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## Contempt of Court in India

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**Abstract:** *Contempt of court is a critical legal mechanism designed to uphold the authority, dignity, and effectiveness of the judiciary in India. This abstract explores the concept of contempt of court, which is broadly classified into two categories: civil contempt and criminal contempt. Civil contempt refers to the willful disobedience of court orders, while criminal contempt encompasses actions that scandalize or lower the authority of the judiciary, obstruct the administration of justice, or interfere with legal proceedings. In India, the Contempt of Courts Act, 1971, provides the statutory framework for addressing such acts, ensuring that the judiciary can function independently and without undue interference. This paper examines the scope and purpose of contempt laws, their constitutional validity, and the fine balance between protecting judicial authority and safeguarding fundamental rights, particularly the right to freedom of speech and expression. Notably, while contempt powers are essential for maintaining public confidence in the judiciary, there has been ongoing debate regarding their potential for misuse and the need for reform. This analysis aims to highlight the importance of these laws in preserving the integrity of the judicial system, while also advocating for a more transparent and judicious use of contempt powers to prevent any undue suppression of legitimate criticism in a democratic society..*

**Key words :** Contempt of court, Judiciary, safeguarding, fundamental rights, Mechanism

**Introduction** - The legal system in India has developed throughout time from traditional customs and religious guidelines to the current constitutional and legal framework of our country. The issue of law in Indian civilization has a long and significant history, including customary practices and religious mandates. Its origins may be traced back to the Vedas, the Upanishads, and other sacred scriptures. The discipline is enriched by practitioners from several Hindu philosophical traditions, as well as followers of Jainism and Buddhism.

Law is a set of rules that govern human behavior, originating from a recognized authority in the legal system, and enforced via penalties for non-compliance. Law may be described as a set of rules and regulations that a nation or society acknowledges as obligatory for its inhabitants. These laws are enforced by authorities and violations are subject to disciplinary measures.

“Rule of law is the basic rule of governance of any civilized democratic polity. Our constitutional scheme is based upon the concept of rule of law which we have adopted and given to ourselves. It is originated from the French phrase la principe de legalite which basically means the principal of legality. One simple articulation of the idea of rule of law is that society should be ruled by law, and not by men. At perhaps the most rudimentary level, the rule of law has hence been used to mean a system in which governance is based upon neutral and adaptable rules. Everyone, whether individually or collectively is unquestionably under the supremacy of law. “Be you ever so high, law is above you” . The phrase implies “that regardless of a person's identity or status, no one is exempt from the law. However, the fundamental concept of Rule by Law, not Man presents a clear dilemma: how can the rules be applied to those who are responsible for creating and enforcing them? This article explores the many facets of the rule of law and examines strategies for maintaining its dominance in order to ensure the effective administration of justice”.

**CONTEMPT OF COURT-** “Contempt of court is a matter concerning the fair administration of justice, and aims to punish any act hurting the dignity and authority of judicial tribunals”. According to “Lord Diplock: although criminal contempt of court may take a variety of forms they all share a common characteristic: they involve an interference with the due administration of justice, either in a particular case or more generally as a continuing process. It is justice itself that is flouted by contempt of court, not the individual court or judge who is attempting to administer it”.



Due to its unique and controversial character, contempt of court has resulted in conflicting views among academics, jurists, and the general public, making it impossible to establish a definitive definition of contempt of court. Contempt of court refers to behavior that undermines the legal system or discourages people from using it to resolve their concerns. "Our Constitution has granted the Supreme Court and the High Court with the power to punish any person for contempt of court under Articles 1298 and 2159 respectively".

**GENESIS OF CONTEMPT LAW-**The word contempt of court, known as *Contemptus curiae*, has been in use for centuries and is as ancient as the law itself. The law pertaining to contempt of court has evolved throughout the ages as a means by which the courts may prohibit or penalize behavior that obstructs, humiliates, or undermines the administration of justice, either in relation to a specific case or in general. In ancient times, the monarch was considered the source of justice and personally presided over court proceedings. The monarch had absolute control, and the individuals were his subjects. He could not be condemned, and any criticism made against him was subject to punishment. Over time, as the workload increased, he had to transfer the responsibility to a body that he established, namely judges.

