

# Contempt of Court – Protect People For Disrespectful and Diobbey Law

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## **ABSTRACT**

*Contempt of court is the offense of being disobedient to or disrespectful toward a court of law and its officers in the form of behavior that opposes or defies the authority, justice and dignity of the court. Most often, civil contempt of court involves failure to satisfy a court order. Civil contempt can result in punishment including jail time and/or a fine. A judge may impose sanctions such as a fine or jail for someone found guilty of it, which makes a process crime. Appeals from criminal contempt orders are de novo to the superior court, whereas, civil contempt orders are appealed to the court of appeals. Under section 12 of Contempt of Court Act, 1971, it can be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to two thousand rupees, or with both. Here the differentiation of civil and criminal court has clearly described and various case laws are depicted. In my paper, it is clearly give a great concept of “Contempt of Court”, its history and also various use in today’s daily life.*

**Keywords :** *Contempt of court, imprisonment , punishment, criminal, civil.*

## **Introduction**

Contempt of court, often referred to simply as “contempt”, is the offense of being disobedient to or disrespectful toward a court of law and its officers in the form of behavior that opposes or defies the authority, justice and dignity of the court. Contempt of court refers to actions which either defy a court’s authority, cast disrespect on a court, or impede the ability of the court to perform its function. A very similar attitude towards a legislative body is termed contempt of Parliament or contempt of Congress.

## **Category**

There are broadly two categories of contempt : being disrespectful to legal authorities in the courtroom, or wilfully failing

to obey a court order. Contempt proceedings are especially used to enforce equitable remedies, such as injunctions. In some jurisdictions, the refusal to respond to subpoena, to testify, to fulfill the obligations of a juror, or to provide certain information can constitute contempt of the court.

## **Purpose And Object of Law of Contempt**

The purpose of the law of contempt is to protect the machinery of justice and the interests of the public. It provides a mechanism to prevent interference in the course of justice and to maintain the authority of the law, but it is a weapon that must be used sparingly. The object of contempt proceedings is not to protect judges personally from criticism but to protect the public by preserving the authority of the court

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and the administration of justice from undue attack; however, judges cannot use it to wreck personal vengeance. In the case of contempt which is not committed in the face of the court, which may be described as constructive contempt, and which depends upon the interference of an intention to obstruct the course of justice, guidelines for the exercise of the jurisdiction to commit for contempt have been laid down as follows :

Economical use of jurisdiction is desirable. Harmonisation between free criticism and the judiciary should be the goal. Confusion between the personal protection of a libelled judge and the prevention of obstruction of public justice should be avoided.

### **History of the Act**

English authors trace the history or the origin of the law of contempt of court to kingship and sovereignty as the judges administering justice derived the authority from the King and sat in the courts to administer justice in King's name. Thus disgrace or disregard of the rule of law or offence against the dignity of a court or a judge commonly known as Contempt of Court was considered an insult to the King himself. From the year 1250 onwards, the rolls and year books contain references to contempt of court. These usually relate to some disturbance or hostile reaction in or near the court affecting its business, or to some violent or insulting reaction to service of the court's process.

### **In Use Today**

Contempt of court is essentially seen as a form of disturbance that may impede the functioning of the court. The judge may impose fines and/or jail time upon any person committing contempt of court. The person is usually let out upon his or her agreement to fulfill the wishes of the court.

Civil contempt can involve acts of omission. The judge will make use of warnings in most situations that may lead to a person being charged with contempt. It is relatively rare that a person is charged for contempt without first receiving at least one warning from the judge. Constructive contempt, also called consequential contempt, is when a person fails to fulfill the will of the court as it applies to outside obligations of the person. In most cases, constructive contempt is considered to be in the realm of civil contempt due to its passive nature. Indirect contempt is something that is associated with civil and constructive contempt and involves a failure to follow court orders. Criminal contempt includes anything that could be called a disturbance, such as repeatedly talking out of turn, bringing forth previously banned evidence, or harassment of any other party in the courtroom. Direct contempt is an unacceptable act in the presence of the judge (in facie curiae), and generally begins with a warning, and may be accompanied by an immediate imposition of punishment. Yawning in some cases can be considered contempt of court

### **The Indian Scenario**

#### **Contempt of Court Act 1926**

In India, the law on contempt has been codified since 1926. The contempt of courts act 1926 was repealed by the Act of 1952. The scope of the said act having required considerable widening, the act of 1971 was brought into existence, which is mainly based on the recommendations of the Sanyal Committee. A committee was set up in 1961 under the chairmanship of the late H N Sanyal, the then Solicitor General. The committee made a comprehensive examination of the law and problems relating to contempt of court in the light of the position obtaining in our own country

and various foreign countries. The recommendations which the committee made took note of the importance given to freedom of speech in the constitution and of the need for safeguarding the status and dignity of courts and interests of administration of justice.

