

CLASSIFYING CONTEMPT: AN IN-DEPTH ANALYSIS OF THE VARIOUS FORMS OF CONTEMPT OF COURT

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ABSTRACT

Contempt of court, a critical notion for the integrity of judicial procedures, comprises a wide range of behaviours and attitudes that might impair the administration of justice. This study tries to categorize and elucidate the various types of contempt through a comprehensive examination of current literature, legal precedents, and case studies, shedding light on their significance for the judicial process and the larger legal environment. The study also examines the conflict between contempt legislation and the fundamental right to free expression. It explores how social media and online platforms have added new dimensions to the types of contemptuous conduct that might occur, addressing the issues faced by the digital age. Finally, the purpose of this research study is to provide a thorough explanation of the various types of contempt of court, their legal and societal ramifications, and their importance in safeguarding the integrity of the judicial system. It emphasizes the importance of a balanced legal framework that safeguards the authority of the courts while safeguarding the principles of justice and free expression in modern society.

Keywords: *Contempt, Free Expression, Integrity, Justice and Social Media.*

1. INTRODUCTION

The concept of contempt of court has been in existence since the colonial period; the British introduced the concept in India. On the basis of what was introduced by the British post-independence, a new version of this law was enacted, which came to be known as the Contempt of Court Act, 1971.

The Black Law Dictionary defines “contempt of court” as “any act which is calculated to embarrass, hinder, or obstruct the court in the administration of justice or which is calculated to lessen its authority or its dignity.” However, the Act defines “contempt of court” as “civil contempt or criminal contempt”¹.

The law pertaining to contempt of court has been of grave importance to the judicial process, as it not only prevents interference in the judicial functioning of the courts but also helps to maintain their authority. However, it is important to note that the contempt proceedings are not set to shield judges from being criticized in a personal capacity but to shield the public at large by preserving the authority of the court and justice administration from any unjustifiable attack.

2. CLASSIFICATION OF CONTEMPT

2.1 Criminal contempt vs. civil contempt

It is vital to understand the difference between civil and criminal contempt. The Act defines both types of contempt in separate provisions. The act defines “civil contempt” as wilful disobedience to any judgement, decree, direction, order, writ, or other process of court or wilful breach of an undertaking given to a court². While “criminal contempt” is defined as publication (whether by words, spoken or written or by signs, or by visible representations or otherwise) of any matter or the doing of any other act whatsoever which: (i) scandalizes or tends to scandalize, or lowers or tends to lower the authority of, any court; (ii) prejudices or interferes or tends to interfere with,

¹ Contempt of Courts Act, 1971, § 2(a), No. 70, Acts of the Parliament, 1971 (India)

² Contempt of Courts Act, 1971, § 2(b), No. 70, Acts of the Parliament, 1971 (India)

the due course of any judicial proceeding; or (iii) interferes or tends to interfere with, or obstructs or tends to obstruct, the administration of justice in any other manner³.

The difference between civil and criminal contempt has been explained by the Calcutta High Court in *Legal Remembrancer v. Motilal Ghose*⁴. Civil contempt may be understood as a mere failure to obey the order, decree, direction, judgement, or process issued by courts for the benefit of the opposing party. Meanwhile, criminal contempt is conduct that undermines the dignity of the court and offends the public.

2.2 Direct vs. indirect contempt

Contempt can be broadly classified as either direct contempt or indirect contempt. Direct contempt can be understood as any act done in the presence of a court interfering with the administration of justice. Meanwhile, indirect contempt can be understood as any act that implies interfering with the administration.

The Bombay High Court in *Nilesh Navalakha and Ors. vs. Union of India and Ors*⁵ held that while the investigation is pending, any form of media trial or pre-judgements made by the media are an act of interfering with the administration of justice, and subsequently contempt charges were framed against the media houses running such media trials. Thus, any act that is done outside the court premises and interferes or tends to interfere with judicial administration is considered indirect contempt.