The concept of showing disrespect towards the monarch is considered a violation according to the legislation established during the first period of the twelfth century. The statutes of King Henry-1 included provisions against contempt of the king's writ. The same legislation also included provisions for imposing monetary penalties in cases of contempt or disdain for instructions. Therefore, in England prior to the conclusion of the twelfth century, the act of showing disrespect towards the court was acknowledged and referred to as contempt of court. This term was used to describe the failures and improper actions of those involved in legal proceedings.

The "law of contempt of court in India has its origin in British administration in India. This originated from an undelivered judgment of J Wilmot in 1765, where the judge said the power of contempt of court was necessary to maintain the dignity and majesty of judges and vindicate their authority". Privy Council in "Surendranath Banerjee's case observed that: ...a high court derives its power to punish for contempt from its own existence or creations. It is not a power, conferred upon it by law. In 1926, the Contempt of Court Act was passed to bring transparency in the concept of contempt of court and to punish for the contempt of subordinate courts".

The "Contempt of Court Act, 1952 superseded this Act since it lacked provisions for contempt of courts below the level of Chief Courts and Judicial Commissioner's court. However, the Contempt of Court Act of 1952 was subsequently superseded by the Contempt of Court Act of 1971, based on the recommendations of the committee led by H.N. Sanyal. . This was done due to the dissatisfactory, uncertain and undefined nature of Contempt of Court Act, 1952".

The "Contempt of Courts Act, 1971 was enacted with the purpose of enhancing the concept of justice by imposing penalties on those who obstruct the judiciary's ability to administer justice to the public. Every individual in a just legal system has the right to a trial that is both impartial and equitable, without any kind of bias or prejudice. Therefore, any conduct that undermines the fundamental concept of justice in the judiciary is intended to be penalized under the Contempt of Courts Act, 1971".

**COURT'S CONTEMPT CLASSIFIED-** The "Contempt of Courts Act of 1971" classifies the term 'contempt of court' into two distinct types of contempt, namely: (i) Civil contempt, and (ii) Criminal contempt. The two categories may be delineated as:

**Civil Contempt-** Common Disdain implies hardheaded noncompliance to any judgment, order, heading, request, writ or other course of a court, or stiff-necked break of an endeavor given to a court. Under Segment 2(b) of The Disdain of Court Act, 1971 'common scorn', is characterized to mean persistent noncompliance to any judgment, order, request, bearing or some other course of court or unyielding break of an endeavor given to the court.

It could basically be considered any wrong done to someone who is entitled to a court order. The law compensates the injured party for a wrong committed; however officially it is disdain of court as a matter of fact it is an off-base of private nature. Common scorn is an authorization to uphold yielding with a request.

It is intense sort of act. Cuffing, capture and attack of a Legal Official by Cops add up to criminal hatred. People will undoubtedly lose faith in the courts if any judicial officer is allowed to be assaulted, handcuffed, and roped in by unethical police officers, which would be destructive of the fundamental structure of any democratically organized society. If this is allowed, police raj will



help uphold the rule of law. This means that any incident like this won't be a physical assault on a specific judicial officer; rather, it will be an attack on the judiciary as a whole. Hence "it can be clarified that Criminal contempt means the 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 —

Scandalizes or tends to scandalize, or lowers or tends to lower, the authority of any court; or Prejudices or interferes or tends to interfere with the due course of any Judicial proceeding; or Interferes or tends to interfere with, or obstructs or tends to obstruct the administration of Justice in any other manner” .

In “Vijay Pratap Singh v. Ajit Prasad, it was held that a distinction between a civil contempt and criminal contempt seems to be that, in a civil contempt the purpose is to force the contemnor to do something for the benefits of the other party, while in criminal contempt the proceeding is by way of punishment for a wrong not so much to a party or individual but to the public at large by interfering with the normal process of law degrading the majesty of the court. However, if a civil contempt is enforced by fine or imprisonment of the contemnor for nonperformance of his obligation imposed by a court, it turns out into a criminal contempt and becomes a criminal matter at the end. Such contempt, being neither purely civil nor purely criminal in nature, is sometimes called sui generis. It is submitted that the differentiating line between civil and criminal contempt is sometimes very thin and might often considered being same. Where the contempt consists in mere failure to comply with or carry on an order of a court made for the benefit of a private party, it is plainly civil contempt. If, however, the contemnor adds defiance of the court to disobedience of the order and conducts himself in a manner which amounts to abstraction or interference with the courts of justice, the contempt committed by him is of a mixed character, partaking of between him and his opponent the nature of a civil contempt”.

