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# Legal Framework vs. Practical Realities: The Effectiveness of Fast Track Courts in Achieving Speedy Justice

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## ABSTRACT

*The paper focuses on the working of Fast Track Courts (FTCs) in India. The FTCs are established to reduce adjudication time for various categories of cases due to the immense backlog in the Indian judiciary system. The laws and cases associated with the establishment of FTCs are discussed along with a comparison with the functioning of regular courts. The article observes that even after the creation of FTCs with the intention to provide speedy justice, there are many impediments, such as budgetary constraints, staffing, adequate infrastructure, etc. Procedural inefficiency adds to the woes. The article provides a few solutions to better the working of FTCs, proposing a legislative clarity, stable budget and technological intervention.*

**Keywords:** *Fast Track Courts (FTCs), Indian Judiciary, Speedy Justice, Judicial Efficiency, Procedural Innovations.*

## I. INTRODUCTION

The human quest for justice dates back to the dawn of civilization and the judiciary, along with the legislature and the executive, forms the standard tripartite framework of the rule of law in any polity that deserves to be denoted as democratic. In India, with its vastly spread-out landmass and a population in excess of a billion, the judiciary performs multiple functions of civilizing society – not just in resolving disputes, but in defining the contours of law and order and in preserving the rights and liberties of citizens.

But, the Indian judiciary has been plagued by systemic challenges of delays and backlogs. According to the National Judicial Data Grid, as of the date of the latest statistics, more than 30 million cases are pending before various courts across the country, including the Supreme and High Courts.. The quagmire tends to erode the efficacy of the justice delivery system. It also leaves a reasonable doubt about the efficacy of legal remedies.

The Indian Judiciary consists of a three-tier structure having the Supreme Court at the Apex,

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although there are 21 High courts in India, one at each state or group of states, divided according to the jurisdiction. There is a hierarchy of courts at subordinate level such as of District and Towns. It is formed to give justice at various levels, covering the diverse need of millions of the Indian population.

The Supreme Court at the apex judicial level is the highest constitutional court in India, hearing appeal cases from across the nation and being the final arbiter in all legal cases. Vested with the interpretation of the constitution which is the ultimate supreme law of the land, the Supreme Court is located in the capital city of New Delhi. Below that, the High Courts at the level of the states or union territories have the jurisdiction over appellate cases, apart from the writ petitions on constitutional issues. At the last lower rung of the judiciary are district courts and subordinate courts which exclusively cater to the civil and criminal cases under their jurisdiction. This layered judicial structure is designed to bring the court closer to the common man and serve him in a manner that renders the justice system more accessible to the citizen of India.

Swift justice is as much a legal imperative as it is a fundamental right in democratic systems. It features in several international human rights instruments, such as Article 10 of the Universal Declaration of Human Rights (UDHR) that stipulates: (1) Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him. (2) Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law of a public tribunal. A host of other provisions include similar guarantees. Article 21 of the Indian Constitution provides for protection of life and personal liberty, and has been interpreted in several judgments by the Supreme Court as including the right to speedy trial.

From the perspective of the principle of legality of justice, it can be seen that the timeliness of justice plays a crucial role in upholding values of the rule of law. In a society governed by the rule of law, the “good” outcome of justice, namely a just and fair judgment, must be delivered and must be seen to be delivered. Otherwise, the justice system becomes Just Us. So, a third good is the credibility of the judiciary and the place of the courts in legal institutions of the polity. Delay is a sure way to undermine legitimacy. The timeliness of justice is a social good, but it can also be argued that it is an economic good and a psychological good. It is an economic good because the cost of legal representation and the other costs of litigation can be very burdensome – long cases often mean costly cases – and a successful outcome long in coming may not be economically valuable to a litigant. In such circumstances, the prospect of ‘winning’ may be offset by the costs and outcome in a distant future. Delay undermines psychological well-being.

Against this backdrop, Fast Track Courts (FTCs) were created as a ray of hope that would lead to the realization of the ideal of speedy justice. They were established to make the judicial process seamless, but more importantly to also deliver and conclude cases as soon as possible. A more in-depth understanding of the legal tool in question and the cruel reality that it confronts forms the nature of our subsequent analysis.

