing+corporation,+New+Delhi%3B+2015%3B+p-+12&hl=&cd=3&source=gbs_api
- McQuigg, R. J. (2012, October). What potential does the Council of Europe Convention on Violence against Women hold as regards domestic violence? *The International Journal of Human Rights*, 16(7), 947–962. <https://doi.org/10.1080/13642987.2011.638288>
- Strong, B., DeVault, C., & Cohen, T. F. (2010, February 16). *The Marriage and Family Experience: Intimate Relationships in a Changing Society*. Cengage Learning. [http://books.google.ie/books?id=qjvoSOMB5JMC&dq=Strong,+Bryan%3B+DeVault,+Christine%3B+Cohen,+Theodore+\(February+16,+2010\).+The+Marriage+and+Family++++Experience:+Intimate+Relationships+in+a+Changing+Society&hl=&cd=1&source=gbs_api](http://books.google.ie/books?id=qjvoSOMB5JMC&dq=Strong,+Bryan%3B+DeVault,+Christine%3B+Cohen,+Theodore+(February+16,+2010).+The+Marriage+and+Family++++Experience:+Intimate+Relationships+in+a+Changing+Society&hl=&cd=1&source=gbs_api)
- *Performance of the Fast Track Special Court*. (n.d.). Drishti IAS. <https://www.drishtiiias.com/daily-updates/daily-news-analysis/performance-of-the-fast-track-special-court>
- P. (2020, June 22). *Fast-Track Courts Doing More Harm Than Good: Experts*. Partners for Law in Development - PLD. <https://pldindia.org/advocacy/pld-in-the->