The exercise of contempt jurisdiction by the courts is necessary to uphold the dignity of the judiciary and protect court processes from extraneous intervention. Therefore, by categorizing the power of contempt into two separate classifications, the legislature has been able to somewhat restrict the breadth of the contempt authority.

**THE FUNDAMENTAL NATURE OF THE POWER OF CONTEMPT:** Individuals of India have a great deal of confidence in the legal executive which is fundamentally endowed with the obligation of controlling equity. The main reason courts are given contempt jurisdiction is to maintain the majesty and dignity of the courts and their public image. The judicial system in our nation would suffer greatly if such confidence and faith were allowed to be shaken. The law of scorn gives the important instrument to the courts to check unjustifiable assaults or endeavors that will in general subvert law and order.

The “Contempt of Courts Act, 1971 has been enacted in order to remove doubts which have arisen as to the powers of a High Court. The law of contempt is the custodian of the seat of justice more than a person of the judge sitting in that seat. J. Hadi Hussain’s views in Nasir Uddin Haider, gave this thought a strong base and stated that the object and purpose of contempt jurisdiction is to uphold the dignity of law courts and maintain their majesty in the minds of public. If, by recusant words or writing, the common man is led to lose his esteem for the judge, acting in the discharge of its judicial duties, the confidence reposed in the course of justice is rudely shaken and the offender must be punished”.

The “Act's title often gives the false impression that it is designed to safeguard the court and the legal profession, therefore granting them immunity from the law. Given that the judiciary serves as both the prosecutor and the adjudicator, this arrangement sometimes results in the statute being veiled as a protective shield for the courts, shielding them from external scrutiny. Indeed, if such were the case, it would amount to a flagrant misuse of the judiciary's authority and a disregard for the fundamental concept of justice that it is meant to uphold. The penalty prescribed by the contempt legislation is not intended to safeguard the court or its judges against future attacks, but rather to safeguard the public. Therefore, despite the commonly held belief expressed earlier, this action does not provide excessive authority to the court. Furthermore, it is important to note that the authority and legal control of the courts under this legislation are limited to extraordinary jurisdiction only, serving as a means of oversight over the judiciary”.

There can be no question that the reason for scorn locale is to maintain the magnificence and respect of regulation courts and their picture in the personalities of people in general and that



this not the slightest bit is trimmed down. “The law of contempt is intended for protecting the court as a whole from a repetition of the attack but of protecting the public and especially those who either voluntarily or by compulsion are subject to the jurisdiction of the court from mischief that will incur if the authority of the tribunal is undermined or impaired. This was rightly held in *Baradankanta Mishra v. Registrar Orissa High Court*. The law of contempt of court is not the law for the protection of judges or to place them in a position of impunity from criticism. It is the law for the protection of the freedom of individuals. Everyone is entitled to the protection of a free and independent administration of justice”.

The S.C. in “*Mohammed Yamin v. Om Prakash Bansal*, has once held that the hall of justice is not a secluded virtue. In fact, for justice, to shine with its pristine luster, it must be bold, free and subject to public scrutiny. So, if someone criticizes certain open aspects of a judgment, e.g., in the realm of interpretation of law, severity of sentence, etc., it cannot be contempt. But if there is an attack on the integrity of judges by imputing motive dishonesty or incompetence, arbitrariness or want of independence to a judge, it would be exceeding the rights of an individual. Judicial decisions since the Contempt of Court Act, 1971, show the radical attitude of the judiciary. Only reckless and mala fide allegations, use of unbridled languages and contemptible allegations of corruption were considered abhorrent. In such cases also court found the statement to be contemptuous not on the basis of mere tendency to scandalize or tendency to lower the authority of the court, but because the statements were per se derogatory, scandalous and contemptuous. Court has always laid down the decisions for the upliftment of judiciary as the central pillar and times when it has failed to do so are discussed in the next section. Thus, the foundation stone of the power of judiciary for scrutinizing the virtue of jurisdiction is clearly laid down by the introduction by contempt power in Indian democratic society”.

