

The Formation Of The *Contempt Of Court Law* To Maintain The Dignity Of Peradi And Indonesia

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ABSTRACT

The purpose of this research is to analyze rule idea *contempt of court* in the law as a form of obedience to maintain the dignity of the Indonesian judiciary. It is often found that many visitors in a court process make actions that do not respect the course of the trial, such actions can be categorized as criminal acts against the judicial process or what is known as *contempt of court*. *Contempt of court* in Indonesia has not been regulated in an integrated manner in one legislation, so based on that this research was conducted with the hope of getting the best solution in concocting the idea of *contempt of court*. to strengthen compliance in the Indonesian judiciary. This type of research is normative legal research with a statutory approach, a conceptual approach, a comparative approach and a case approach. The analysis used in this research is deductive data analysis using a qualitative approach. Based on the results of the study, the answers to the existing problems were obtained, that a *Contempt Of Court* arrangement was needed separately in law, this is intended to uphold the dignity and ensure the judicial process runs without interference or threats from various parties. While the regulation on CoC can only be found in a few norms that seem separate, it is still very biased when the regulation of the same act is regulated based on different regulations, with unclear procedures, so that specific and comprehensive arrangements needed to be related to the *Contempt Of action*. *Court through the idea of the Contempt Of Court Act*. The presence of the *Contempt Of Court Law* can be a new hope for the face of judicial power in Indonesia.

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I. INTRODUCTION

A. Background

The State of Indonesia is a country that identifies the law as the supreme commander so that the purpose of the law can be consumed by all people without any differences, which can provide legal objectives such as certainty, justice, and benefit,¹ as we know explicitly that the Indonesian legal state has been mentioned in Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia.

The article above clearly states that Indonesia is a state of law. In line with the strengthening of the concept of the rule of law, the law has a primary place above politics and the economy. In our daily lives, even in society, to meet the needs of life there are often crimes and violations committed by certain people and people who threaten some members of the community,² so the law is seen as a savior in this situation.

The existence of criminal sanctions in law has an important function and meaning, especially in the context of enforcing the law.³ Indonesia as a state of the law has a judicial institution that is obliged to protect the interests of the law. At the same time carrying out statutory order, the task of the judiciary is to examine and adjudicate and resolve every case submitted to the judiciary to realize law enforcement.

Law enforcement is one of the main milestones in the rule of law and is even placed as a separate part of the legal system. Furthermore, with law enforcement, any existing disputes can be resolved, be it disputes between fellow citizens, between citizens and the state, and between countries and other countries. The creation of law enforcement is an absolute requirement for a peaceful and prosperous Indonesian state.⁴

¹Usman Rashid . et al. 2020. *The Face of Indonesian Judicial Power*. Yogyakarta: UII Press . page 1

²Dian Ekawaty Ismail and Mohamad Taufiq Zulfikar Sarson. 2021. *Criminology Analysis of Women's as Perpetrators of Domestic Violence Crimes* . Jambura Law Review . Vol. 3 Special Issues. page 58

³Hamdan Tuna, Dian Ekawaty Ismail and Lusiana M. Tijow. 2021. *Formulation of Asymmetric Criminal*

Sanctions in the Job Creation Law . Eslaw's Journal. Vol. 1 Issues 1 . page 5

⁴Fence M. Wantu. 2011 . *Idea Des Recht* . Yogyakarta: Student Library . page 4

Laurent can started by paying attention to, among others, through the role of law enforcement. How it is inevitable, that the role of law enforcement is very important as a guard fence that prevents and eradicates all forms of fraud or deviant behavior, both in the government environment and in the life of the community, nation, and state. Likewise with judges in realizing law enforcement characterized by justice, legal certainty, and benefit through the judiciary.⁵

Law enforcement is a problem that never stops being discussed as long as the state believes in law as a means to regulate and resolve conflicts in social life. When the law wanted to find a solution, interests began to talk, so that an objective approach was never reached. Likewise with law enforcement itself, which includes judicial power.⁶

Known as a condition as a state of the law is the existence of a judiciary that is independent and unaffected by other powers and impartial, which has the authority to examine and adjudicate and give decisions on matters submitted to it to uphold law and justice based on the rule of law. The judiciary must be able to work well in its duties so that it produces an objective and impartial decision and always upholds law and justice because this power is a power that is free from the influence of other power.⁷