## **II. LEGISLATIVE FRAMEWORK GOVERNING FAST TRACK COURTS**

The need to reduce the mounting case burden on the saturated formal judicial system — which also has the world’s largest backlog of pendency in many civil and criminal cases — was identified as one of the underlying causes for the social and economic clamor and the subsequent political pressure for the creation of Fast Track Courts (FTCs) in India. Behind this idea lay the recommendations of the 11th Finance Commission of India in 2000 to support a ‘scheme for setting up of 1734 FTCs throughout India’. Specifically, FTCs aimed to speed up the dispensation of ‘cases relating to serious offences which have been pending for years in sessions courts’ and ‘vested and long-pending cases. The 11th Finance Commission of India had suggested a direct appropriation from the center for this initiative, reinterpreting an investment in judicial efficiency as the rationale for this pipeline project.

As in all such social innovations, phases of energetic experimentation were followed by lean years of financial retrenchment and policy reversal. FTCs were first set up under a time-limited pilot scheme. Later, in many states, FTCs were assimilated into the mainstream judiciary, on state budgets, which reflected a sense of institutional commitment to what was then seen as an enduring social need.

### **(A) Statutory Provisions**

No autonomous statute prescribes the establishment and functioning of the Fast Track Courts as such, and this judicial innovation is premised upon a tangled set of statutory provisions and amendments to existing laws purporting to expedite judicial processes. The major legal foundation for FTCs can be inferred from general legislation – such as, the Code of Criminal Procedure (CrPC), 1973, that provides for the constitution of special courts under Sections 11 and 14 of the Code – and the Criminal Law Amendment Act (the noteworthy post-2013 amendments to the legislation have also facilitated more stringent and accelerated trials in sexual assault and other heinous crimes, which are often sent to these FTCs).

Indeed, in defining the basic shape and function of FTCs, the legislation leaves many details up to administrative interpretation both by the courts and, once implemented, to state discretion considering their varying needs and constraints.

### **(B) Policies and Regulations**

At the government level, the legislative interventions and other policy measures were born out of a preoccupation with discovering procedural innovations and financial schemes to hasten the process of case-disposal. The 11th Finance Commission providing central funding for FTCs, for example, was a policy measure that was supposed to serve as a temporary financial support until regular funding mechanisms were finalized and FTCs were made self-sufficient. After the phasing out of central support, many states took over their policies to integrate FTCs into the regular budgetary and functional set-up of the courts.

Further, the Supreme Court of India has periodically issued directions to state governments and High Courts to impede efforts to achieving the objectives of FTCs. These directions have generally dealt with the kinds of cases that need to be transferred, how old cases pending in civil courts must be adjudicated before fresh cases are filed, and how the applicable law permits the procedural changes required to speed up the trials.

### **(C) Rights and Guarantees**

The right to a speedy trial is implied in Article 21 of the Constitution of India which provides for the protection of life and personal liberty. In several path-breaking judgments such as *Hussainara Khatoon v. Home Secretary, State of Bihar*, the Supreme Court has unequivocally stated that speedy trial constitutes an integral part of fundamental rights. The judicial interpretation on speedy trial has formed the basis for FTC policies as well as their operational mandates.

Further, narrow legislative protections against delay are scattered around procedural statutes. For instance, the CrPC prescribes several speedy-trial instruments as well. Section 202 requires the police to complete enquiry and complete an FIR in a timely manner; Sections 203-206 require them to conclude an investigation expeditiously; and Sections 309, 437, 438 and 439 instruct the court and mandate it to order conditions to ensure trials are ended at the earliest.

The legal framework of the FTCs, therefore, in India is a combination of certain constitutional provisions, the statute, the judicial interpretations and policy prescriptions, trying to balance the need for expeditious disposals on the one hand and the inherent right to fair and just adjudication on the other, making the tube a necessary tool for the delivery of this judicial objective – justice in a reasonable time.

## **III. CASE LAWS INFLUENCING FAST TRACK COURTS**

The working and the efficacy of the Fast Track Courts (FTCs) in India have been considerably

determined by several judgments of the Supreme Court of India and various High Courts of India which have not only clarified the legal position on FTCs but also created legal precedents which provide directions in working of FTCs.

