

INTERNATIONAL JOURNAL OF LAW
MANAGEMENT & HUMANITIES
[ISSN 2581-5369]

Volume 9 | Issue 4

2026

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Humour and Criminal Contempt in India: Reconciling Free Speech and the Dignity of the Court

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ABSTRACT

Humour has long been a vehicle for democratic criticism in India, from the verse of Kabir to political cartooning and, more recently, stand-up comedy and digital satire. This article asks whether Indian criminal contempt jurisprudence adequately accommodates humorous expression directed at the judiciary. It locates satire, parody and caricature within the protection of Article 19(1)(a), and then examines the constitutional and statutory architecture of contempt: Articles 129 and 215, the Contempt of Courts Act, 1971, the open-textured first limb of Section 2(c), and the qualified defence of truth introduced by the 2006 amendment to Section 13. Reading E.M.S. Namboodiripad, In re S. Mulgaokar, P.N. Duda and In re Prashant Bhushan alongside the pending proceedings concerning Rachita Taneja and Kunal Kamra, the article argues that the courts have accepted the legitimacy of fair criticism without developing any principled test for humorous speech. Drawing on the abolition of scandalising the court in England and Wales by Section 33 of the Crime and Courts Act 2013, it proposes that criminal contempt be confined to expression posing a real and substantial threat to the administration of justice, so that the dignity of the court and the democratic promise of Article 19(1)(a) are preserved together.

Keywords: criminal contempt, scandalising the court, freedom of speech, article 19(1)(a), satire, humour, contempt of courts act 1971, judicial accountability, chilling effect

I. INTRODUCTION

Freedom of speech and expression under Article 19(1)(a) of the Indian Constitution serves as one of the foundational cornerstones of democratic India. The Supreme Court has consistently held that the constitutional ideal of free speech encompasses not only individual self-expression but also the search for truth, political engagement, informed public conversation, and governmental accountability.¹ Humour, as a distinct form of expression, has long served as a powerful instrument of public discourse, helping individuals to question authority, challenge

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¹ GAUTAM BHATIA, OFFEND, SHOCK, OR DISTURB: FREE SPEECH UNDER THE INDIAN CONSTITUTION (Oxford Univ. Press 2016).

social evils, expose institutional shortcomings and participate in democratic discussion through satire, parody, ridicule and caricature.² Unlike direct political criticism, humour often conveys dissent indirectly, employing exaggeration and irony to provoke reflection.³

The fifteenth-century poet-saint Kabir used ridicule and sharp poetic expression to question religious orthodoxy.⁴ Bharatendu Harishchandra, often celebrated as the father of modern Hindi literature, criticised the colonial administration through his satirical work. Harishankar Parsai, one of India's foremost satirists, is widely credited with elevating *vyangya* into a serious literary genre addressing politics and social hypocrisy.⁵ Similarly, R.K. Laxman's 'The Common Man' subtly satirised bureaucratic excess, institutional inefficiency and political corruption.⁶

In India, humour has come under greater judicial scrutiny in recent years. As stand-up comedy, political satire, digital memes and other forms of humorous expression have grown in popularity, humour has evolved from a simple form of amusement into a vital tool of institutional and political criticism.⁷ Comedic expression has not, as a result, been exempt from legal regulation: shows have been cancelled, criminal complaints have been filed, and performers have been arrested or placed under investigation on allegations of causing public offence or undermining institutional authority. These developments underline that humour is now treated as a constitutionally significant form of speech capable of attracting legal consequences, and not merely as an artistic medium.

Although freedom of speech and expression is the foundation of democratic government, the independence, authority and legitimacy of the judicial institutions of a constitutional democracy are just as important to its efficient operation.⁸ As the protectors of the Constitution, the Supreme Court and the High Courts hold a special constitutional status. They are tasked with upholding the rule of law, protecting fundamental rights, and exercising judicial review. It is therefore accepted that the legitimacy and efficacy of the legal system depend on public trust in the

² Alberto Godioli & Jennifer Young, *Humour and Free Speech: A Comparative Analysis of Global Case Law*, COLUM. GLOB. FREEDOM EXPRESSION (Special Collection of the Case Law on Freedom of Expression, 2023), <https://doi.org/10.5281/zenodo.8105760>.

³ ALBERTO GODIOLI, SABINE JACQUES, JENNIFER YOUNG & ARIADNA MATAMOROS-FERNANDEZ, WHAT'S IN A JOKE? ASSESSING HUMOUR IN FREE-SPEECH JURISPRUDENCE (Forum for Humour & the Law and Columbia Glob. Freedom Expression, 1st ed. 2025).

⁴ Ramesh Kumar, *The Reformist Movement in India: An Analysis of the Role of Sant Kabir in Bhakti Tradition*, 7 SOC. TRENDS: J. DEP'T SOCIOLOGY N. BENGAL UNIV. (2020).

⁵ Harishankar Parsai, *Harishankar Parsai: The Master Satirist*, 40 DIALOG 284 (Vikram Singh Thakur trans., 2022).

⁶ Sreya Sarkar, *A Failing Democracy: Depiction of the 'Common Man' in R.K. Laxman's Cartoons, 1960-1970*, 83 PROC. INDIAN HIST. CONG. 1224 (2024).