**MISUSES OF THE INFLUENTIAL AUTHORITY OF CONTEMPT-** Can the “judiciary’s action be justified to mutilate free speech for maintaining the independence and dignity of the court? Can the effective power of contempt vested in the judiciary be exercised as a medium of suppression, or, can its importance be justified in terms of ensuring the overall predominance of the rule of law? This section deals with various perspective of contempt power and evaluates how contempt law in India today undergo from various fallacies. It also features the areas where contempt powers, which was meant to fortify the base of the judiciary, often yield counter and in several cases, adverse effects. The judiciary role has sharply arisen in recent times. With the growth of the frequent PIL’s, the judiciary has took over the role of a colossal-administrator, often undertaking the garb of both the executive and the legislature. Thus, today the zeal of judicial activism is being overshadowed by judicial despotism”.

“Lord Salmond in *Attorney General v. British Broadcasting Council* observed that, The description contempt of court no doubt has a historical basis, but it is nevertheless misleading. Its object is not to protect the dignity of the court, but to protect the administration of justice”.

The delegated specialists ought to neither use this domain of contempt to keep up with their own regard, nor would it be prudent for them they use it to smother individuals who reprimand them. They shouldn’t fear or scorn it. because the very concept of free speech is at stake, which is much more significant. They shouldn’t answer each analysis or engage in broad daylight banter; all things being equal, they ought to depend on their way of behaving to turn into its own goal. While the judge should disregard false criticism, it should be taken into consideration. He should have his shoulders sufficiently wide to disregard tricky comments instead of being incited or irritated.

The court, “while emphasizing on the freedom of speech and not the dignity of the court, in *R v. Commissioner of Police of the Metropolis* dictated that ... no criticism of a judgment, however vigorous, can amount to contempt of court, provided it keeps within the limits of reasonable courtesy and good faith. The criticism here complained of, however rumbustious, however wide of the mark, whether expressed in good taste or in bad taste, seems to me to be well within those limits.”

In “*Surya Prakash v. Madhu Trehan*, the Delhi High Court imprisoned the editor and publisher of *Wah India* for printing and publishing an article evaluating judges under disparate criteria. This decision was in contrary to *Mulgaokars case*, where Apex court considered that articles which appeared in *The Indian Express*, which inter alia stated that the Supreme Court of India was packed by Indira Gandhi with pliant and submissive judges, did not amounted to contempt. In the words of Chief Justice Beg: The judiciary cannot be immune from criticism. It



may be better in many cases for the judiciary to adopt a magnanimously charitable attitude even when utterly uncharitable and unfair criticism of its operations is made out of bona fide concern for improvement.”

Regrettably, “the nation's contempt of court system likewise struggles with favoritism and nepotism. For instance, in P.N. Duda v. V. P. Shiv Shankar & Others the judiciary acquitted former union law minister P. Shiv Shankar when he publically stated that the Supreme Court was meant for the “diamond smugglers, bride burners, maûa and corrupt”. His assertions against the Apex Court were considered as his personal feelings and in public interest. Fali Sam Nariman, questioned that if such a comment had been made by a common man, whether court decision would have been still the same”.

In “Conscientious Group v. Mohammad Yunus and Others, Mohammad Yunus (Ex. Chairman of Trade Fair Authority of India) stated that judges are anti-national. The court did not took any actions against Yunus. Similar were the facts in the case of Mohammad Zahir Khan v. Vijay Singh, where Mr. Mohd. Zahir Khan stated Either he is an anti-national or the judges are anti-nationals, for the courts. But the court imprisoned him for the duration of one month”.

**“TRUTH” AS A DEFENSE-** Recently, “after the amendment to the Contempt of Courts Act, 1971, truth is now included as a defense in contempt actions. Clause (b) of Section 13 of Contempt of Court Act, 1971, allows the accused to use truth as a defense of such contempt, provided that it should be in public interest and there is bona fide intention in invoking such defense. However, there are times when this defense is misleading”.

In the “Mid-day case i.e. Court on its Own Motion vs M.K. Tayal and Ors., a bench of the Delhi High Court imposed a severe sentence of four months on the journalists for criticizing former Chief Justice of India Y.K. Sabharwal, even without considering the defense of truth. Even Soli J. Sorabjee, once stated that, the doctrine that truth is no defense clearly inhibits press freedom and journalistic activity. The press would hesitate when it ought to make comments in the public interest. A freedom as cherished as the freedom of the press cannot be made dependent upon the over sensitivities of judges”.