*Hussainara Khatoon v. Home Secretary, State of Bihar*: This was the first landmark judgment specifically related to FTCs that underlined the constitutional right to speedy trial emanating from Article 21 of the Constitution of India. The Supreme Court found that: In the case of indefinite undertrials, the total period of delay which they spend in jail is far in excess of the sentence which they would have had to undergo if they had been convicted. On the other hand, many of them are discharged after spending a considerable period in prison. Similarly, this judgment served as a broad foundation for all the subsequent reforms, including the creation of FTCs. It recorded a constitutional imperative to address judicial delays.

*Common Cause, A Registered Society v. Union of India*: The Supreme Court again reiterated the importance of fast-tracking some classes of cases, specifically in older persons and dying people, and finally, via these directions, indirectly bolstered the logic of FTCs. The court directions for quick disposal of these classes of cases, especially on humanitarian grounds, drew attention to the wider significance and necessity of FTCs for speedy justice.

*Brij Mohan Lal v. Union of India*: Possibly the closest in terms of affecting the institutionalization of FTCs is this Supreme Court order concerning the continued existence and funding of FTCs once the initial terms as sanctioned by the 11th Finance Commission came to an end. The Court appreciated the success of FTCs in expediting disposal of cases, but expressed its regret at the non-extension of financial support from the Central Government. It directed the states to step in with the funding of FTCs, and emphasized that the state should not fail in its pious obligation to render speedy justice on account of financial constraints.

*Anil Rai v. State of Bihar*: In this far-reaching judgment, the Supreme Court laid out a set of directions aimed at furthering the expeditious proceedings of cases. The Court observed that if a judgment, delivered by a High Court Judge, is not delivered within a period of three months from the conclusion of the arguments, every such Judge shall be required to submit an explanation to the Chief Justice of the High Court. The judgment is not specific to FTCs, yet it speaks to the broader judicial ethos of accountability and expeditiousness that are the hallmarks of the FTC regime as well.

*P Ramachandra Rao v. State of Karnataka*: In this judgment, the Supreme Court declared that the statutory timelines prescribed for the conclusion of trials and appeals under the Code of Criminal Procedure, were impracticable. While the judgment recognized the implementation

cog in the proverbial wheel, it emphasized the need to have ‘flexible yet comprehensive’ mechanisms such as FTCs, susceptible to the dynamics of each case, but geared towards expeditious justice.

*Vishaka v. State of Rajasthan*: Not technically related to FTCs but the principles laid down pertaining to ‘sexual’ harassment at the workplace and the speeding up of the trials in FTCs after the 2013 amendments to the Criminal Law following the Nirbhaya case shows the extent to which social demands for a redressal to these sensitive matters can impact the functioning of FTCs.

Together, they elaborate how FTCs work – emphasizing this branch’s own active efforts to ensure their efficacy – and manifest a court’s commitment to keeping the promise of a speedy trial meaningful, and not empty words on paper. Through these and other cases, the Indian judiciary continuously reworks this equilibrium between legal directives and real-world necessities, such that FTCs do in fact fulfil their constitutional purpose of alleviating pendency and conferring timely justice.

#### **IV. COMPARATIVE ANALYSIS OF FAST TRACK COURTS VS. REGULAR COURTS**

Fast Track Courts (FTCs) were set up with the objective of making the judicial system more efficient and thereby reducing the backlog. This included making the trial process quicker. In order to assess how successful the Fast Track Courts have been in meeting citizens’ objectives and expectations; it is necessary to benchmark them against the regular courts.

- **Efficiency:** FTCs are intended to adjudicate cases expeditiously in the sense that the courts target a particular type of case – serious offences or those involving more vulnerable sections of the society – and cases of such kind may require urgent adjudication. For instance, post the 2013 amendments to the Criminal Law in India, special FTCs on the offence of sexual assault were emphasized. The focused nature of such FTCs often means that the courts are able to arrive at decisions quicker because of a reduced diversity of case matters.
- **Timeliness:** Another important indicator of the success of any judicial system is the speed at which the courts can dispense justice. There is some strong evidence to suggest that, in general, FTCs have been faster in the adjudication of cases than regular courts. This might be due to the procedural innovations and because of their explicit mandates to prioritize the disposal of cases. For example, it is not uncommon for FTCs to be given targets for the backlog of cases that they need to dispose of over a specific period of time; this creates a systemic momentum encouraging the settlement of cases within a

shorter period.