⁷ Nicholas Holm, *The Limits of Satire, or the Reification of Cultural Politics*, 174(1) THESIS ELEVEN 81 (2023).

⁸ Robert C. Post, *Participatory Democracy as a Theory of Free Speech*, 97 VA. L. REV. 477 (2011).

administration of justice.⁹ The constitutional recognition of contempt of court as an acceptable constraint on free expression rests on this institutional need. Article 19(2) of the Constitution accordingly permits the State to place reasonable restrictions on the exercise of the right conferred by Article 19(1)(a) in relation to contempt of court. The Contempt of Courts Act, 1971, which codifies the law relating to civil and criminal contempt and identifies the situations in which speech or conduct may attract the contempt jurisdiction, further develops this constitutional framework.

Judicial accountability is equally valuable in a democracy. The regulation of the contempt power therefore becomes a concern when constitutional institutions such as the courts are themselves the target of criticism. Part of the difficulty is that the power to punish for contempt originates in the Constitution itself, for the protection of the administration of justice, and the court whose authority is said to have been scandalised may also be the forum that determines the alleged contempt, a feature that has long attracted comment on natural-justice grounds. The difficulty is compounded when humour, which thrives on satire and exaggeration, is used as a means of criticising the judiciary.¹⁰ Although maintaining public trust in the administration of justice is a fundamental constitutional goal, the growing use of legal penalties against humorous speech raises significant questions about the constitutional bounds of such control. In the absence of settled constitutional criteria, the line between acceptable humour and punishable contempt remains hazy, which both chills democratic critique and leaves the exercise of the contempt jurisdiction open-ended.

When humour is used to criticise judicial institutions, the confluence of these fundamental commitments creates a difficult doctrinal tension. Political cartoons, sarcastic commentary, stand-up comedy, parody and digital memes that discuss court rulings, individual judges and court operations have become unprecedentedly common in public conversation. Such statements may be perceived as undermining the authority or dignity of the judiciary, even where they are otherwise acceptable forms of democratic criticism. The law of criminal contempt therefore finds itself in a precarious position between safeguarding constitutional expression and maintaining institutional integrity.

Criticism of courts within the framework of criminal contempt has been thoroughly studied in Indian jurisprudence. The distinctive constitutional features of humour itself, however, have received comparatively little consideration. The form and intent of humorous expression differ

⁹ Vijay Tyagi, Vaibhav Chadha, Lavam Tyagi & Shambhavi Srivastava, *Bottling the Criminal Contempt Law: A Search for 'Intention' in 'Scandalizing the Court'*, 22 AGE HUM. RTS. J. (2024).

¹⁰ Laura E. Little, *Regulating Funny: Humor and the Law*, 94 CORNELL L. REV. 1235 (2009).

from those of literal assertion. Exaggeration, irony, fictionalisation and mockery are frequently used in satire to convey institutional or political criticism. Its principal purpose is often to invite reflection by highlighting apparent contradictions, hypocrisy or misuse of power, rather than to deceive. Assessing humorous communication by the same criteria that apply to factual accusations or abusive speech may therefore fail to capture its democratic function.

The problem is made worse by the continued existence of the offence of 'scandalising the court', a form of criminal contempt that has attracted persistent criticism because of its unclear definition and its tendency to deter lawful public examination of judicial institutions.¹¹ While the court plainly has a constitutional power to uphold public trust in the administration of justice, democratic accountability also requires that constitutional institutions remain subject to robust, and at times uncomfortable, public criticism.

This study investigates whether humour, as a constitutionally protected form of democratic expression, is adequately accommodated by Indian criminal contempt jurisprudence. It contends that, while maintaining judicial authority is a legitimate constitutional goal, current contempt jurisprudence has not established a principled framework for distinguishing speech that poses a real and substantial threat to the administration of justice from protected humorous criticism. In the absence of such a framework, lawful democratic expression may be suppressed, and the ambiguous bounds of criminal contempt may be extended beyond what is required under Article 19(2) of the Constitution.

The article is divided into four parts. The first examines the constitutional significance of humour within free-speech law. The second examines India's present contempt framework. The third assesses the foundational contempt cases and the manner in which the Indian judiciary has responded to humour aimed at the courts. The paper then concludes with suggestions derived from the study.

II. HUMOUR AS CONSTITUTIONALLY PROTECTED SPEECH UNDER ARTICLE 19(1)(A)

The constitutional relevance of freedom of speech and expression stems from its vital role in maintaining democratic self-government as well as from its protection of individual autonomy.¹² Constitutional theorists have long maintained that free discussion of matters of public interest is essential to the legitimacy of democratic institutions. Alexander Meiklejohn,

¹¹ Roxanne Watson, *Scandalizing the Court in the Commonwealth in the Twenty-First Century*, 26 COMM. L. & POL'Y 377 (2021).