**ANALYSIS AND SUGGESTION-** “The offence consists in interfering with the administration of law; in impeding and perverting the course of justice... It is not the dignity of the court which is offended, it is the fundamental supremacy of the law which is challenged” Lord Clyde.

The essential objective of conceding a legal executive scorn power is to empower them to work really, not to maintain the pride of any one adjudicator. The resident's trustworthiness and confidence in the legal executive's capacity to convey unwavering and fair equity are essential to its foundation. Right when the supporting of the association is affected by acts which makes insult for the lawful chief and distances its working, the plan of the legitimate leader gets consume. By punishing the guilty, courts foster trust in the rule of law. Each guilty party ought to be punished for defiant demonstrations under the pertinent regulations, yet it is very essential to guarantee that legal executive doesn't abuse these power. “When it comes to the idea of delivering justice, the 1971 Contempt of Courts Act is crucial”. It maintains the people's faith and trust in the state's judicial system by making the process of allocating justice quick and efficient. It prevents any kind of presumption. However, the sections of the 1971 Contempt of Courts Act have a number of flaws. These can be overwhelmed by following ways:

- The legal executive should practice disdain locally in reasonable and fair cases.
  - The Contempt of Court Act of 1971's changes are beneficial, but justice requires necessary judicial restraint. The rule of law should be administered prudently and appropriately, and courts should respect constructive criticism. Quality verdicts, impartiality, and public confidence in the judiciary's contempt-restraining measures should build respect.
  - The legal executive should distinguish between judge scorn and court hostility.
  - Pursue scorn as a rearmost hotel when the legal executive's organization is hampered.
- Mens rea is also required for hate under the Scorn of Court Act, 1971.
- Removing the phrase “bringing down the power of courts, outraging the court, and prejudicing the course of legal procedure” from the Disdain of Court Act, 1971, would have a greater impact on judges' preferences and involvement.
  - The “Committee on Judicial Accountability” recommends that contempt charges be tried by a bench of at least seven judges, not the judge or judges being accused.



• The Press is crucial for a fair society, hence actions should be done to ensure its proper implementation.

• Apply detest powers equitably. Courts shouldn't separate open figures from regular people.

• Legal executives must be mindful of any negative impacts and ensure that the value being passed on is satisfactory to the public. Rehashed attacks on judicial integrity would weaken the legal executive. Proper standards should be used to assess contempt of court. Disdain should be shown if it renders the legal executive's task impossible and difficult, regardless of analysis. Power entails risk. To protect common liberties, legal authorities should employ hate with caution and thought.

**CONCLUDING REMARKS-** The “use of contempt jurisdiction is intended to uphold the supremacy of the law and to guarantee the unbiased and continuous dispensation of justice. The court is granted authority by the Constitution, and all governmental power is vested in a trust. The judges must pay for any betrayals of this confidence”. The judiciary is an honorable and perpetual institution. Judges need to be held accountable if they carelessly damage the reputation of the legal system. The nation's faith is upheld by the court, an opulent, graceful, and magnificent authority. However, the court must answer for its actions if it disaffirms the rights of the common populace and acts like the crème de la crème. .

An upright, moral, and knowledgeable character is a judge's greatest weapon. If there is greater specificity in the contempt legislation, then no court will likely need the contempt authority. Neither the defense of the judges' authority and dignity nor the gloating condemnation of a valid critique are the goals of the contempt statute. “Furthermore, in order to uphold the supremacy of the rule of law, the Contempt of Court Act, 1971 has to have its jurisdiction clearly defined since it is currently unclear in a number of legal areas. An essential component of a functioning, aware democracy is the rule of law. Therefore, in order to preserve the dignity of the judiciary, it is once again necessary to alter the characteristics of contempt of court. The last unresolved concern is how well Indian courts have performed the difficult job of striking a balance between two opposing values: preserving the court's integrity and dignity while safeguarding the freedom of speech and expression as stated in the constitution”. It is a virtue and a mark of maturity to be tolerant to criticism. Even if it was first reticent and too sensitive, the Indian judiciary today seems to have matured to the point where it can take criticism without ever allowing careless efforts to diminish its honor. This may be considered the bright side of the situation, but when the judiciary's authority is examined through the lens of the rule of law, serious concerns arise once again.

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