3. CIVIL CONTEMPT: SUB-CATEGORIES

Civil contempt is a type of judicial contempt that involves acts or omissions that disobey or disdain court orders, judgments, or processes without being outwardly disrespectful or disruptive in the courtroom. In India, subcategories of civil contempt may include:

³ Contempt of Courts Act, 1971, § 2(c), No. 70, Acts of the Parliament, 1971 (India)

⁴ *Legal Remembrancer v. Motilal Ghose*, ILR 41 Cal. 173

⁵ *Nilesh Navalakha and Ors. vs. Union of India and Ors*, 2021 SCC OnLine Bom 56

- Direct civil contempt:

This type of civil contempt happens when the contemnor's conduct or omissions obstruct the administration of justice in the courtroom. Direct civil contempt can include, for example, disrupting court proceedings, violating court orders, or failing to comply with court directives⁶.

- Indirect civil contempt:

Indirect civil contempt, also known as constructive contempt, happens outside of the court's immediate presence yet has the effect of hindering the administration of justice. This includes neglecting to comply with court orders despite having the power to do so.

- Disobedience of court orders:

Disobedience of various forms of court orders, such as injunction orders, custody orders, property orders, or any other orders issued by the court that parties are legally bound to observe, may be classified as a subcategory.

- Non-payment of maintenance or support orders:

Individuals in this subcategory reject or neglect to pay alimony, child support, or other types of financial support required by the court in family affairs.

- Contempt arising from civil litigation:

When a party disobeys discovery orders, fails to attend court-ordered mediation or settlement conferences, or engages in dilatory techniques that obstruct the legal process, contempt may occur⁷.

- Violating injunction orders:

⁶ Dr. Surepalli Prashanth, *Contempt of Courts: An Analysis*, 6 INT'L J. L. MGMT. & HUMAN. (2021)

⁷ *Id.*

Individuals or entities who breach injunction orders by participating in conduct specifically prohibited by the court, such as trespassing on property subject to an injunction, are included in this subcategory.

- Failure to execute court-ordered documents or deeds:

Failure to execute a document or deed when ordered by the court might result in a charge of civil contempt.

- Contempt arising in execution proceedings:

This subcategory addresses disobedient behaviour during the execution of court decisions, such as concealing assets or delaying the enforcement of a court-ordered decree.

4. CRIMINAL CONTEMPT: SUB-CATEGORIES

In India, criminal contempt consists of activities that undermine the authority, dignity, or efficacy of the court and disturb the administration of justice⁸. In India, subcategories of criminal contempt may include:

- Scandalizing the court:

This class includes acts or utterances that purposefully or carelessly scandalize or undermine the court's authority, such as making disparaging or unsubstantiated remarks about the judges, the judiciary, or the court's proceedings.

- Disobeying court orders:

Individuals who wilfully disregard court orders or directions, whether related to presenting evidence, maintaining the status quo, or following any other court instructions, can face criminal contempt charges.

⁸ Sadin Karki, *Contempt of Court in India*, SSRN ELEC. J. (2020)

- Contemptuous remarks or gestures in court:

Within the courtroom, making disrespectful or insulting remarks regarding the judge, opposing counsel, witnesses, or the court's processes can be considered criminal contempt. Contempt charges may also be levied if insulting language or gestures are used.

- Disruptive conduct during court proceedings:

Disruptive behaviour in the courtroom, such as screaming, physical assault, or any other behaviour that impedes the proceedings, can result in criminal contempt charges⁹.

- Publications that undermine the court:

Criminal contempt may be charged for publishing articles, comments, or content that scandalize the court or create an unfavourable image of the judiciary in traditional print media or on internet platforms¹⁰.

- Contempt in a high-profile case:

Expressions of contempt that undermine the court's authority might result in criminal contempt proceedings in circumstances involving prominent personalities or high-profile individuals.