### **Contempt of Courts Act, 1952**

The 1926 Act was repealed and replaced by the Contempt of Courts Act, 1952 (the 1952 Act). It explicitly gave the definition of 'High Court' to include the courts of the judicial commissioner which had been excluded from the purview of the 1926 Act. It also gave the power to the High Court to inquire into and try a contempt of itself or of any court subordinate to it, irrespective of whether the contempt of itself or of any court subordinate to it, irrespective of whether the contempt was alleged to have been committed within or outside the local limits of its jurisdiction and irrespective of whether the person alleged to be guilty of the contempt was outside such limits.

#### **Mr. Justice Mukherjee had this to say –**

'If the allegations were true, obviously it would be to the benefit of the public to bring these matters into light. But if they were false, they cannot but undermine the confidence of the public in the administration of justice and bring judiciary into disrepute. As the appellant did not act with reasonable care and caution, he cannot be said to have acted bona fide, even if good faith can be held to be a defense at all in a proceeding for contempt.'

It is obvious that the Constitution Bench did assume that truth was a complete defence, though mere belief in truth was not expressly accepted as a defence. The court did not decide this because the facts disclosed absence of good faith. It is true that later decisions have stuck to the traditional pre-constitution view. Eminent text book writers like Mr. Seervai have

criticised these later judgments as erroneous and per incuriam.

### **Contempt of Courts Act, 1971**

On 1st April, 1960, Sri Bibhuti Bhushan Das Gupta introduced in the Lok Sabha a bill to consolidate and amend the law relating to Contempt of Courts Act. The government after examining the bill realized the need to reform the existing Act, and set up a special committee for scrutinizing the Act. The Sanyal committee submitted its report on the 28th of February, 1963. The contempt of courts Act, 1971 is mainly based on the recommendations of the Sanyal Committee. The committee was set up in 1961 under the chairmanship of Late Shri H.N. Sanyal, the then additional solicitor general. The committee made a comprehensive study of the law and the problems relating to contempt of courts in the light of the position obtaining in our own country and various countries. The recommendations took note of the importance given to freedom of speech in the Constitution and of the need for safeguarding the status and dignity of courts and interests of administration of justice.

The Act of 1971 effected significant changes in procedure as well as in application of the enactment. 'Contempt of Court' has been segregated into 'Civil' and 'Criminal' contempt with their respective definitions, which the old Act did not contain. Though the old Act could not be held ineffective in the absence of the definition of the term 'Contempt', this Act modified the definition of 'Contempt' to a considerable extent.

### **In Case of India**

In case of India, under Section 2(a) of the Contempt of Courts Act of 1971 defines contempt of court as civil contempt or criminal contempt, it is generally felt that the existing law relating to contempt of courts is somewhat

uncertain, undefined and unsatisfactory. The jurisdiction to punish for contempt touches upon two important fundamental rights of the citizens, namely, the right to personal liberty and the right to freedom of expression. It was, therefore, considered advisable to have the entire law on the subject scrutinized by a special committee.

In India contempt of court is of two types :

### **1. Civil Contempt**

Under Section 2(b) of the Contempt of Courts Act of 1971, civil contempt has been defined as wilful disobedience to any judgment, decree, direction, order, writ or other process of a court or wilful breach of an undertaking given to a court.

### **2. Criminal Contempt**

Under Section 2(c) of the Contempt of Courts Act of 1971, criminal contempt has been defined as the publication (whether by words, spoken or written, or by signs, or by visible representation, or otherwise) of any matter or the doing of any other act whatsoever which :

- a. Scandalises or tends to scandalise, or lowers or tends to lower the authority of, any court, or
- b. Prejudices, or interferes or tends to interfere with the due course of any judicial proceeding, or
- c. Interferes or tends to interfere with, or obstructs or tends to obstruct, the administration of justice in any other manner.

