

## PARLIAMENT & LEGISLATURE CAN'T BE HELD TO BE CONTEMPT OF COURT: POLITY

**NEWS:** No contempt if Parliament, legislatures simply make laws: Supreme Court

### WHAT'S IN THE NEWS?

While closing the 2007 **Salwa Judum** case, the Supreme Court clarified that laws passed by Parliament or State Legislatures cannot amount to contempt of court, reaffirming the doctrine of separation of powers and legislative competence. The Court also reiterated the limits and safeguards around the use of contempt powers in a constitutional democracy.

#### In News

- While closing the **2007 Salwa Judum case**, the Supreme Court recently observed that **any law made by Parliament or State Legislature cannot be held as an act of contempt of Court**.

#### SC's Direction

- Every State Legislature possesses **plenary powers** to pass an enactment.
- As long as an enactment has not been declared **ultra vires the Constitution** or invalid by a constitutional court, it retains the **force of law**.
- The Supreme Court affirmed that:
  - The legislature can pass a law to **nullify the basis of a judgment**.
  - The legislature can amend a struck-down law to bring it in line with a constitutional court's ruling.
- This reflects the **doctrine of separation of powers**, a core principle of constitutional democracy.
- It ensures that the **legislative, executive, and judiciary** function within their respective domains.

#### About Contempt of Court

- **Definition**
  - Contempt of Court refers to any **act or omission** that obstructs or interferes with the **due administration of justice**, or shows **disrespect** to the authority, dignity, and integrity of a court.
- **Types of Contempt**
  - **Civil Contempt**
    - **Wilful disobedience** to any judgment, order, direction, or decree of a court.
    - Wilful breach of an undertaking given to a court.

- **Criminal Contempt**
  - Any act that **scandalizes** or **lowers the authority** of the court.
  - Acts that **prejudice** or **interfere** with judicial proceedings.
  - Acts that **obstruct** the administration of justice in any other manner.

## Constitutional and Statutory Basis

- **Article 129**
  - Declares that the **Supreme Court** is a court of record and has the power to **punish for its contempt**.
- **Article 215**
  - High Courts are also courts of record and enjoy **similar powers** of contempt.
- **Contempt of Courts Act, 1971**
  - Provides the **statutory framework** defining and regulating contempt proceedings in India.
  - Lays down the procedure and penalties for both civil and criminal contempt.
- **Article 142(2)**
  - Empowers the Supreme Court to make **orders for the punishment of contempt**, subject to any law made by Parliament.

## Safeguards

- **Truth as Defence**
  - After the **2006 Amendment**, truth can be used as a valid defence in contempt proceedings.
  - The defence must serve **public interest** and be made in a **bona fide** manner.
- **Fair and Reasonable Criticism**
  - Constructive and balanced **criticism of judicial decisions** is permitted under law.
  - Criticism should not cross into vilification or undermine the integrity of the judiciary.
- **Apology**
  - A **genuine, unqualified apology** can lead to the dropping of contempt charges.
  - The apology should reflect sincere regret and willingness to uphold the dignity of the court.

## Issues and Concerns

- **Potential restriction on Freedom of Speech**
  - Contempt proceedings may restrict **Article 19(1)(a)** — freedom of speech and expression.
  - There is a fine balance between maintaining **judicial dignity** and safeguarding **free speech**.
- **Vagueness of Definitions**
  - Terms like “**scandalizing the court**” can be subjective.
  - Leads to **inconsistent interpretations** and potential misuse.
- **Potential for Misuse**
  - Can be used to **shield the judiciary** from legitimate criticism.
  - Critics argue that robust public debate and accountability must be allowed.
- **International Trends**
  - Many countries, like the **UK**, have **abolished similar laws** for criminal contempt (scandalizing the court).
  - This move is seen as strengthening free speech while respecting the court’s role.

## Recent Developments

- **Law Commission 274th Report (2018)**
  - Recommended **retaining criminal contempt** in its present form.
  - Cited persistent challenges such as:
    - **Non-compliance** with court orders.
    - **Erosion of respect** for the authority of courts.
  - Argued that the judiciary in India continues to face **systemic and social challenges** that necessitate retaining contempt powers.

Source: <https://www.thehindu.com/news/national/no-contempt-if-parliament-legislatures-simply-make-laws-supreme-court/article69653366.ece>