5. CONTEMPTUOUS BEHAVIOUR INSIDE THE COURT

Inside a court, contemptuous behaviour refers to actions or behaviours that demonstrate disrespect, disobedience, or disregard for the authority and dignity of the court. Some examples of contemptuous behaviour inside a court are as follows:

- Disobeying court orders:

⁹ Dr. Surepalli Prashanth, *supra* note 6

¹⁰ Sadin Karki, *supra* note 8

For failing to comply with court orders, a litigant, party, or individual may be held in contempt. For example, if a court directs a person to pay a certain amount of money as part of a judgement or to provide certain papers and they refuse or forget to do so, this is considered civil contempt.

- Disruptive behaviour in court:

Shouting, screaming, or otherwise disrupting court proceedings is considered disrespectful¹¹. Such conduct can impede the court's proper operation and demonstrate disregard for the court's decorum.

- Contemptuous language:

In the courts, using insulting or disrespectful language is a typical type of contempt. Using abusive remarks, insulting the judge, or participating in any sort of verbal abuse directed at the court or its officials is prohibited¹².

- Contemptuous gestures:

Nonverbal behaviours such as obscene gestures or facial expressions, rolling one's eyes, or demonstrating contemptuous body language can also be considered disrespectful and may result in contempt charges.

- Disobeying court decorum:

Refusing to rise when the judge arrives or exits the courtroom, failing to address the court with the right titles, or failing to observe the court's norms and procedures can all be considered disrespectful behaviour.

- Misrepresenting facts:

¹¹ Amarjit Kaur, *Law relating to contempt of court in India*, 5(1) J. EMERGING TECH. & INNOVATIVE RSCH. (2018)

¹² *Id.*

Falsifying facts or submitting false information to the court is considered contempt. This can include providing counterfeit documents, lying under oath, or presenting misleading evidence.

- Disrupting the judge's decision making:

Contempt charges can be levied for any conduct that attempts to influence or disturb the judge's decision-making process, such as approaching the judge outside the courtroom with improper influence.

6. CONTEMPTOUS BEHAVIOUR OUTSIDE THE COURT

Outside the court, contemptuous behaviour refers to actions or behaviours that show disrespect for the authority, dignity, or rulings of the court or that impede the administration of justice. Even if such action does not occur in the courtroom, it can have major legal implications. Some of the examples include the following:

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- Spreading false information:

Spreading false or misleading information about a court case, its procedures, or the judges concerned in order to influence public opinion or impede the process of justice is considered disrespectful behaviour¹³.

- Violating sub-judice rules:

Making comments or utterances that could jeopardize a pending case, especially when it is sub judice (under court consideration), is disrespectful. Such actions can include opining on the guilt or innocence of the accused in a high-profile case, perhaps affecting public opinion or the jury pool.

- Initiating frivolous litigation:

¹³ Jatin Narula, *Contempt of Court and its usability with the latest case laws*, 2(3) J. LEGAL RSCH. & JURIDICAL SCI. (2022)

Filing frivolous or vexatious legal actions against individuals, organizations, or the judiciary with the goal of harassing, intimidating, or squandering the court's time and resources is considered contemptuous.

- Tampering with evidence:

Attempting to obstruct justice by destroying, manipulating, or interfering with evidence outside the courtroom is a serious contemptuous conduct.

- Interfering with legal proceedings:

Contemptuous behaviour includes attempting to disrupt or interfere with ongoing court processes¹⁴. Attempting to bribe witnesses, jurors, or court officials is one example, as is threatening persons engaged in the case.

- Disobeying court orders or injunctions:

Outside of the courtroom, a person or corporation may be called contemptuous if they ignore a court order or an injunction. For example, if a court issues an injunction prohibiting construction on disputed land and a party violates the order, the party may be charged with contempt.

7. SCANDALIZING THE COURT

Provision for “Scandalizing the court” has been included in criminal contempt under the Contempt of Court Act, 1971. The act provides that any act, publication, or statement that tends to scandalize or lower the authority of the court is considered to be criminal contempt of the court. When something is done or said that degrades the judiciary's stature, credibility, or public image, it is said to be scandalizing the court. This type of contempt is frequently connected to remarks or writings that cast doubt on the competence, impartiality, or integrity of the judiciary and have the potential to undermine public faith in the legal system.