¹² Eric Barendt, *Free Speech Theory and the Jurisprudence of Free Speech*, 14 MICH. J. INT'L L. 489 (1993).

who observed that citizens of a constitutional democracy must remain free to discuss, criticise and assess the actions of those in positions of public authority, famously argued that the principal rationale for preserving freedom of speech is its connection with democratic governance.¹³ In a similar vein, Thomas I. Emerson considered freedom of expression necessary for democratic engagement, personal fulfilment, the pursuit of truth and the maintenance of a stable yet adaptable society.¹⁴ Constitutional protection ought therefore to extend to all forms of expression that support democratic accountability and public conversation, and not only to acceptable or conventional modes of communication.¹⁵

Article 19(1)(a) of the Indian Constitution, which guarantees to every citizen the fundamental right to freedom of speech and expression, reflects a similar commitment. The Supreme Court has recognised this right as one of the fundamental tenets of democratic government since its earliest constitutional rulings.¹⁶ In *Romesh Thappar v. State of Madras*,¹⁷ the Court stated that freedom of speech and of the press lay 'at the foundation of all democratic organisations', confirming that democratic government depends on the free flow of ideas. This principle has continued to shape Indian free-speech law. While striking down Section 66A of the Information Technology Act, 2000 in *Shreya Singhal v. Union of India*,¹⁸ the Court reiterated that 'discussion' and 'advocacy', however unpopular, remain at the heart of Article 19(1)(a), and that restriction is constitutionally permissible only where expression reaches the level of harm recognised under Article 19(2).

The broader conception of democratic governance that guided the Constituent Assembly must also be taken into account when interpreting the constitutional commitment to freedom of speech and expression. Dr B.R. Ambedkar repeatedly emphasised the need for a constitutional culture based on liberty, equality and public reason in order to sustain constitutional democracy.¹⁹ The Assembly acknowledged that informed public debate, criticism and accountability are essential to democratic governance, as evidenced by the inclusion of freedom of speech and expression among the fundamental rights.²⁰ The guarantee under Article 19(1)(a) was intended to be a key means by which citizens engage in the constitutional process and hold

¹³ ALEXANDER MEIKLEJOHN, *POLITICAL FREEDOM: THE CONSTITUTIONAL POWERS OF THE PEOPLE* (Oxford Univ. Press 1960).

¹⁴ THOMAS I. EMERSON, *THE SYSTEM OF FREEDOM OF EXPRESSION* (Random House 1970).

¹⁵ JOHN MORREALL, *TAKING LAUGHTER SERIOUSLY* (State Univ. of N.Y. Press 1983).

¹⁶ ABHINAV CHANDRACHUD, *REPUBLIC OF RHETORIC: FREE SPEECH AND THE CONSTITUTION OF INDIA* (Penguin Random House India 2017).

¹⁷ *Romesh Thappar v. State of Madras*, 1950 SCR 594 (India); AIR 1950 SC 124.

¹⁸ *Shreya Singhal v. Union of India*, (2015) 5 SCC 1 (India).

¹⁹ CONSTITUENT ASSEMBLY DEBATES vol. VII, 978-1003 (Dec. 1, 1948) (debate on Draft Article 13, later Article 19).

²⁰ H.M. SEERVAI, *CONSTITUTIONAL LAW OF INDIA: A CRITICAL COMMENTARY* (4th ed., Universal Law Publ'g Co.).

public institutions accountable, even though the framers deliberately subjected the right to specified restrictions.²¹ As constitutional literature has increasingly acknowledged, the guarantee necessarily extends to expressive forms, including humour, that convey ideas, criticism and political statements.²²

Mikhail Bakhtin's idea of the carnivalesque may offer the most convincing explanation of the democratic value of humour. Writing in the context of Renaissance literature, Bakhtin contended that laughter has an intrinsically subversive quality, because it allows ordinary people to question authority through parody, ridicule and inversion while momentarily suspending existing hierarchies.²³ The democratic worth of satire is therefore largely attributable to its capacity to question authority obliquely, using irony and exaggeration to prompt reflection rather than to compel agreement.²⁴

In *Offend, Shock, or Disturb*, Gautam Bhatia argues that the constitutional protection of free speech safeguards the various ways in which ideas are expressed as well as their substantive content.²⁵ On his account, Article 19(1)(a) should be interpreted purposively to include expressive conduct and unconventional forms of communication, subject only to the constitutionally permitted limitations under Article 19(2).²⁶

The political cartoonist Aseem Trivedi was arrested in September 2012 and accused of sedition, of an offence under the Information Technology Act, 2000, and of insulting national symbols, in the proceedings that culminated in *Sanskar Marathe v. State of Maharashtra*.²⁷ His 'Cartoons Against Corruption' campaign protested against widespread political corruption through deliberately harsh images, including the national emblem redrawn with wolves and the Parliament building depicted as a lavatory. The imagery was criticised as mocking national integrity, but the sedition charge was subsequently dropped. Deciding the criminal public interest litigation on 17 March 2015, the Bombay High Court held that Section 124A of the Indian Penal Code cannot be invoked to penalise criticism of persons for the time being engaged in carrying on the administration, or strong words used to express disapprobation of the measures of Government with a view to their improvement or alteration by lawful means, and

²¹ JOHN STUART MILL, *ON LIBERTY* (Elizabeth Rapaport ed., Hackett Publ'g Co. 1978) (1859).

²² SIMON CRITCHLEY, *ON HUMOUR* (Routledge 2002).

²³ MIKHAIL BAKHTIN, *RABELAIS AND HIS WORLD* (Helene Iswolsky trans., Indiana Univ. Press 1984).