### **(A) Case Management**

The main procedural differences between FTCs and regular courts lead to outcomes that differ with regard to efficiency and timeliness in managing cases:

1. ongoing cases;
  2. delays in judgments;
  3. the scarcity of cases in the pre-enactment period where FTCs had no jurisdiction and, after the legislation was enacted, increasing numbers of filings;
  4. high numbers of settlements; and
  5. extremely high numbers of annual filings compared with regular civil courts.
- Procedural innovations: FTCs might use simplified procedures that foster less rigid and more efficient methods of treatment than those that are customary in regular courts. For example, an FTC might limit the total number of adjournments that each party has a right to request. Failure to respond to an adjournment notice by one of the litigants would result in a default judgment in favor of the other party. Such delays are a common cause of the time-consuming proceedings that characterize regular courts. Thus, such procedural changes might speed up the trial process by eliminating procedures that are not essential for a just, fair and efficient trial.
  - Pre-trial conferences: FTCs are more likely to use pre-trial conferences to establish a schedule and resolve a few key procedural issues prior to the commencement of the undue interruption.
  - Active Case Management: FTC judges are generally more engaged in triage than their counterparts on the bench in the federal cases, often calling parties to a conference when they feel that the case has gotten off track. This tends to speed up the trial and minimize delays caused by the parties or their attorneys.

### **(B) Resource Allocation**

However, staffing is also key to their ability to more generally enforce current employment standards, which means protecting and reinstating vulnerable workers. FTC efficiency depends substantially on resource allocation – staffing, funding and targeted technology.

- Funding: Initially, they were funded by the central government, as per the recommendations of the 11th Finance Commission, but this funding was eventually



discontinued. Many states have taken over funding but there are still some inconsistencies with funding and inadequacy of funds sometimes. Regular courts also suffer from the same kinds of inconsistent funding problem, but I believe this is even more acute for an FTC which is tasked with finding quick and easy disposal of cases.

- **Staffing:** FTCs frequently contend with staffing shortages, including shortages of judges and clerical support, that may negatively impact their functioning. Like regular courts, staffing shortages in FTCs exist but the shortages may impact functioning more severely in FTCs than in regular courts as they have a fast-paced mandate. For example, overburdening of FTC judges may diminish their ability to approach each case with the requisite depth.
- **Technological Support:** Tech support can make courts more efficient. FTCs can sometimes benefit from more targeted tech support, such as the use of software for case management or virtual hearing facilities, thus improving case-processing. But this is not evenly distributed and, where such technological support is lacking, FTCs' capacity to function effectively is impaired with their fully fledged court counterparts that might be better equipped in this regard.

## **V. CHALLENGES AND LIMITATIONS**

### **(A) Infrastructure and Resources**

Infrastructure and resources, which are inherently constrained, negatively affect the FTCs' ability to function and serve their purpose: the promise of expeditious justice. India's Fast Track Courts (FTCs) are a class of specially designed and structured courts that have been instituted to provision speedy justice for a category of criminal cases, perpetrators and victims.

- **Physical Infrastructure:** Most FTCs work out of buildings with a shortage of space and facilities: inadequate courtrooms, which limits the privacy and security needed for cases of sexual offences or minors; too little office space for staff; lack of proper facilities for record-keeping, among others.
- **Technological Resources:** Although the judiciary in India has been very proactive in adopting technology, the adoption and effective use of technology is still absent in FTCs. Many courts do not have access to modern case management systems, which are important for case tracking and decision making in time. Absence of digital tools puts a delay in the process of filing, hearing and deciding a case.
- **Financial Limits:** FTCs are chronically underfunded and this impacts every facet of their

work, from infrastructure (physical and technological) to personnel (recruitment and retention). Initially, under the 11th Finance Commission, central money supported many FTCs but they now rely largely on state budgets – across which demands on the judiciary are often stretched to limits.