Ensuring the realization of an independent judicial power requires a firm guarantee in the constitution, the big step that resulted in the amendment to the 1945 Constitution does not only explicitly state an independent judicial power, but Article 24 Paragraph (1) of the 1945 Constitution also affirms that:⁸

"Judicial power is an independent power to administer order to uphold law and justice"

Not only that, Article 24 Paragraph (2) of the 1945 Constitution mandates that:

⁵*Ibid.*

⁶*Ibid.* page 6

⁷Mahfud MD. 2000. *Indonesia's Constitutional Basis and Structure*. Jakarta: Rineka Cipta. page. 9

⁸See the Amendment to the 1945 Constitution of the Republic of Indonesia Chapter IX Judicial Powers;

The change gave birth to two new institutions within the judicial power. namely the Constitutional

Court (MK) and the Judicial Commission (KY).

"Judicial power is exercised by a Supreme Court and judicial bodies under it in the general court environment, the religious court environment, the military court environment, the state administrative court environment, and by a Constitutional Court" .

As law enforcement agencies that provide justice to litigants through judges' decisions, the judiciary must be respected including its institutions (courts), processes or mechanisms, as well as related parties such as attorneys, prosecutors, defendants, victims, especially judges who examine and decide. case Judges are required to be fair and play an active role in finding laws and forming new laws and developing laws. So in other words, all forms of actions or actions which in principle are forms of disrespect or harassment of the judiciary must be sanctioned. Contempt for justice or what is often referred to as (*contempt of court*).

In the State of Indonesia, the term *Contempt Of Court* was first found in the general explanation in the General Elucidation of Law No. 14 of 1985 which was updated with Law No. 3 of 2009 concerning the Supreme Court item 4 paragraph 4 which reads:⁹

"Furthermore, to better ensure the creation of the best possible situation for judicial administratorsto law and justice based on Pancasila, it is necessary to make a law that regulates action, behavior, and actions, attitudes and/or words that can demean and undermine the authority, dignity, and honor of the judicial body known as the *Contempt Of Court* ."

Based on the editorial sound of Law no. 14 of 1985 concerning the Supreme Court point 4 of the 4th paragraph above, it can be concluded that *Contempt Of Court* can be interpreted as an act, behavior, and attitude and/or speech that can demean and undermine the authority, dignity, and honor of the judiciary. . Reflecting on the process and mechanism of proceedings in court as well as efforts to maintain the authority of the judiciary against *contempt of court* actions, the consequences of such actions are regulated.¹⁰

The explanation of this law explicitly requires the existence of a special law that governs the *Contempt of court* until now the law in question does not exist, there is

⁹See Law No. 3 of 2009 for the second amendment to Law No. 14 of 1985 concerning the Supreme Court.

¹⁰Novendri M. Nggilu. 2019. *Initiating Sanctions for Constitutional Disobedience Actions against Constitutional Court Decisions* . Constitution Journal. Vol. 16 . No. 1. Pg 46

only a Joint Decree (SKB) on Procedures for Supervision, Prosecution, and Self-Defense Advisor The law was established by the chairman of the Supreme Court together with the Minister of Justice in 1987. But this is considered imperfect because it is not following what is expected in the form of law, because it is mentioned in the law then the provisions of *contempt of court* must be in a law -laws are not inferior rules.¹¹

Regulations or laws regarding the *Contempt Of Court* are intended to enforce and ensure the judicial process runs without fuss from various parties, including parties involved in the usual judicial process, the mass media, as well as court officials themselves. Arrangements on *Contempt Of Court* is a legal effort to defend the public interest and the rule of law so that the judicial process can be carried out fairly and fairly, without being disturbed, influence,d orintimidatedd by other parties, both during the judicial process in court and outside the court building.

So far, researchers have assessed that many things that can be categorized as *contempt of court* occur in Indonesia. However, no provision specifically regulates the *context of the Court* . Some of them are scattered in several articles contained in the Criminal Code (Criminal Code) and the Criminal Procedure Code (KUHAP). The offenses in the Criminal Code itself have so far been used as rules that can be used for these problems, but they are still scattered in several chapters in Book II "Crime" and Book III "Affairs" with the following descriptions: ¹²

A. Provisions in the Criminal Code

a) Special

Article 224, Article 522, Article 242, Article 217, Article 210

b) General

Article 220, Article 217, Article 310, Article 311, Article 312, Article 313, Article 314, Article 221, Article 223, Article 231, Article 232, Article 233, Article 422, Article 420.