²⁴ Ishan Atrey, *Laughing Under Law: Free Speech, Stand-Up Comedy, and the Limits of Criminal Regulation in India*, VIDHI CENTRE FOR LEGAL POLICY (May 19, 2026), <https://vidhilegalpolicy.in/blog/laughing-under-law-free-speech-stand-up-comedy-and-the-limits-of-criminal-regulation-in-india/>.

²⁵ Bhatia, *supra* note 1.

²⁶ Bhatia, *supra* note 1.

²⁷ *Sanskar Marathe v. State of Maharashtra*, 2015 Cri LJ 3561 (Bom.) (Crim. P.I.L. No. 3 of 2015, decided Mar. 17, 2015).

it laid down pre-conditions to be observed before the section is invoked. Although Trivedi's visual idiom was blunt rather than conventionally witty, the decision confirms that fierce political indignation expressed through art cannot be suppressed as an offence against the State in the absence of a direct and deliberate incitement to violence or public disorder.

When the judiciary itself is the target of mockery, the constitutional defence of humour becomes considerably more nuanced. Democratic constitutionalism requires that courts be subject to public inspection and criticism, but the Constitution also confers on them the authority to uphold the rule of law and permits restrictions on speech in relation to contempt of court. This dual constitutional commitment raises a fundamental dilemma: can a legal system dedicated to open and unrestricted public conversation sustain criminal penalties against criticism of the very institution tasked with defending that freedom? The following section examines how Indian contempt jurisprudence balances the constitutional values of judicial authority and expressive freedom.

III. CRIMINAL CONTEMPT AND THE CONSTITUTIONAL PROTECTION OF JUDICIAL AUTHORITY

The constitutional recognition of the contempt jurisdiction rests on the idea that the efficient administration of justice depends not only on the presence of independent courts but also on public trust in their authority and impartiality. In a constitutional democracy under the rule of law, the judiciary holds a special institutional role as the ultimate interpreter of the Constitution and the protector of fundamental rights.²⁸ Unlike the political branches of government, which derive their legitimacy from electoral accountability, the legitimacy of the judiciary depends largely on public acceptance of the independence, authority and integrity of the judicial system.²⁹ By shielding the administration of justice from conduct that impedes court proceedings or erodes public trust in the legal system, the law of contempt seeks to maintain these institutional conditions.³⁰

Originating in England, the common law offence of 'scandalising the court' aimed to maintain public trust in the administration of justice by punishing writings that disparaged judges or courts.³¹ In *R v. Gray* [1900] 2 QB 36, Lord Russell of Killowen CJ described scandalising the court as the publication of matter calculated to lower the authority of a judge or court, and this

²⁸ David Pannick, *Criticising Judges*, LAW Q. REV. (1995).

²⁹ J.A. Coutts, *Contempt by Scandalising the Court*, 63 J. CRIM. L. 472 (1999).

³⁰ LAW COMM'N OF INDIA, 274th Report: Review of the Contempt of Courts Act, 1971 (Limited to Section 2 of the Act) (2018).

³¹ FALI S. NARIMAN, CONTEMPT OF COURT (Nat'l Judicial Acad., NJA Occasional Paper Series No. 2, 2004).

remains the basic formulation.³² Despite being a significant component of English contempt law, the practical significance of the offence gradually diminished over the course of the twentieth century. Successful prosecutions became extremely uncommon, reflecting a growing understanding that judges in a constitutional democracy are expected to withstand strong and occasionally intemperate public criticism without regularly resorting to criminal sanction.

Article 129 designates the Supreme Court as a court of record and confers on it the power to punish for contempt of itself, and Article 215 gives each High Court a similar status and authority. The contempt jurisdiction of these constitutional courts is therefore intrinsic and derives directly from the Constitution rather than from ordinary legislation. The Contempt of Courts Act, 1971 governs the exercise of this authority, but, as judicial rulings have repeatedly confirmed, it does not limit or exhaust the constitutional powers conferred by Articles 129 and 215. The contempt jurisdiction is thus a constitutional authority intended to secure the effective administration of justice while operating within a framework that upholds the right of free speech under Article 19(1)(a).³³

Articles 129 and 215 provide the constitutional basis for the contempt jurisdiction, but the Contempt of Courts Act, 1971 supplies the main statutory foundation. The Act, which was passed following the recommendations of the H.N. Sanyal Committee, aimed to establish procedural safeguards, harmonise judicial practice and define the boundaries of the contempt jurisdiction while preserving the constitutional authority of the higher courts.³⁴ Section 2(b) of the Act defines civil contempt and Section 2(c) defines criminal contempt.³⁵ Civil contempt is principally concerned with wilful disobedience of judgments, decrees, orders or other judicial directions. Criminal contempt, by contrast, seeks to shield the administration of justice from publications or acts that disrupt court proceedings or undermine the authority of the courts.

Criminal contempt is defined in Section 2(c) as any publication or act that (i) scandalises or tends to scandalise, or lowers or tends to lower the authority of any court; (ii) prejudices or interferes, or tends to interfere, with the due course of any judicial proceeding; or (iii) interferes or tends to interfere with, or obstructs or tends to obstruct, the administration of justice in any other manner. Of these three limbs, the offence of scandalising the court has generated the greatest constitutional difficulty, because of its ambiguous definition and its tendency to overlap

³² Douglas Hay, *Contempt by Scandalizing the Court: A Political History of the First Hundred Years*, 25 OSGOODE HALL L.J. 431 (1987).