### **(B) Legal and Procedural Hurdles**

FTCs could reinvigorate traditional trials, with the possibility of acquiring recognition in sharia and elsewhere the second challenge to religion's exposure to secular justice systems concerns the fulfilment of their promise that procedures will be transparent and equitable, and so shall their outcomes be. Arab lawyers and judges who are eager to embrace conciliation do so partly due to formidable structural barriers triggered by and thereby obscuring any determination regarding their individual culpability. Collective liability clauses in many Islamic and civil law systems mean that plaintiffs need accuse only a few junior members of the defendant's group. This may incite the latter to instigate a major intra-group confrontation. FTCs will also encounter legion other kinds of legal and procedural impediments that stymie their operations and reduce the likelihood of them delivering speedy justice.

- **Fuzzy Jurisdiction:** Though FTCs differ considerably from regular courts, they are still part of the same formal legal system. Thus, jurists often argue about the ambit of FTC jurisdiction: is it full or limited? When does their jurisdiction start? When should an FTC case be transferred to a regular court?
- **Procedural delays:** Despite the strict directives (as per the mandate of FTCs) towards expeditious disposal of cases, the FTCs are also not spared from the procedural delays that characterize the larger Indian judicial system, including frequent adjournments, prolonged process of collection of evidence, time-consuming legal arguments, etc. In effect, while FTCs have been adjudicating quite a few criminal cases, the proceedings have often crossed the prescribed deadlines as a rule.
- **Differential application of laws:** the application of laws by and through FTCs could be inconsistent because of differences in interpretation of statutes and other guidelines by judges, which also mean there is a wide discretion available and drag effect in the process and makes judicial outcomes less uniform and predictable.

### **(C) Practical Difficulties**

In addition, on a more practical level, there are many problems with FTCs, some of which you cannot easily shake.

- **Overcrowding:** FTCs were set up with the initial intention to reduce the backlog of cases. Ironically, they are getting flooded with cases transferred from the regular courts, causing them to become overcrowded, further aggravating resources, and contributing to delays, all of which further compound the problem they were originally designed to solve.
- **Underfunding:** the replacement of central funding by state funding means that FTCs in different states are funded to very different levels, and funding weaknesses can affect judicial processing at all stages, from maintaining adequate levels of staff to the acquisition of necessary equipment, from computerized case-filing to online case searches.
- **Shortage of qualified personnel:** FTCs often experience a lack of well-trained judges and support staff, which limits the court's operational efficiency and the quality of justice that the system delivers. In matters that fundamentally alter people's lives such as those relating to sexual violence or domestic violence, the specialized knowledge needed takes time and an ongoing training commitment; the same can be said for commercial disputes or other complex matters. Administrative or budgetary shortcomings can be an ongoing challenge.

## **VI. RECOMMENDATIONS AND FUTURE DIRECTIONS**

The following recommendations outline legislative and administrative changes that could make Fast Track Courts (FTCs) in India more effective in reaching their goal of rendering justice at a much faster pace. Many judicial reforms are being proposed and are already under consideration by the various governmental entities. The following recommendations focus on improvements to the infrastructure and procedures of FTCs, which will enable them to do their job better.

- **Legislative Clarity:** legislative issuance of clear statutory guidelines in regard to the jurisdiction, procedures (including any modifications) and operational mandates of FTCs can substantially neutralize ambiguity and variability in their operation. Such legislation should specifically determine the types of cases that those courts are to hear, the types of procedural modifications permissible before them, and the modalities, if any, in regard to scrutiny and accountability for those courts.
- **Sustainable Funding Model:** For the successful operation of FTCs, a viable funding model is the need of the hour. This can be done through continued financial assistance

from the central government. Along with that, it must have commitments from state governments regarding monetary dedication on a similar approach. A separate fund earmarked for technological upgradation as well as infrastructural assistance.

- **Routine Evaluations:** Audits of FTCs should be conducted on a predictable basis to evaluate the overall effectiveness of an FTC programme and to identify areas for improvement. These audits should be carried out by independent bodies and involve gathering input from affected stakeholders (including judges, lawyers and litigants).

#### **(A) Reforms in Judicial Processes**

Broad procedural and systemic reforms are needed to improve the efficiency and efficacy of FTCs.