¹⁴ Amarjit Kaur, *supra* note 11

Criticism is part and parcel of our society, as it has been found in every field owing to everyone's individual opinions. Constructive criticism has always been appreciated by the judiciary. However, there has always been a thin line between criticizing the judiciary and scandalizing the court. Though it is a proven fact that not everyone takes criticism well, there have been cases where judges act upon contempt proceedings, where words were used against them in a personal capacity. People will not remain silent if the exercise of a judge's considerable powers is done improperly, and so judicial decisions would invite the same scrutiny as those made by other branches of government.

In 2017, Justice C.S Karnan was punished for contempt by scandalizing the court. Justice Karnan is the only high court judge in the country to have been punished for contempt¹⁵. His public outburst against Supreme Court judges constituted "contempt of the gravest nature," according to the Supreme Court, which sentenced him to six months in prison and revoked his judicial authority.

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8. PUBLICATION CONTEMPT

In India, because it interferes with the administration of justice, releasing material that could jeopardize ongoing legal procedures is regarded as criminal contempt of court. When reporting on legal issues, media outlets are especially obliged to use caution and responsibility to prevent jeopardizing ongoing proceedings. The law appears to achieve a balance between the need to ensure fair and impartial legal processes and the freedom of the press.

In the case of *Ashwini Kumar Ghose v. Arabinda Bose*¹⁶, the Supreme Court ruled that the *Times of India* article not only criticized a court decision but also implied ulterior intentions for the judges. The essay would have been acceptable if it had only contained constructive criticism. The *Times of India*'s editor, publisher, and printer are now facing contempt charges because the article's attack on the judges degraded the court's reputation. If only one judge has received criticism or negative press, contempt of court cannot be alleged. Contempt proceedings can only

¹⁵ *Justice Karnan v Hon'ble Supreme Court of India*, W.P.(C) 6278/2017

¹⁶ *Ashwini Kumar Ghose v. Arabinda Bose*, (1952) 2 SCC 743

be started if the information revealed in this way also has an impact on the public's perception of the judiciary.

9. CONTEMPT LAWS AND FREEDOM OF SPEECH

The complicated legal difficulties surrounding Indian contempt laws and free speech in our country require a careful balancing act between upholding the integrity and authority of the judiciary and safeguarding the fundamental right to freedom of speech and expression.

The courts have acknowledged that it is acceptable to criticize judicial decisions, but it should not turn into attacks on specific judges or cause the public to lose faith in the judiciary. When handling contempt proceedings, the courts frequently take into account whether the claimed act of contempt is an actual exercise of free speech or a deliberate attempt to discredit the judiciary.

In *Shri Baradakanta Mishra vs. Registrar of Orissa and Anr.*¹⁷, the Supreme Court of India held that the important word is "justice," not "judge," and that the main concern is with justice, not with judges. The Contempt of Courts Act protects freedom of expression and access to justice. Contempt rules should be used only when there is a malicious intent to breach the dignity of the court and not fair or insignificant comments made against the judiciary and judicial employees.

10. DEFENCES AGAINST CONTEMPT CHARGES

Certain defenses and considerations are allowed under the 1971 Contempt of Court Act. When accused of contempt of court, individuals or businesses can use a variety of legal methods and arguments to defend themselves. These defenses may include:

10.1 Innocent Publication

¹⁷ *Shri Baradakanta Mishra vs. Registrar of Orissa and Anr.*, 1974 AIR 710

The idea of innocent publishing recognizes that persons or entities may not be held in contempt if they can show that the publication in question was made with no purpose of scandalizing the court or interfering with the administration of justice.

Courts frequently assess whether the publication was a legitimate act of reporting news, expressing an opinion, or a deliberate attempt to undermine the judiciary. It can help the accused's defense if they can show that the publication was made in good faith.

Defense of innocent publication can also be used if the accused can prove that he had no reasonable ground to believe that the case being published was still pending before the court of law¹⁸.