³³ GRANVILLE AUSTIN, *WORKING A DEMOCRATIC CONSTITUTION: THE INDIAN EXPERIENCE* (Oxford Univ. Press 1999).

³⁴ Committee on Contempt of Courts (H.N. Sanyal Committee Report), GOVERNMENT OF INDIA (1963).

³⁵ The Contempt of Courts Act, 1971, No. 70, Acts of Parliament, 1971, § 2(b)-(c) (India).

with justifiable public criticism of judicial institutions.³⁶ It is this limb, rather than civil contempt or interference with pending proceedings, that most directly implicates the constitutional protection of satire and humorous criticism.

The purpose that criminal contempt seeks to safeguard determines whether it is constitutionally permissible. Indian courts have consistently emphasised that the object of the contempt jurisdiction is to maintain public trust in the administration of justice, and not to defend the reputation or personal dignity of individual judges. Criticism that significantly undermines public confidence in the fair operation of the courts, or hinders the proper administration of justice, may nonetheless warrant constitutional intervention. The justification for contempt is therefore to preserve the capacity of the court system to discharge its constitutional duties efficiently, rather than to protect the judiciary from discomfort or embarrassment.

This reasoning, however, also creates a fundamental constitutional conundrum. Public trust in the judiciary is increased not only by institutional power but also by transparency, accountability and public scrutiny. If every biting or disrespectful critique of judicial functioning is treated as having the potential to erode public confidence, the law runs the risk of equating institutional legitimacy with exemption from criticism.³⁷

The 2006 amendment to Section 13 of the Contempt of Courts Act, 1971, which expressly recognised justification by truth as a defence where the court is satisfied that the plea is bona fide and in the public interest, marked a significant development in Indian contempt law.³⁸ Constitutional ambiguity persists, however, notwithstanding this formal acceptance of truth. The defence remains subject to the satisfaction of the court that the public interest and the bona fides of the plea are established. Even sincere criticism could therefore still attract contempt proceedings if judges find that the statement scandalises the judiciary or obstructs the administration of justice. This qualified defence thus represents an attempt to balance institutional authority against constitutional free expression while retaining substantial judicial discretion.

The constitutional question is therefore not whether judicial authority should be protected, but whether the offence of scandalising the court is sufficiently precise to distinguish between

³⁶ Haris Jamil, *(Un)Freedom to Criticize the Judiciary in India: Colonial Origins and Postcolonial Realities*, TWAILR: REFLECTIONS No. 24/2020 (Oct. 10, 2020), <https://twailr.com/unfreedom-to-criticize-the-judiciary-in-india-colonial-origins-and-postcolonial-realities/>.

³⁷ Sanjay Jain & Saranya Mishra, *Scandalizing the Judiciary: An Analysis of the Uneven Response of the Supreme Court of India to Sexual Harassment Allegations Against Judges*, 18 INT'L J. CONST. L. 563 (2020).

³⁸ The Contempt of Courts (Amendment) Act, 2006, No. 6 of 2006, Acts of Parliament, 2006 (India) (amending § 13 of the principal Act).

speech that genuinely threatens the administration of justice and speech that merely questions, mocks or challenges judicial institutions.

IV. SCANDALISING THE COURT, FREE SPEECH AND HUMOUR: A CONSTITUTIONAL ANALYSIS

The offence of scandalising the court occupies a distinctive position within Indian contempt jurisprudence because it directly regulates public expression concerning the judiciary. Unlike contempt arising from interference with pending proceedings or disobedience of court orders, scandalising the court concerns speech said to erode public trust in judicial institutions. The constitutional conflict between the right to free speech and the authority of the judiciary is therefore especially sharp when such communication takes the shape of satire, parody, cartoons or humorous comment. Exaggeration, irony and mockery are common rhetorical strategies used in humorous communication to highlight alleged institutional flaws.³⁹ These features set humour apart from literal statements of fact and make it more difficult to evaluate within a legal framework designed largely to address obstructive or defamatory speech.

There is little guidance on this question in Indian contempt jurisprudence. Courts have frequently affirmed the legitimacy of fair criticism of judicial functioning, but they have rarely addressed humour as a distinct category of protected communication. The rise of social media, political cartoons and stand-up comedy has nonetheless brought humorous criticism of the judiciary within the purview of contempt proceedings, requiring courts to deal with new forms of speech that diverge significantly from traditional criticism.

While the limits of criminal contempt remain unclear, satirists, cartoonists and comedians may avoid engaging with matters of public interest out of concern that mockery or parody could be construed as an attempt to embarrass the court. The discussion that follows examines the landmark cases in which contempt powers were exercised, and then the cases involving humorous expression.