- **Lean Processes:** This includes streamlining procedural rules across FTCs to reduce delay and increase efficiency. For example, limiting the number of adjournments allowed or prescribing deadlines for each phase of the trial process could reduce delays in case handling without sacrificing the attainment of justice.
- **Specialised Training for Judges and Staff:** Judges and staff working in FTCs need specialized training to facilitate their work. Especially for the semi-formal adjudication of small claims by elders or trained community members, the training should cover the formal law and procedures. To clarify the application of the formal law, the training should include other soft skills such as better case-management, communication, and usage of new technology that can facilitate the process.
- **Alternative Dispute Resolution (ADR) Mechanisms:** In some situations, encourage parties to seek platform-sponsored ADR mechanisms such as mediation and arbitration. The combination of voluntariness of these mechanisms, and the growing focus on alternative dispute resolution (ADR) worldwide, means that there is a good chance that platforms will embrace such processes, with the added benefit of lesser load on FTCs. Integration of ADR processes into the FTC framework could also facilitate faster resolution in cases where continuing longer trials is not necessary.

#### **(B) Role of Technology**

It is also possible to think of technological solutions that can help overcome current limitations of FTCs, by making the judicial process more efficient and transparent.

- **Case Management Systems:** This advanced computer software will automate most of the functions on handling a case, from filing to judgment, in order to track the progress

of each case and follow up procedural timelines.

- **Use of virtual courtrooms:** Increasing the use of virtual courtrooms will reduce time and resource utilization for both judiciary as well as litigants. It will serve the purpose of adjudication of cases involving parties who are far-flung.
- **Digital Evidence Management:** Design systems to manage digital evidence and facilitate its submission and review, making a trial far quicker – and more accurate and fairer – than the present process.
- **Public Access Portals:** Litigants can track the progress of their case status in the court, file documents, receive notifications and see the filing of documents in a litigant portal which can improve litigant satisfaction as well as reduce clerical workload on the part of the court staff.

## **VII. CONCLUSION**

Indian Fast Track Courts (FTCs) began operations with the intention of addressing the glacial pace and accumulated backlog in regular judicial proceedings, especially in those cases that need to be tried quickly. The ‘intensified’ nature of FTCs theoretically enables efficient adjudication. Nonetheless, these courts have displayed a mixed success in accomplishing their goals due to various factors undermining their operational effectiveness:

The FTCs are financially and infrastructurally constrained, and have on an average around 10 employees working in ill-maintained buildings. For instance, due to the ballot-box boycott issue (in which metropolitan mayor candidates stopped visiting certain police station and court areas for standing in the box) many of the FTCs lack basic parking’s spots for their lawyers and judges. Both the speed and quality of justice are adversely affected as a result.

Without clear statutory law and standardized procedural rules, there is discretion, uncertainty and inefficiency. Procedural innovations that aim to shorten trials – such as controlling and limiting adjournments – are not consistently enforced, and do not reduce the length of a trial.

The continuing shortage of trained personnel, including judges and support staff, only compounds the FTCs’ ability to quickly and efficiently address the caseload. This problem is more severe because of the high turnover rates within staff and the chronic underfunding of the judiciary.

The Supreme Court of India’s and many high courts’ show cause directions in landmark cases put considerable institutional pressure on FTCs on one hand, while creating a large amount of fluctuation in legal directives because only the Supreme Court is sensitive to national

uniformity, and lower courts are unpredictable in their interpretations of directives.

Operating like courtrooms, FTCs do not, in general, outperform regular courts in managing caseloads or shortening trial times. This is to a large extent because they share the problems of regular courts – procedural delays and infrastructural deficits.

To enhance the functionality and impact of FTCs, the article recommends several measures:

- Legislation would be needed to spell out with more precision the powers and the operation, scope and supervision of these institutions.
- Maintaining the infrastructure and human resources is only possible through a sustainable financial support mechanism – central and state government support.
- The new center would create a paperless environment by introducing computerized case management systems and digital tools to simplify the processes, ensure transparency and maximize efficiency.
- Regular audits and ongoing training for judicial personnel would ensure that FTCs evolve alongside evolving legal standards and maintain performance.

Overall, while FTCs are one of the most important innovations designed to help expedite justice in India's courts, they are currently beset by systemic weaknesses that require systematic and sustained interventions by both the judiciary and the legislature. Clear and enforceable legislative clarity, better allocation of financial resources, technological upgrades to the infrastructure, and training are vital for FTCs to fulfil their mandate, and help restore faith in the judicial process.

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