

Law Commission Report Summary

Review of the Contempt of Courts Act, 1971

- The Law Commission of India (Chair: Justice B.S. Chauhan) submitted its report on the Contempt of Courts Act, 1971. Contempt refers to the offence of showing disrespect to the dignity or authority of a court. The Act divides contempt into civil and criminal contempt. Civil contempt refers to the wilful disobedience of an order of any court. Criminal contempt includes any act or publication which: (i) ‘scandalises’ the court, or (ii) prejudices any judicial proceeding, or (iii) interferes with the administration of justice in any other manner. ‘Scandalising the Court’ broadly refers to statements or publications which have the effect of undermining public confidence in the judiciary.
- The report examined whether the definition of contempt in the Act should be restricted to civil contempt, i.e., wilful disobedience of judgments of court. The Commission concluded that there was no requirement to amend the Act, for the reasons stated below:
 - **High number of contempt cases:** The Commission observed that there were a high number of civil (96,993) and criminal (583) contempt cases pending in various High Courts and the Supreme Court. The Commission observed that the high number of cases justify the continuing relevance of the Act. It stated that amending the definition of contempt may reduce the overall impact of the law and lessen the respect that people have for courts and their authority and functioning.
 - **International comparison:** In relation to the offence of ‘scandalising the Court’, the Commission noted that the United Kingdom had abolished the offence in its contempt laws. However, it noted that there were two differences in circumstances in India and the United Kingdom, which warranted a continuation of the offence in India. First, India continues to have a high number of criminal contempt cases, while the last offence of Scandalising the Court in the UK was in 1931. Second, the offence of Scandalising the Court continues to be punishable in UK under other laws. The Commission observed that abolishing the offence in India would leave a legislative gap.
 - **Source of contempt power:** The Commission observed that the superior courts (Supreme Court and High Courts) derive their contempt powers from the Constitution. The Act only outlines the procedure in relation to investigation and punishment for contempt. Therefore, deletion of the offence from the Act will not impact the inherent constitutional powers of the superior courts to punish anyone for its contempt. These powers will continue to remain, independent of the 1971 Act.
 - **Impact on subordinate courts:** The Constitution allows superior courts to punish for their contempt. The Act additionally allows the High Court to punish for contempt of subordinate courts. The Commission argued that if the definition of contempt is narrowed, subordinate courts will suffer as there will be no remedy to address cases of their contempt.
 - **Ambiguity:** The Commission observed that amending the definition of contempt will lead to ambiguity. This is because the superior courts will continue to exercise contempt powers under the Constitution. If there is no definition for criminal contempt in the Act, superior courts may give multiple definitions and interpretations to what constitutes contempt. The Commission suggested retaining the definition for the purpose of ensuring clarity.
 - **Adequate safeguards:** The Commission noted that there are several safeguards built into the Act to protect against its misuse. For instance, the Act contains provisions which lays down cases that do not amount to contempt and cases where contempt is not punishable. These provisions suggest that the courts will not prosecute all cases of contempt. The Commission further noted that the Act had withstood judicial scrutiny, and therefore, there was no reason to amend it.

DISCLAIMER: This document is being furnished to you for your information. You may choose to reproduce or redistribute this report for non-commercial purposes in part or in full to any other person with due acknowledgement of PRS Legislative Research (“PRS”). The opinions expressed herein are entirely those of the author(s). PRS makes every effort to use reliable and comprehensive information, but PRS does not represent that the contents of the report are accurate or complete. PRS is an independent, not-for-profit group. This document has been prepared without regard to the objectives or opinions of those who may receive it.