Even though Indian courts have regularly examined criticism of the judiciary, contempt proceedings concerning humour remain relatively rare. The small number of cases involving humorous expression, satirical cartoons and comedic commentary is itself noteworthy, indicating that Indian contempt law has not yet established clear constitutional norms governing these forms of expression. The recent proceedings nonetheless offer important insight into how

³⁹ JOHN MORREALL, *COMIC RELIEF: A COMPREHENSIVE PHILOSOPHY OF HUMOR* (Wiley-Blackwell 2009).

courts view humour aimed at judicial institutions, and into the extent to which the offence of scandalising the court accommodates non-traditional forms of democratic critique.

The Supreme Court's ruling in *E.M.S. Namboodiripad v. T.N. Nambiar*⁴⁰ marked the beginning of India's modern criminal contempt jurisprudence. In a press conference, the appellant, who was then the Chief Minister of Kerala, criticised the judiciary, claiming that the judicial system historically mirrored bourgeois values and that judges were influenced by class interests because they were products of the dominant social order. Contempt proceedings were initiated on the footing that these remarks scandalised the judiciary.⁴¹ The Supreme Court upheld the conviction, ruling that while reasonable and fair criticism of judicial functioning is permissible, remarks that lower the authority of the courts or undermine public trust in the administration of justice may amount to criminal contempt. The Court emphasised that maintaining public trust in the legal system is paramount.

A more circumspect interpretation of the contempt jurisdiction emerged in *In re S. Mulgaokar*,⁴² where contempt proceedings arose from an editorial criticising the Supreme Court published in The Indian Express. Although the Court was divided, the concurring opinion of Justice V.R. Krishna Iyer has become one of the most influential statements on the exercise of the contempt jurisdiction. He cautioned that the power to punish for contempt must be used wisely and only in exceptional situations where there is a genuine threat to the administration of justice, and not out of irritability. He observed that frequent recourse to the contempt jurisdiction may in time erode rather than increase public trust in the judiciary, and emphasised that judges should have the strength to withstand criticism.⁴³ The decision acknowledged that institutional legitimacy is strengthened by receptiveness to criticism rather than by intolerance of dissent, and signalled a marked shift towards judicial restraint.

In *P.N. Duda v. P. Shiv Shanker*,⁴⁴ the Supreme Court further explained the difference between criminal contempt and acceptable criticism. The proceedings arose from a speech delivered by P. Shiv Shanker, then the Union Minister for Law, Justice and Company Affairs, at a meeting of the Bar Council of Hyderabad, in which he criticised certain trends within the higher judiciary and suggested that the Court's decisions had favoured propertied interests. The Court declined to initiate contempt proceedings, holding that harsh criticism of the judiciary does not constitute contempt, even when expressed in strong or provocative language, unless it substantially

⁴⁰ *E.M.S. Namboodiripad v. T.N. Nambiar*, (1970) 2 SCC 325 (India).

⁴¹ *Id.*

⁴² *In re S. Mulgaokar*, (1978) 3 SCC 339 (India).

⁴³ *Id.*

⁴⁴ *P.N. Duda v. P. Shiv Shanker*, (1988) 3 SCC 167 (India).

interferes with the administration of justice or erodes public confidence through baseless attacks. The ruling reiterated that judges are subject to public scrutiny and that constitutional democracy requires room for vigorous and well-informed criticism of judicial institutions.

In 2020 the Supreme Court initiated suo motu criminal contempt proceedings against the advocate Prashant Bhushan in respect of two tweets.⁴⁵ The first concerned a photograph of the Chief Justice of India seated on a motorcycle without a mask at a time when the physical functioning of the Supreme Court was restricted because of the Covid-19 pandemic. The second stated that the Supreme Court had contributed to the destruction of democracy in India over the preceding six years, and referred in particular to the role of the last four Chief Justices. By its judgment of 14 August 2020 the Court held that the tweets amounted to criminal contempt, finding that they had the tendency to scandalise the Court and to shake public trust in the administration of justice. By a separate sentencing order the Court imposed a nominal fine of Re 1, providing that, failing payment, Bhushan would undergo three months' simple imprisonment and be debarred from practising before the Supreme Court for three years.⁴⁶ The fine was paid within the time allowed. The judgment's broad reading of 'scandalising the court', and its implications for free speech, prompted considerable scholarly and public debate.

In *Aditya Kashyap v. Rachita Taneja*,⁴⁷ the cartoonist Rachita Taneja published a series of satirical cartoons through Sanitary Panels in November 2020 addressing the Supreme Court's decision to grant Arnab Goswami interim bail and, by comparison, the treatment of other undertrial prisoners by the legal system. The petitioner, a law student, alleged that the posts scandalised and lowered the authority of the Supreme Court, and obtained the consent of the Attorney General, K.K. Venugopal, under Section 15 of the Contempt of Courts Act, 1971 before moving the Court. On 18 December 2020 the Court issued notice returnable within six weeks, the Bench observing orally that criticism of the courts had become widespread. The Court has not ruled on the merits of the allegations, nor has it laid down any guidance for satirical criticism of the judiciary.

In a related matter, the stand-up comedian Kunal Kamra published a series of satirical tweets in November 2020 after the Supreme Court granted the television anchor Arnab Goswami interim bail. The tweets used humour and sarcasm to question what he described as the Court's uneven urgency in matters of personal liberty. The material placed before the Court also included an edited image showing the Supreme Court building in saffron with a political party's flag in place

⁴⁵ *In re Prashant Bhushan*, (2021) 1 SCC 745 (India).

