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?]

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