

Contempt of Court in India

[UPSC Notes]

What is the Contempt of Court in India?

Contempt of court, to put it simply, is quite literal in its meaning. 'Contempt' in the language of law means an offence done in disobedience or disrespect of the court. The court of law is a place of a set code of conduct must be adhered to by all those in attendance.

Any disrespectful action that tampers with the due process of law along with the dignity and authority would be considered to be in 'contempt of court'. A legislative equivalent to the 'contempt of court' is Contempt of Parliament.

Contempt of Court can be classified into two categories:

- Disrespect toward the legal authorities in a courtroom.
- Disobedience towards a direct court order.

The court decides which actions are deemed as contempt of court. An order can be summoned by the court for an individual who is to be held 'in contempt' if they are seen doing either of the things in the court of law. The judge's most superior power would be to prepare sanctions for all acts that disturb a court proceeding.

The enforcement of equitable remedies is one of the primary reasons why contempt proceedings are employed. To clarify, equitable remedy/relief is a kind of court-ordered relief for the aggrieved. This is only used when ordinary legal remedies (like damage relief) are not sufficient for the aggrieved. Any action can be held in contempt in different jurisdictions, like refusing to respond to a subpoena, testify, etc.

Recent Updates about the Contempt of Court in India

In recent times, the Supreme Court has upheld the notion that Article 129 makes the power to punish under the contempt of court its constitutional power. This cannot be barred by any law.

The highlights of the judgement have been discussed below;

1. Contempt of court is a constitutional power for the courts, which cannot be done away with any law or legislative enactment.
2. The interpretation of Article 129 would imply that the Apex Court, as a court of record, is to have an ultimate say in what actions are to be in contempt and what the punishment shall be given for the following.
3. However, Article 142 (2) states that "subject to the provisions of any law made in this behalf by Parliament", the Supreme Court shall have all and every power to make any order on the punishment of any contempt of itself.

The contrast and comparison between the two articles highlight that the objective behind the jurisdiction of contempt is to maintain order in the judicial institutions.

Contempt of Court Act 1971

The Contempt of Court Act of 1971 defines the powers of a court of law if an individual is found guilty in contempt of court. The act also regulates a balance throughout the procedure. It is extended to the entirety of the country, barring the state of Jammu and Kashmir. This Act also breaks the actions of contempt into two classifications of Civil Contempt and Criminal Contempt.

Types of Contempt of Court in India

There are two categories under contempt of court:

- **Criminal Contempt of Court:** Civil contempt often involves the failure of someone to comply with a court order. Judges use civil contempt sanctions to coerce such a person into complying with a court order the person has violated.
- **Civil Contempt of Court:** Whereas for criminal contempt of court, the charges are punitive, meaning they serve to deter future acts of contempt by punishing the offender no matter what happens in the underlying proceeding.

Punishment under the Contempt of Court Act 1971

In a situation where an individual is booked under contempt of court, a few punishments are given. It could vary from a fine to imprisonment or both. A person already being presented to the court, too, can be charged with contempt of crime which makes it a process crime,

Judges in common law systems have greater and more extensive powers with regard to contempt of court than the judges in civil law systems. Judges on both levels, the High Court and the Supreme Court of India, extend the powers to punish under contempt of court.

As directed under section 12 of the Indian Penal Code, contempt of court is punishable with a simple imprisonment term extending to 6 months or a fine that may go upto Rs. 2000, or both.

Criticism of Contempt of Court

As stated earlier, contempt of court is a divisive provision in our constitution. There are a few criticisms about it that have been discussed below;

1. **Open to interpretation:** The determination of the term 'fair' in section 5 of the act is open-ended and dependent on the judge's interpretation. The terms 'fair criticism' and 'fair comment' are open-ended and undefined. This may work against freedom of speech and expression, as guaranteed by Article 19 of the Indian Constitution.
2. **Principle of Natural Justice:** Some judges can act out of their cause and hence, violating the passage of natural justice and impacting the public faith in the judiciary negatively.