B. Provisions in Law No. 8 of 1981 on KUHAP:

¹¹ Oemar Seno Adji, Indriyanto Seno Adji . Op.cit.

¹² See the Criminal Code (KUHP)

Article 154 paragraph (6), Article 159 paragraph (2), Article 161 paragraph (1), Article 167 paragraph (3), Article 174 paragraph (2), Article 218 paragraph (1).¹³

In general, the offenses in the Criminal Code regulate contempt in *facie*, such as: bribery, perjury, behavior that has the potential to obstruct the trial, causing noise in court. Because no law specifically regulates the *Contempt outt*, this causes there is no definition that can be used as a benchmark so that an offense can be categorized as a *Contempt of court*. Whereas cases concerning contempt of court institutions have developed along with the changing times.¹⁴

Contempt of Court is happening quite a lot in Indonesia, even at an alarming stage. Humiliation is no longer just a verbal act in court, but has led to acts of violence in the courtroom.

Here are some examples of *contempt of court cases* in Indonesia:

1. Anarchic action was carried out by lawyer Tomy Winata (TW), Desrizal during a trial at the Central Jakarta District Court, Thursday, July 18, 2019. Serially brutally beat Judge Sunarso and the Chair of the Panel of Judges with his 'buckle' or belt while the trial was still going on with the agenda of the trial reading. decision.¹⁵
2. Central Jakarta District Court The *Contempt of Court* took place at the Industrial Relations Court of the Central Jakarta District Court, where visitors lifted the table and disrupted the proceedings.¹⁶
3. South Jakarta District Court Trials at the South Jakarta District Court once took place *Contempt of Court*, namely quite a large number of visitors in certain groups as supporters of the defendant or witness causing riots to shout, even dictating the judge in asking questions.¹⁷

¹³ See the Criminal Procedure Code (KUHP)

¹⁴ Anita Afrina. 2018. *Contempt of Court: law enforcement and regulatory models in Indonesia*. Jakarta. Vol 7 No. 3

¹⁵ REQNews. *The Brutal Action of Attorney Desrizal ' Buckle ' in Front of a Central Jakarta District Court Judge*. accessed via <https://www.reqnews.com/the-other-side/4786/6-cepat-aksi-brutal-pengarah-desrizal-gesper-muka-hakim-pn-jakpus> on : 27 december 2020

¹⁶ Live interview with Sigit Hermandinadji . Central Jakarta District Court Judge. quoted from Artaji. et al. *The Existence of Contempt Of Court Institutions In Judiciary In Indonesia a* . Faculty of Law, Padjadjaran University . accessed via file:///C:/Users/ES1-420/Downloads/20309-56256-1-PB.pdf on 27 december 2020

¹⁷ Live interview with Sigit Hermandinadji . Central Jakarta District Court Judge. quoted from Artaji. et

4. The Boalemo District Court *contempt of court* was carried out by the former Regent of Boalemo who became a defendant in a case of alleged election violations, the *contempt of court* occurred during the 4th trial on Tuesday, April ,2019,a chronology of events. the judge to him, even during the trial the Defendant left the court even though the agenda of the trial at that time was to hear the testimony of the defendant.¹⁸

Although Indonesia has implemented regulations regarding *Contempt Of Cou* , however, it is still unclear what actions are declared as *Contempt Of Court actions* ecause various criminal arrangements in Indonesia have not yet explained what are the elements of a *Contempt Of Court criminal act* nd not yet special regulations that discuss explicitly and comprehensively regarding the *Contempt Of Court* itself.

B. Formulation of the problem

Based on the above background, the formulation of the problem is related to how the idea of establishing the Contemporary Law of *Court* as an effort to maintain the dignity of the Indonesian judiciary

C. Research Methods

This paper uses a normative legal research type The approach used in this research is the *statute* approach ase approach _ conceptual *approach* and *comparative approach*. The analysis used in this study is deductive data analysis using a qualitative approach secondary data and primary data.