Contempt takes two forms : **Criminal Contempt** and **Civil Contempt**. Actions that one might normally associate with the phrase “**Contempt of Court**” such as a party causing a serious disruption in the courtroom, yelling at the judge, or refusing to testify before a grand jury, would often constitute criminal contempt of court.

**Civil Contempt** of court most often happens when someone fails to adhere to an order from the court, with resulting injury to a private party’s rights. For example, failure to pay court ordered child support can lead to punishment for civil contempt. Typically, the aggrieved party, such as a parent who has not received court ordered child support payments, may file an action for civil contempt.

### **Punishment For Civil Contempt of Court Vs. Criminal Contempt of Court**

Unlike criminal contempt sentences, which aim to punish the act of contempt, civil contempt sanctions aim to either :

(1) restore the rights of the party who was wronged by the failure to satisfy the court’s order; or (2) simply move an underlying proceeding along. Civil contempt sanctions typically end when the party in contempt complies with the court order, or when the underlying case is resolved.

Like those charged with criminal contempt, the court may order incarceration of people held in civil contempt. However, unlike individuals charged with criminal contempt, people held in civil contempt are generally not given the same constitutional rights that are guaranteed to criminal contempt defendants.

### **Direct And Indirect Contempt**

Contempt of court may be “direct” or “indirect.” Direct contempt occurs in the presence of the court - during a court proceeding, for example. Indirect contempt occurs outside the presence of the court.

Civil contempt often occurs indirectly - for example, when a party is ordered to turn over financial records within thirty days but refuses to do so. Indirect contempt is sometimes called constructive or consequential contempt.

## **Criminal Contempt**

In Delhi Judicial Services Association vs. State of Gujarat & others, (1991) 4 SCC 406, the court held that the definition of criminal contempt is wide enough to include any act of a person which would tend to interfere with the administration of justice or which would lower the authority of the Court. The scope of the criminal contempt has been made.

### **Essential Ingredients of Criminal Contempt**

They are :

1. **Publication of Other Act;** In the case of Re S.K. Sundarami, AIR 2001 SC 2374, the telegraphic communication sent by the contemner contain the following : "I call upon Shriman Dr. A.S. Anand Hon'ble Chief Justice of India to step down from the constitutional office of the Chief Justice of India forthwith, failing which I will be constrained to move the criminal court for offences under sections 420, 406, 471, Indian Penal Code for falsification of your age, without prejudice to the right to file a writ of quo-warranto against you and for a direction to deposit a sum of Rs. 3 crores for usurping to the office of Chief Justice of India even after attaining the age of superannuation."
2. **Scandalizing or Lowering The Authority of The Court or Interfering With Judicial Proceeding or Administration of Justice;** It is as much a contempt of Court to say that the judiciary has lost its independence by reason of something it is alleged to have done out of Court, as to say that a result of a case it has decided, it is clear that it has no independence or has lost what it had.

The Court held that it was a clear case of contempt of Court - re Tushar Kanti Ghosh, AIR 1935 Ca! 419. In Rajendra Sail v. M.P.

High Court Bar Association, 2005 AIR SCW 2443, the prosecution witness made statement in public that in murder trial the judge had disposition to acquit the accused.

In State v. Sajjan Kumar Sharma, 1986 PLIR (NOC) 34, the court held that according to Section 6 of the Contempt of Courts Act, 1971 a person shall not be guilty of contempt of Court in respect of any statement made by him in good faith concerning the presiding officer of any subordinate Court to-

- a. any other subordinate Court, or
- b. the High Court, to which it is subordinate.

Section 6, thus, enables a person to make bonafide complaint concerning a subordinate Judge to-

- a. another subordinate Judge who is superior to him; or
- b. the High Court to which he is subordinate.

The protection of section 6 is available only when the complaint is made in good faith. To satisfy this condition it must be proved that the complainant has acted with due care and attention.

3. **Prejudice to or Interference With the Due Course of Any Judicial Proceeding (Media Trial);** The publication which prejudices or interferes or tends to interfere with, the due course of any judicial proceeding is taken as contempt of Court. Actually, media trial or trial by newspaper is not considered proper because it affects the fairness of trial and is likely to cause prejudice to or likely to interfere with, due administration of justice in the particular case.

