

# Contempt of Courts Act 1971 and Rules and Notifications

## Contempt of Courts Act, 1971: Rules, Notifications, and Comprehensive Analysis

### Introduction

The doctrine of contempt is an essential part of the administration of justice in India. It acts as a safeguard for the dignity and authority of judicial institutions, ensuring that the rule of law prevails. The Contempt of Courts Act, 1971 is the legislative framework that defines, regulates, and provides for punishment for contempt of court in India. This essay offers a comprehensive exploration of the Act, including its historical background, types of contempt, key provisions, procedural aspects, rules and notifications, and major judicial interpretations. The objective is to present a detailed and structured account of all aspects of the Contempt of Courts Act, 1971.

### Historical Background

1. The concept of contempt of court has its roots in English law and was adopted into Indian jurisprudence during the British colonial period.
2. The earliest Indian law on the subject was the Contempt of Courts Act, 1926, which was later replaced by the Contempt of Courts Act, 1952.
3. Growing criticism regarding ambiguity and excessive powers led to the enactment of the Contempt of Courts Act, 1971, based on the recommendations of the Sanyal Committee.

### Objectives of the Act

1. To define and limit the powers of certain courts in punishing contempt.
2. To maintain the dignity of the judiciary and uphold public confidence in the administration of justice.
3. To provide safeguards against misuse of contempt powers.

### Definition of Contempt

According to Section 2 of the Act:

- "Contempt of court" includes civil contempt and criminal contempt.
  - **Civil Contempt:** 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.
  - **Criminal Contempt:** Publication or any act which scandalizes or tends to scandalize the authority of any court, prejudices or interferes with judicial proceedings, or obstructs the administration of justice.

### Key Provisions of the Act

1. **Section 3:** Innocent publication and distribution not contempt.
2. **Section 4:** Fair and accurate report of a judicial proceeding is not contempt.

3. **Section 5:** Fair criticism of judicial act not contempt.
4. **Section 6:** Complaint against presiding officer not contempt if made to the competent authority.
5. **Section 7:** Publication of information relating to proceedings in chambers or in camera may be contempt unless permitted.
6. **Section 8:** Other defenses not affected.
7. **Section 9:** Act not to imply enlargement of the scope of contempt.
8. **Section 10:** High Courts' power to punish contempt of subordinate courts.
9. **Section 12:** Punishment for contempt—simple imprisonment up to six months or fine up to two thousand rupees or both.
10. **Section 13:** No punishment unless contempt substantially interferes or tends to interfere with due course of justice.

### **Procedural Aspects**

1. The procedure for contempt is governed by the rules framed under the Act by the Supreme Court and High Courts.
2. Cognizance can be taken:
  - By the court on its own motion (suo motu)
  - On motion by the Advocate General
  - With the consent of the Attorney General or Solicitor General (for Supreme Court cases)
3. Summary trials are permissible in contempt proceedings.
4. Contempt proceedings are quasi-criminal in nature.

### **Rules and Notifications**

1. **Supreme Court Rules to Regulate Proceedings for Contempt of the Supreme Court, 1975:**
  - Laid down under Article 145 of the Constitution and the 1971 Act.
  - Specify the procedure for initiation, hearing, and punishment.
  - Prescribes format for affidavits, limitation periods, and hearing procedures.
2. **High Court Rules:**
  - Each High Court frames its own rules under the Act.
  - Common features include requirements for affidavits, notice to respondents, and personal appearance.
3. **Notifications:**

- Issued from time to time for appointment of law officers, empowering registrars for procedural matters.
- Some states have notified contempt benches or designated specific judges to handle contempt cases.

### **Constitutional Provisions Related to Contempt**

1. **Article 129:** Supreme Court is a court of record and has power to punish for its contempt.
2. **Article 215:** High Courts are courts of record and can punish for contempt of themselves.
3. **Article 19(2):** Reasonable restrictions can be imposed on freedom of speech in the interest of contempt of court.

### **Landmark Judgments**

1. **Re Arundhati Roy (2002):**
  - Upheld punishment for criminal contempt for scandalizing the court.
2. **Baradakanta Mishra v. Registrar of Orissa High Court (1974):**
  - Explained the scope of criminal contempt.
3. **Delhi Judicial Service Assn. v. State of Gujarat (1991):**
  - Protection of lower judiciary against executive high-handedness.
4. **Indirect Tax Practitioners Assn. v. R.K. Jain (2010):**
  - Fair criticism of judicial functioning allowed.
5. **Justice C.S. Karnan Case (2017):**
  - Sitting judge held guilty of contempt and sentenced by Supreme Court.