II. DISCUSSION

The Idea Of Contempt Of Court Rules In Law As An Effort To Maintain The Dignity Of Indonesia's Justice

al. *The Existence of Contempt Of Court Institutions In Judiciary In Indonesia a* . Faculty of Law, Padjadjaran University . accessed via file:///C:/Users/ES1-420/Downloads/20309-56256-1-PB.pdf

on 27 december 2020

¹⁸DM1.CO.ID . *Election Criminal Threats and Contempt of Court Darwis Moridu* . accessed via <https://dm1.co.id/ancaman-pidana-pemilu-dan-contempt-of-court-darwis-moridu/> on: December 28, 2020.

The trial process in Indonesia recognizes the principle of open trial and is open to the public except for the trial process on cases of decency and children as defendants, as has been regulated in Article 153 paragraph (3) of the Criminal Code. Article 13 paragraph (1) of Law Number 48 of 2009 on Judicial Power. Based on that foundation, then everyone can attend, see and follow the course of the conference. In a court hearing, all parties who have a relationship with the case being handled or being examined must and have the right to appear to give evidence by what they know but does not rule out the possibility that the party is not present at the hearing because it is a human right.

It is often found that many visitors to the trial, both the parties directly involved in the case and ordinary visitors, make actions that do not respect the course of the trial, such actions can be categorized as criminal acts against the judicial process or known as *Contempt Of Court* .

The *Contempt Of Court arrangement* itself is intended to enforce and ensure the judicial process runs without any interference or interference from various parties, including parties involved in the judicial process, mass media, and court officials themselves. The setting of the *Contempt Of Court* challenge is a legal effort to defend the public interest and legal support so that the judicial process can be carried out fairly and fairly, without being disturbed, influenced, or undermined by other parties, both during the judicial process in court and outside the court building.¹⁹

The form of action of the CoC itself is still uncertain. Recently, the Judicial Commission conducted a closed perception survey to judges at the first instance, regarding any actions that could be called or categorized as CoC. The results, although still temporarily, have been published in a limited way in the *Training of class Trainer for Ethics and Legal Clinic in Bogor*, as follows:²⁰

- (1) Making trouble or noise in court (*misbehaving in court*).
- (2) Override or ignore the decision of the BHT (Permanent Legal Force) (*disobeying court order*).
- (3) Demonstrations that interfere with the trial process (*obstruct justice*).
- (4) Terror / threats / intimidation (*obstructing justice*).

¹⁹Opik Rozikin. 2019. *Contempt Of Court in Indonesian Legislation* . Journal of Cic Research Institute and Social Consultant. page 4

²⁰ Syarif Nurhidayat. 2021. *Arrangement and Scope of Contempt Of Court In Indonesia*. Journal of Ius Constituendum. Vol. 6 No. 2. Page 75

- (5) Defamation of judges or courts (*Scandalising Courts*).
- (6) physical violence against judges (*obstructing justice*).
- (7) Damage to court facilities and infrastructure (*misbehaving in court*).
- (8) Excessive comments on the court process and decisions that have not been BHT (*subjudice rule*).

Based on this, according to Syarif Nurhidayat in his writing entitled *Setting and Scope of Contempt Of Court In Indonesia* , Syarif provides a scheme for the current scope of the *Contempt of Court* and its regulatory space as follows:²¹



Figure 1. Current CoC Scope Schematic

Referring to the scheme above, in fact, according to the researcher, it is still very biased when the regulation of the same act is regulated based on different regulations, with unclear procedures. Departing from this regarding the *Contempt of Court action*, it should be regulated in one law which is codified with clear sanctions and procedures, this is also a form of will for Law no. 14 of 1985 concerning the Supreme Court which is contained in point 4 of the fourth paragraph, namely it is necessary to make a law that regulates actions, behavior, and actions, attitudes and/or words that can demean and undermine the authority, dignity, and honor of the judicial body known as the *Contempt Of Cour*.

²¹Ibid. page 94

It is stated in the constitution that judicial power is an independent independence of the judicial power is defined as an independence and freedom from various interventions and intimidation as well as interference, directly or indirectly, either institutionally, functionally, or personally, to bring about an independent judicial power as idealized by the constitution. safeguarding the perpetrators and their institutions. So that they are personally and functionally guaranteed and protected from all kinds of actions or behaviors that destabilize or interfere with and undermine their independence.

