

Is Contempt of Court Wrong - or Is the So-Called Contempt Due to the Court Being Wrong?

Introduction

Contempt of court is commonly presented as a clear-cut wrong - a breach of authority, an affront to justice, or an act that threatens the rule of law. Courts possess powers to punish contempt precisely because their authority must be protected if justice is to function.

Yet this orthodox framing assumes something crucial - that the court is correct.

This paper examines a deeper constitutional question:

If a court is wrong, can resistance still be contempt, or does the wrongness of the court fundamentally change the nature of the act?

1. The Purpose of Contempt Powers

Contempt powers exist for three legitimate reasons:

- To protect proceedings from disruption or intimidation.
- To ensure compliance with lawful court orders.

- To preserve public confidence in the justice system.

These aims are legitimate in any constitutional democracy. Without them, courts could be ignored, proceedings derailed and judgments rendered meaningless.

Contempt law is therefore not merely procedural - it is structural. It exists to defend the functioning of justice itself.

2. The Foundational Assumption

The legitimacy of contempt sanctions depends on a foundational assumption:

That the court is acting lawfully, correctly and within jurisdiction.

If that assumption fails, the moral and constitutional foundation of contempt law weakens.

Courts are not infallible. History demonstrates:

- wrongful convictions
- unlawful orders
- procedural injustices
- decisions overturned on appeal

A justice system which acknowledges appeals implicitly acknowledges fallibility.

Therefore the question cannot be avoided:

If courts can err, can disobedience always be treated as wrongdoing?

3. Error and Authority

Authority and correctness are not identical.

A court may possess legal authority yet still be mistaken. The legal system addresses this through:

- appeals
- judicial review
- reconsideration procedures
- higher court oversight

These mechanisms exist precisely because correctness is not guaranteed.

However, contempt law can create tension:

- The court claims authority.
- A person believes the court is wrong.
- Resistance occurs.
- Punishment follows.

In such cases, punishment does not prove the court was right. It proves only that the court exercised power.

4. The Constitutional Paradox

This produces a paradox at the heart of legal authority:

If obedience is required even when the court is wrong, justice risks becoming obedience rather than truth.

The rule of law is not merely rule by courts. It is rule by law that is:

- lawful
- rational
- proportionate
- accountable

If courts could never be challenged, the justice system would cease to be a system of law and become a system of command.

5. Distinguishing Defiance from Principle

Not all resistance is equal. There is a profound difference between:

- obstruction designed to undermine justice, and
- principled refusal grounded in legal or factual dispute.

Historically, many legal advances began as acts treated initially as defiance:

- challenges to unlawful detention
- resistance to improper warrants
- refusals to comply with unlawful executive orders

In each instance, what appeared as disobedience was later recognised as lawful challenge.

Thus, contempt must be carefully distinguished from legitimate contest.

6. Why This Question Matters

This issue is not abstract. It affects real outcomes:

- whether evidence is tested
- whether errors are corrected
- whether accountability exists

If contempt powers are applied without careful scrutiny, they risk:

- shielding error
- discouraging challenge
- suppressing legitimate scrutiny

In such circumstances, contempt may not protect justice, but instead, may protect error.

7. The Proper Constitutional Position

A constitutionally healthy justice system must hold two principles simultaneously:

- Courts must be respected.
- Courts must be capable of being wrong.

Respect without accountability is authority without restraint.

Accountability without respect is disorder.

The balance lies in recognising that contempt powers exist to protect justice, not to shield courts from scrutiny.

Conclusion

Contempt of court is not inherently unjust. It is a necessary legal safeguard.

But its legitimacy depends entirely on context.

If a court acts lawfully and correctly, contempt sanctions may be justified.

If a court acts incorrectly, however, the question must be asked:

Is the wrongdoing truly in the resistance - or in the decision being resisted?

The rule of law does not demand blind obedience. It demands lawful authority exercised correctly.

When courts are right, compliance sustains justice.

When courts are wrong, challenge sustains justice.

And it is this distinction, not mere obedience, which defines a free legal system.

Ian Clayton

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