10.2 Fair criticism

"Fair criticism" is accepted as a valid defense to contempt proceedings in India¹⁹. It allows people to voice their thoughts and criticisms of the judiciary or specific legal decisions, as long as they do so in a reasonable and responsible manner and without malicious intent. Courts frequently consider the overall context, the language used, and the impact of the criticism when determining contempt charges linked to criticism. If the court judges that the criticism was fair and not contemptuous, the contempt charges may be dropped²⁰.

It is the Indian citizen's unique right to believe what he considers to be true, to express his thoughts, though not necessarily with the finest of tastes, and to speak, perhaps, with greater boldness than care for exactitude. The judiciary is not immune to such criticism. However, there is no reason for people who are parties and participants to use this freedom and privilege to criticize the proceedings while they are ongoing²¹.

10.3 Complaint against the Presiding officer

¹⁸ Prabhakar Laxman Mokashi v. Sadanand Trimbal Yardi 1973 SCC OnLine Bom 79

¹⁹ Jatin Narula, *supra* note 13

²⁰ *Id.*

²¹ Sheela Barse v. Union of India (1988) 4 SCC 226

Filing a complaint against the presiding officer (judge) as a defense to contempt proceedings is a complicated process in India. While it is possible to express concerns or grievances about a judge's behaviour, doing so in the context of contempt of court is a tricky subject. Raising a complaint against a presiding officer as a defense in contempt proceedings should be done with discretion and in accordance with established legal and ethical standards. Concerns regarding a judge's conduct, which may be better addressed through alternative avenues within the legal system, are often the topic of contempt prosecutions. When considering this defense tactic, legal assistance and guidance are crucial.

10.4 Truth as Defence

The legal principle of "truth as a defense against contempt" states that a speech or publication that is alleged to be in contempt of court may not be considered contempt if it is capable of being shown to be true²². If someone makes a disrespectful statement but can demonstrate that it is truthful and accurate, they may avoid being held in contempt. The defense of truth in contempt trials is founded on the premise that criticism of the judiciary or court processes should not be punished as contempt if it is based on truth and is in the public good.

11. SUGGESTIONS

Contempt of court laws has sparked debate and worry in India due to their possible impact on free speech and the impartial administration of justice. In recent years, there has been talk about revising these rules to find a better balance between protecting the judiciary's dignity and authority and protecting individuals' rights to voice their ideas. Some potential areas of reform for contempt of court laws in India can be as follows:

- More Specific Definition of Contempt: The legislation should be changed to establish a more explicit and unambiguous definition of what constitutes contempt of court. Clarity in the law can aid in preventing misconceptions and misapplications of these provisions.

²² Amarjit Kaur, *supra* note 11

- Protection of freedom of speech: Contempt rules should be revised to ensure that valid criticism, no matter how strong, is not considered contempt. The threshold for bringing contempt proceedings should be raised, and there should be a distinction made between constructive criticism and malevolent attacks on the judiciary.
- Educational Initiatives: Efforts should be made to educate the public about the limits of free speech and the consequences of contempt. Citizens can benefit from a better understanding of their rights and obligations as a result of this.
- Judicial Accountability: Mechanisms for holding judges accountable for their acts, including the use of contempt powers, should be in place. This can aid in preventing abuse of these powers.
- Accountability and transparency: Contempt proceedings should be conducted in a transparent manner, with decisions open to public inspection. This can assist in preventing the arbitrary or improper use of contempt powers.
- Consultation and Review: Any changes to contempt legislation should be discussed with legal experts, human rights organizations, and other stakeholders. These laws should be reviewed on a regular basis to ensure that they remain current and equitable.

12. CONCLUSION

Finally, the classification of contempt is an important component of the legal framework in India, playing a critical role in preserving the integrity of the judicial system. The research in this paper emphasizes the need to tread carefully through the contours of contempt legislation, ensuring that both courts and citizens can survive within a democratic society that values both the rule of law and the ability to freely express oneself. As legal precedents evolve, it is critical to maintain the delicate balance between judicial authority and democratic norms of free expression.