⁴⁶ *In re Prashant Bhushan*, (2021) 3 SCC 160 (India).

⁴⁷ *Aditya Kashyap v. Rachita Taneja*, Contempt Petition (Crl.) No. 4 of 2020 (S.C., order dated Dec. 18, 2020) (India).

of the national flag. The Attorney General granted consent to the initiation of proceedings, and on 18 December 2020 the Court issued notice returnable within six weeks. The tweets were offered as political satire directed at the Court's perceived priorities rather than as assertions of fact concerning any pending judicial proceeding. No reasoned decision on whether they amount to criminal contempt has been reported.⁴⁸

These proceedings highlight the uncertainty surrounding the application of the offence of scandalising the court to humorous communication on digital media. In the absence of a reasoned judicial decision, the constitutional question whether humorous criticism should be subject to the coercive process of criminal contempt, without any clear interference with the administration of justice, remains unsettled.

The cases discussed above demonstrate how Indian contempt jurisprudence has progressively acknowledged the validity of reasonable criticism of the judiciary while retaining the constitutional authority to punish speech that erodes public trust in the administration of justice. Rulings such as *E.M.S. Namboodiripad* and *In re Prashant Bhushan* confirm that the offence of scandalising the court still holds a significant position in Indian constitutional law, while decisions such as *In re S. Mulgaokar* and *P.N. Duda* show a judicial willingness to accept harsh criticism. One notable omission persists in spite of this developing body of jurisprudence: the lack of a coherent judicial approach to humorous expression. Neither the Supreme Court nor the High Courts have established criteria for separating speech that genuinely endangers the administration of justice from satire, parody, caricature or humorous criticism.

This doctrinal ambiguity is illustrated by the proceedings involving Rachita Taneja and Kunal Kamra. Even though there was no claim that the impugned drawings or sarcastic commentary hindered court processes, affected decisions or interfered with court operations, humorous expression in both matters attracted the criminal contempt apparatus. The initiation of both proceedings shows that humorous criticism of judicial institutions may fall within the broad language of Section 2(c)(i) of the Contempt of Courts Act, 1971, even though neither matter has produced a reasoned ruling outlining the constitutional limits of humour. The uncertainty created by such proceedings is significant from a constitutional standpoint, because it gives artists, comedians and cartoonists no real guidance on when humour may cross the line into criminal contempt. That both matters remain pending before the apex court without a final order compounds the difficulty and strengthens the case for guidelines. It may also produce a chilling effect and lead to self-censorship by artists.

⁴⁸ *Shrirang Katneshwarkar v. Kunal Kamra*, Contempt Petition (CrI.) No. 2 of 2020 (S.C., order dated Dec. 18, 2020) (India) (heard with Contempt Petition (CrI.) Nos. 1 and 3 of 2020).

The scope of the phrase 'scandalises or tends to scandalise' in Section 2(c)(i) is the main cause of this ambiguity. In contrast to the other limbs of criminal contempt, which require interference with court proceedings or with the administration of justice, the definition of scandalising the court is broad and open-textured. This gives judges considerable latitude in deciding whether a given remark lowers the authority of the court. Where humorous speech is concerned, which often relies on exaggeration, irony and ridicule rather than literal factual assertion, the lack of objective standards raises the possibility that speech will be assessed by reference to perceived offensiveness rather than its actual impact on the administration of justice.

This presents significant constitutional issues under Article 19(1)(a). Public institutions, and especially constitutional courts, must remain open to criticism in a range of expressive forms if democratic accountability is to be maintained. Throughout history, humour has served as a tool for challenging power, exposing institutional contradictions and prompting public discussion.⁴⁹ Criminal contempt clearly serves the legitimate constitutional goal of maintaining public trust in the administration of justice. But for that goal to be constitutionally legitimate, restrictions must be confined to speech that genuinely and clearly threatens the administration of justice, and not extended to satire that merely mocks or criticises the way the courts operate.

In the absence of clearer doctrinal guidance, the offence of scandalising the court remains liable to be applied in a way that may disproportionately restrict humorous speech. This is not because humour inherently threatens judicial authority, but because the unconventional communicative form of humour has not yet received principled constitutional recognition within Indian contempt jurisprudence.

In response to growing doubts about the continued legitimacy of the offence, the Law Commission of England and Wales conducted a thorough review. In its report *Contempt of Court: Scandalising the Court* (2012), the Commission concluded that the offence had become essentially obsolete and recommended its abolition without replacement.⁵⁰ Although the controversy surrounding Peter Hain's remarks about a Northern Irish judge had returned the offence to public attention, the Commission's recommendation rested on more general constitutional concerns, including its ambiguous scope, its infrequent use and the possible incompatibility of criminal sanctions with modern principles of freedom of expression. Parliament accepted the recommendation, and Section 33 of the Crime and Courts Act 2013

⁴⁹ Rajeev Dhavan & Aparna Ray, *Hate Speech Revisited: The 'Toon' Controversy*, 2 SOCIO-LEGAL REV. 9 (2006).