### **Criticism and Debates**

1. **Freedom of Speech vs. Judicial Dignity:**
  - Critics argue the law stifles free speech and constructive criticism of the judiciary.
2. **Vagueness of 'Scandalizing the Court':**
  - Term is ambiguous and subject to judicial discretion.
3. **Recommendations for Reform:**
  - Law Commission in its 274th Report (2018) recommended retaining the law but removing the provision for contempt by 'scandalising the court'.
4. **Judicial Accountability:**
  - Increasing calls for making judiciary more accountable without the fear of contempt.

### **Recent Developments**

1. In 2020, the case involving Prashant Bhushan revived the national debate on the scope of criminal contempt.
2. Use of social media and its regulation under contempt law is a rising area of concern.
3. Parliament continues to debate reforms in contempt law to strike a balance between free speech and judicial independence.

The Contempt of Courts Act, 1971 is a vital legislation designed to uphold the majesty of the judiciary and the sanctity of the legal process. However, its application must be guided by the principles of fairness, transparency, and accountability. While the Act empowers courts to curb tendencies that threaten judicial authority, it must not be wielded in a manner that suppresses legitimate dissent or criticism. The need for reform, clarity in legal definitions, and a nuanced approach to contemporary challenges such as digital speech remains essential to ensure that the law continues to serve justice in a democratic society.

### Recent Developments

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2. In 2021 and beyond, courts have increasingly grappled with balancing freedom of speech with the need to preserve the sanctity of judicial institutions amid digital proliferation.
3. Supreme Court has reiterated that constructive criticism, even if harsh, does not constitute contempt unless it undermines public confidence in the judiciary.
4. Discussions on amending the Act are ongoing, especially to align with global standards and ensure it does not conflict with the right to freedom of expression.

### Advantages of the Act

1. **Maintains Judicial Authority:** Helps in preserving the sanctity and authority of courts.
2. **Protects the Administration of Justice:** Prevents interference and obstruction in judicial proceedings.
3. **Empowers the Judiciary:** Grants necessary powers to courts to enforce their judgments and maintain discipline.
4. **Public Confidence:** Reinforces public trust in the impartiality and integrity of the judiciary.
5. **Prevents Misleading Information:** Acts as a deterrent against publication of false or prejudicial content.

### Disadvantages of the Act

1. **Chilling Effect on Free Speech:** Critics argue it curbs dissent and legitimate criticism of the judiciary.

2. **Vagueness and Subjectivity:** Phrases like “scandalizing the court” lack precise definition, leaving scope for misuse.
3. **Potential for Abuse:** The wide discretionary powers can be misapplied or used to silence critics.
4. **Outdated Provisions:** Some aspects, such as contempt by scandalizing the court, are considered archaic in modern democracies.
5. **Incompatibility with Democracy:** Seen as contrary to the democratic principles of transparency and accountability.

### Criticism and Debates

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### Expert Opinions and Suggestions for Reform

1. **Justice V.R. Krishna Iyer** emphasized that the contempt power should be exercised sparingly and only in cases where justice is truly threatened.
2. **Fali S. Nariman**, a leading constitutional expert, has critiqued the vague language in the Act and called for clearer distinctions between criticism and contempt.
3. **Justice Markandey Katju** has voiced concern over the misuse of contempt powers, stating that public scrutiny should be encouraged in a democracy.
4. **Law Commission of India (274th Report, 2018)** recommended:
  - Deletion of the offence of ‘scandalizing the court’.
  - Emphasis on the necessity of balancing freedom of speech with respect for the judiciary.
5. **Justice Deepak Gupta** (Retd.) remarked in 2020 that judges must not be hypersensitive to criticism and should welcome fair public scrutiny.

## **Proposed Reforms for Future Revisions**

1. **Clearer Definitions:** Redefine terms such as 'scandalizing the court' to remove vagueness and ensure legal certainty.
2. **Codified Guidelines:** Establish uniform standards for invoking contempt proceedings to prevent arbitrary use.
3. **Decriminalization of Scandalizing Offence:** Follow international trends (e.g., UK abolished it in 2013) and remove criminal liability for scandalizing the court.
4. **Independent Oversight Mechanisms:** Introduce checks and balances like independent review panels before initiating contempt actions.
5. **Greater Emphasis on Transparency:** Encourage judicial openness and tolerance to criticism, enhancing public trust.
6. **Periodic Legislative Review:** Mandate scheduled reviews of the Act in light of evolving constitutional values and digital expression.