4. **Interference or Obstruction With Administration of Justice In Any Other Manner :** This clause is a residuary clause and. it covers the cases of the criminal contempt not expressly covered by sub-clauses (i) and (ii) of



Section 2(c) of the Contempt of Courts Act, 1971. Thus, the publication or doing of any other act which interferes or tends to interfere with or obstructs or tends to obstruct the administration of justice in a manner otherwise than by scandalizing the Court or lowering the authority of the Court or by causing prejudice or by interfering with due course of any judicial proceeding would fall within the ambit of this sub-clause and, thus, would amount criminal contempt under this sub-clause.

In *J.R. Parashar v. Prashant Bhushani*, AIR 2001 se 3395, the Supreme Court has held that holding a Dharna by itself may not amount

to contempt of court, but if by holding a dharna access to the courts is hindered and the officers of the court and members of the police are not allowed free ingress and egress or the proceedings in court are otherwise disrupted, disturbed or hampered, the Dharna may amount to contempt because the administration of justice would be obstructed.

### **Difference Between Civil Contempt and Criminal Contempt**

Difference between Civil Contempt and Criminal Contempt are given below: After careful consideration of the meaning of civil contempt and criminal contempt it becomes clear that both are differ from each other in different counts.

<b>CIVIL CONTEMPT</b>	<b>CRIMINAL CONTEMPT</b>
i. Civil Contempt is defined in Section 2(b) of the Contempt of Courts Act, 1971;	i. Criminal Contempt is defined in Section 2(c) of the Contempt of Courts Act, 1971;
ii. Willful disobedience to any judgment, decree, direction, order, writ or other process of a Court or willful breach of an undertaking given to a court, are regarded as civil contempt's;	ii. The publication (whether by words, spoken or written, or by signs, or by visible representation or otherwise) of any matter or the doing of any other act whatsoever is a criminal contempt;
iii. Willfully disobeying the Court orders or willfully breaching his own undertaking are the civil contempt;	iii. The following act is the criminal contempt's: (a) scandalises, or tends to scandalise, or lowers or tends to lower the authority of, any Court; or (b) prejudices, or interferes or tends to interfere with, the due course of any judicial proceeding; or (c) interferes or tends to interfere with, or obstructs or tends to obstruct, the administration of justice in any other manner."
iv. It contains less seriousness;	iv. It is more serious and aggravated from of offence;

v. Apology is a good defence. In Majority of the civil cases, the Courts satisfy if the contemnors gives an unconditional apology, and also an undertaking to fulfill the obligation;	v. In majority of the Criminal Contempt's cases, the Courts accept the apology of the contempt's, but may not incline to set aside the punishments. Only in genuine, old aged contemnors, the Courts may show sympathy and may reduce the period of imprisonment or post pone the punishment or at least give reprimand;
vi. Mensrea is an essential ingredient to be proved in civil contempt's;	vi. Mensrea is need not be proved and is essential in criminal contempt's;

### Criticism

While studying the history of the Contempt of courts in India, one has to remember that this law originated in pre-independence India, where the British looked to stifle the criticism of the judicial system by the public. Though the Contempt of Court Act, 1952 and 1971 have since repealed many of the stifling provisions of the pre-independence act, some lacunae remain in the law.

Secondly, it is not the case, that Indian High Courts even possessed the full plenitude of the power of Courts of Record. Indian Courts of Record had a much more limited power which both before and after the Constitution could, and can, be disciplined by reasonable restrictions made by the legislature.

Thirdly, there is no impediment to a law being made by the legislature which could cut down the powers of the High Court to punish for contempt as well as in respect of the procedure to be followed. No doubt, any such law could not leave the judiciary wholly powerless and vulnerable. But, 'reasonable restrictions' can be imposed both on the contempt power as well as on the free speech it seeks to control.

Fourthly, India needs to move away from archaic powers inherited from the common law and try to view the justice system in such a way that those who promise justice agree to deliver what they promise. It is time that the shadow

on the reform of the law of contempt, to the effect that wide ranging reforms cannot be made, is lifted.

### Conclusion

Civil contempt of court refers to behavior which disobeys the authority of a court in a civil proceeding. Civil contempt is distinct from criminal contempt of court. Most often, civil contempt of court involves failure to satisfy a court order. Generally, sanction for civil contempt end when the party in contempt complies with the court order, or the underlying case resolves. Civil contempt can result in punishment including jail time and/or a fine.

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