As a *case approach* in this study, the researcher examines a case in Decision No. 241/PidB/2006/PN.PWK decided to declare the defendant legally and convincingly proven guilty of committing a crime. (*contempt of court*) opposes the power of the judiciary by fighting the right to force judges to convene and impose a sentence against the defendant himself with a prison sentence of one year.

stipulation of special qualifications in the form of criminal acts against judicial power (*contempt of court*) in Decision Number 241/Pid.B/2006/PN.PWK also encourages the realization of an authoritative and independent judicial power function as required by the constitution. The panel of judges is well aware that since the constitution was formed until now, the protection and security of judges, especially in carrying out the functions of judicial power, is still not optimal. In addition to protection in the form of a legal umbrella for the administration of justice and criminalization of *contemplative acts, ofe court* is inadequate and quite weak because in terms of categorization and the types are still gengestureoreover, in terms of the lightness of the existing criminal sanctions as a logical consequence of the *contempt of court* being qualified as a general crime, then of course, of course, a trigger (potential) to direct the perpetrators to repeat their actions because they feel that the sanctions are quite light if they harass or undermine the authority of the judiciary. It would not be an exaggeration if the weakness of the legal substance related to the criminalization of the *contempt of court* became a *criminogenic* factor for the rampant humiliation, harassment, and undermining of the authority of the judiciary (*a quo* of judges and judicial apparatus). In this context, the panel of judges tried their best to provide education to the general public by imposing a deterrent sentencing decision for perpetrators who were proven to have committed several *contempt of courts*.²²

²² Ibid

Judging from the optics of criminology, someone who commits a crime or violates the law has taken into account the pleasure and pain that he will get. This means that the perpetrators before committing and repeating *contempt actions of court* will certainly take into account his free will to express his frustration by unlawfully insulting law enforcement officials supported by the consideration that pain (due to the law enforcement process) will not be a deterrent. Such thinking manifests in the real behavior of *contempt of court repetition*. If prevention and control are not carried out the behavior of the perpetrator who repeatedly commits contempt of court may be imitated and followed by potential perpetrators or other members of the community seeking justice. So that directly or indirectly the authority and honor of the court will decline and be easily insulted or abused.

If judges in the context of judicial administration alone are no longer respected, then sociologically and culturally the existence of the *a quo judicial power* the rule of law should also be questioned. Therefore, it is very logical if the *contempt of court* is defined by the panel of judges as a crime against the power of the judiciary. In addition to criticizing aspects of legal substance related to criminalization or the legal umbrella for courts and their apparatus from *contempt of court acts*, the panel of judges also criticized the state's attention to court security, especially in terms of procuring adequate security personnel in terms of number and quality, which incidentally is still not adequate (adequate). It was stated by the panel of judges that the presence of a security guard at the Purwakarta District Court at that time, which was only one person, emphasized that it was not sufficient. Furthermore, the panel of judges explained that personally, judges and other judicial officers were not equipped and oriented (during their education or on an ongoing basis) to provide self-defense and functional security techniques such as the police or the military so they were vulnerable to threats and violence that could potentially hinder the performance of their duties.²³

Security guarantees and protection for judges as stated normatively, in practice it turns out that they still have to be "asked" for the security forces. Through such security procedures, in the end, only certain cases of safeguards against judges and courts are carried out. In fact, with the policy of sorting out certain cases that are secured, it turns out that in cases that are considered not urgent for security,

²³ Ibid

unexpected crimes and violence occur. As in the case of the murder of the judge and the plaintiff during the trial at the Sidoarjo Religious Court (*vide* the case in Decision Number 85 K/MIL/2006). Even though the cases tend to be light, namely divorce, due to the lack of security, the opportunity to carry out *contempt of court acts* is open.

If the judge feels insecure and his security is not guaranteed, then of course his focus of concentration on examining, judging, and deciding cases will be disrupted. So that it can be ascertained that his justice decision is not as optimal and of maximum quality as if he was in a condition not threatened. As a result, people will not get the best quality of justice decisions. The need for the safety of judges and guarantees of protection from intimidation against them is also in the public interest.

