

Contempt of Court

Mains: GS - II - Polity & Governance

Why in news?

Recent controversy over the alleged contemptuous and derogatory remarks against the Chief Justice of India & the Supreme Court has considered an act of diminishing the 'authority' of India's top court.

What is Contempt of Court?

- **Contempt of court in India** - Refers to any act that disrespects, obstructs, or undermines the authority and dignity of the judiciary.
- **Objective** - To maintain the authority and dignity of the judiciary, ensuring that the legal process is respected and upheld.
- **Origin** - The contempt of court law in India has deep colonial roots, originating from British legal traditions that prioritized judicial authority over public criticism.
- **Contempt is not similar to Mere Disrespect** - It goes beyond casual criticism—targeting actions that disrupt or undermine the justice system.

What is the legal framework?

- **Mentioned in Article 19** - The phrase 'contempt of court' is used in **Article 19(2)** as one of the grounds for imposing reasonable restriction on fundamental freedoms.
- **No procedural guidelines in Constitution** - The Constitution does not explain how to initiate the contempt proceedings.
- **Court of record** - In India, the Supreme Court and High Court have been designated as courts of record under Article 129 and 215 respectively.
- A court of record is one whose decisions are kept in reserve for future references and inherently it also has the power to punish for its contempt.
- **Statutory Explanation** - This implicit constitutional provision is explained in the Contempt of Court Act, 1971.

What are the types of Contempt in India under the Contempt of Court Act, 1971?

- **Two types of Contempt** - Civil and Criminal Contempt.
- **Section 2(b) of 1971 Act** - Defines civil contempt as 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.
- **Section 2(c) of 1971 Act** - Defines criminal contempt as 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 act which:

- **Scandalizes** or lowers 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 the administration of justice in any other manner
- **Punishment** - Under Section 12 of the Act, contempt can be punished with simple imprisonment for up to six months, a fine up to Rs. 2,000, or both.

What are the procedures for initiation of contempt proceedings?

- **Suo motu** - The High Court or Supreme Court may initiate contempt proceedings *suo moto*.
- **Reference** - A subordinate court can refer a case to the High Court for contempt proceedings, or the Advocate General can bring a motion for criminal contempt in a High Court.
- **Private petition** - A private party can bring the matter to the court's attention, but they are considered an "informer" or "relator," not a complainant.
 - **With consent** - To initiate proceedings for criminal contempt, a private party must obtain the written consent of the Attorney General (for the Supreme Court) or the Advocate General (for High Courts).
 - **Without consent** - If the AG denies consent, the petition cannot proceed.

What are the criticisms related to Contempt of Court?

- **Lack of clarity** - The Contempt of Courts Act, 1971 are vague and lack clarity, can be interpreted variably, leading to potential judicial overreach.
- **Inhibits democratic discourse** - The fear of contempt action may discourage open and constructive critique of the judiciary, impacting freedom of expression.
- **Burden on the judiciary** - Frequent contempt proceedings contribute to judicial congestion, diverting time and resources from other pending matters.
- **Colonial legacy** - The colonial legacy prioritizes judicial insulation over democratic accountability, often clashing with Article 19(1)(a) of the Constitution.
- **Potential misuse by judiciary** - The judiciary acts as judge, jury, and prosecutor in contempt cases, raising concerns about conflict of interest and lack of checks and balances.
- **Lack of accountability** - Contempt powers may be used to shield the judiciary from public scrutiny, reducing transparency and accountability.
- **Inconsistency in enforcement** - Selective or delayed action in high-profile cases creates perceptions of bias or unequal treatment.

What are the judicial stand on criticism and Contempt?

- **Ashwini Kumar Ghosh vs. Arabinda Bose (1952)** - Fair criticism is allowed.
 - Fair and reasoned criticism of a decided case does not amount to contempt, whereas, excessive or malicious commentary may be considered contemptuous.
- **Anil Ratan Sarkar vs. Hirak Ghosh (2002)** - Caution in exercising contempt powers.

- The Court held that the power to punish for contempt must be exercised with caution and shall only be exercised when there is a clear violation of an order.
- **M. V. Jayarajan vs. High Court of Kerala (2015)** – Abusive public speech as criminal contempt
 - The Supreme Court upheld contempt charges for abusive language used in a public speech while criticising a High Court order, such actions could be deemed to undermine judicial authority and disrupt justice delivery.
- **Shanmugam @ Lakshminarayanan vs. High Court of Madras (2025)** – Purpose of contempt powers reaffirmed
 - The Supreme Court clarified that the core aim of contempt proceedings is to protect the administration of justice, not to shield judges from criticism.

What lies ahead?

- Democratic criticism of the judiciary is acceptable, but one must respect its vital role in shaping state priorities and upholding the sanctity of justice.
- Misrepresentation by the state or citizens can lead to contempt of court and undermine democratic values, ultimately hindering the delivery of substantive justice.

Reference

[The Hindu | What constitutes as contempt of court in India?](#)