⁵⁰ LAW COMMISSION (ENGLAND AND WALES), *Contempt of Court: Scandalising the Court* (Law Com. No. 335, 2012); see also LAW COMMISSION, *Contempt of Court: Scandalising the Court* (Consultation Paper No. 207, 2012).

abolished scandalising the judiciary as a form of common law contempt in England and Wales, while leaving other forms of contempt of court unaffected.

More importantly, the reform represented a changing constitutional understanding of judicial legitimacy. The Law Commission acknowledged that public trust in the courts is maintained by the independence, integrity and openness of judicial institutions rather than by the suppression of criticism. It reasoned that a mature constitutional democracy should ordinarily allow intense public scrutiny of the courts, reserving criminal penalties for conduct that genuinely jeopardises the administration of justice. The abolition of scandalising the court therefore did not mean that the judiciary was less protected; rather, the balance between judicial authority and freedom of speech was recalibrated in favour of more precise and limited restrictions.

Although the institutional and constitutional circumstances of the two jurisdictions differ, the English reform encourages a re-evaluation of whether a broadly worded offence remains a necessary and proportionate limitation on speech in a contemporary constitutional democracy. It also emphasises how important it is to distinguish criticism that poses a genuine and significant harm to the administration of justice from criticism that merely questions or mocks judicial institutions. That distinction is particularly important when assessing modern forms of communication, such as satire, parody and humorous critique, which increasingly shape public conversation about constitutional institutions.

V. SUGGESTIONS AND CONCLUSION

This research has investigated whether humorous speech is disproportionately restricted under India's contempt framework by the offence of scandalising the court. It has argued that humour, including satire, parody and caricature, is a constitutionally protected form of expression under Article 19(1)(a) and a crucial means by which citizens engage in democratic discourse, challenge authority and reveal institutional inconsistencies. The judiciary also holds a special constitutional status in India's democratic system. Maintaining public trust in the administration of justice therefore remains a valid constitutional goal, as reflected in the Contempt of Courts Act, 1971 and Articles 129 and 215 of the Constitution. The constitutional challenge, however, lies not in choosing between judicial authority and freedom of expression, but in ensuring that the law of contempt preserves both values without disproportionately sacrificing either.

The doctrinal study shows that the legitimacy of reasonable and fair criticism of the judiciary has gradually been acknowledged by Indian contempt jurisprudence. Rulings such as *In re S. Mulgaokar* and *P.N. Duda* highlight that judges are subject to public examination, and that institutional transparency, rather than judicial intolerance of criticism, is ultimately what builds

public confidence in the courts. The pending proceedings concerning Rachita Taneja and Kunal Kamra demonstrate, however, that the law has not yet established fundamental constitutional criteria for assessing humour aimed at judicial institutions. Humour, in contrast to ordinary critique, conveys ideas through parody, irony, symbolism and exaggeration. Yet the offence of scandalising the court continues to employ broad language that does not distinguish these expressive characteristics from speech that genuinely undermines the administration of justice. This doctrinal uncertainty risks producing a chilling effect on comedians, cartoonists, writers and citizens who engage with the judiciary through satirical expression.

The continuing constitutional legitimacy of the offence of scandalising the court should therefore rest on a narrowly confined reading of contempt in accordance with Articles 19(1)(a) and 19(2). First, courts ought to recognise humour, satire and parody as distinct modes of communication whose communicative purpose often lies in exaggeration and symbolic criticism rather than in literal factual assertion. Secondly, criminal contempt should be invoked only where humorous expression poses a real, substantial and demonstrable harm to the administration of justice, and not merely where it causes embarrassment, offence or institutional discomfort. Thirdly, judicial rulings should establish objective criteria for assessing humorous expression, so that comedians, cartoonists, writers and citizens can determine the constitutional bounds of acceptable criticism with a tolerable degree of certainty. Finally, legislative reconsideration of the offence of scandalising the court may be warranted to clarify its scope and to ensure that it reflects contemporary constitutional commitments to democratic accountability and freedom of expression. Further, in the proceedings arising from the programme *India's Got Latent*, the Supreme Court has itself acknowledged the need for functional guidelines governing objectionable online content. The Court directed the performers concerned, including Samay Raina and Ranveer Allahbadia, to tender a public apology, and asked the Union Government to frame an appropriate regulatory framework or guidelines for social media content that would balance freedom of speech against competing constitutional interests.⁵¹

Ultimately, the legitimacy of constitutional courts depends not only upon the authority vested in them by law but also upon the confidence they inspire in the public through independence, impartiality and reasoned adjudication. Humorous criticism, even when sharp or irreverent, does not inevitably erode that confidence. Rather, in a constitutional democracy founded upon

⁵¹ *India's Got Latent Row: Supreme Court Directs Samay Raina, Ranveer Allahbadia to Apologise, Asks Centre to Frame Guidelines*, TIMES OF INDIA (Aug. 25, 2025), <https://timesofindia.indiatimes.com/india/indias-got-latent-row-supreme-court-directs-samay-raina-ranveer-allahbadia-to-apologise-asks-centre-to-frame-guidelines/articleshow/123496358.cms>.

freedom of expression, the law of criminal contempt should intervene only where such expression poses a genuine threat to the administration of justice. By confining the offence of scandalising the court to that limited constitutional purpose, Indian contempt jurisprudence can preserve both the dignity of the judiciary and the democratic promise of Article 19(1)(a).