Therefore, in principle, the need for security or judicial security is not only in the interests of the judicial apparatus and the courts, but what is very basic is the interests of justice (its implementation) itself. The explanation of the panel of judges in their legal considerations criticizing and asking the state's attention to the security of the court and its judicial apparatus is a contextual and progressive response. Not only explaining the situation and punishing the guilty defendant alone, but also outlining the root causes of the emergence of *contempt of court* that cannot be ignored and should be considered by the state. It is very rare to find court decisions containing contextual explanations about the root cause of a criminal act being litigated. Not every judge has sensitivity and critical power to the problems that arise around and rare related to the criminal cases they handle. Naturally, the judge's critical attitude towards law enforcement officers in this case, their attention and seriousness and seriousness is a reflection of a paradigm that *contempt of court* is an ordinary thing and not something special and important to prioritize. Especially with the usual inspection procedure, which is a tiered process and takes a short time and involves several law enforcers, starting from making reports by judges who are victims, the investigation process by the police, prosecution by prosecutors to trial in court, with such a process, has made it inefficient and less effective in *contempt of court law enforcement* the dignity and dignity of judges has been slightly lowered. The law enforcement process implies that not many judges are willing and willing to report and file *contemporary cases of court* he experienced. Even though in fact, not a few judges and judicial officers who carry out their duties in the "field" get humiliation, harassment, and intimidation.

Progressively, the panel of judges discusses and proposes quick handling procedures, namely the judge concerned directly punishes the defendant with a criminal, so that the authority and honor of the judge can be upheld immediately when the crime is committed. In this case, it is indeed an exception to the general provision which states that judges cannot try their own cases, but it is not something strange in other countries in terms of *contempt of court*, for example, the case of false testimony in the Anwar Ibrahim case in Malaysia which was immediately sentenced by a judge who concerned, without going through a long and tedious procedure.²⁴

In Indonesia itself, it is a waiver of the principle of *Nemo Judex Indonesia propria causa* (no one can become a judge in their own case) occurred, namely the Constitutional Court Decision (Decision Number 005/PUU-IV/2006 regarding the review of Law Number 22 of 2004 concerning the Judicial Commission) and the Supreme Court Decision (Decision of the Supreme Court). Number 36 P/HUM/2011 regarding the review of the Joint Decision of the Chief Justice of the Supreme Court and the Chair of the Judicial Commission Number 047/KMA/SKB/IV/2009-02/SKB/P.KY/IV/2009 concerning the Code of Ethics and Code of Conduct for Judges). This means considering creating a special procedural law mechanism for *contempt of court cases* that is effective and efficient in finding its foundation in judicial practice. The specifics related to the *contempt of court* judicial mechanism must be stated in rules at the level of a special law.²⁵

The existence of a special law regarding the *contempt of court* is a consequence of the construction of protection and enforcement of the independence of the judiciary. This special law regulates the specifics of criminal acts and criminal sanctions separately as well as the procedural law or judicial examination mechanism (*lex specialist*) which is different from the Criminal Code and the Criminal Procedure Code. In this context, it is quite urgent and relevant to have a *contempt of court* law for the legal system and law enforcement and justice in Indonesia.

The National Legislation Program (Prolegnas) at the Legislative Body of the House of Representatives (DPR) for 2015-2019 has included the Draft Law on *Contempt of Court* as one of his priorities. It is better if the Bill on *Contempt of Court*, which is the

²⁴ Ibid. page. 164

²⁵ Ibid

initiative of the DPR, later regulates the points of problems found and discussed in Decision Number 241/Pid.B/2006/PN.PWK. Starting from the aspect of definition and scope as well as the construction of *contempt of court* as a crime against the power of the judiciary, it should be a reference and reference for discussion by legislators, also related to issues The procedural law mechanism as initiated by the panel of judges in this decision is important to be studied and formulated comprehensively so that the handling of *contempt of court* can be more efficient and effective in maintaining the dignity, dignity, and authority of the judiciary.

In essence, *Contempt Of Court* has a very wide scope, including:

1. Deeds
2. Attitude and or speech
3. Behavior

However, to say that it is a *Contempt Of Court* action, the criminal elements contained in a *Contempt Of Court* action must first be met.²⁶

As a comparison in the formation of the law on *Contempt Of Court* the researcher gives a very basic Scheme of incorporation related to the actions of *Contempt Of Court* into one text of the law as follows:



Future *Contempt Of Court* Law Arrangements

The scheme of the scope of the *Contempt Of Court* arrangement above will of course still pay attention to the form of the *Contempt Of Court* itself which is broadly divided into:²⁷

²⁶Doni Generous . Loc.Cit

²⁷Oemar Seno Adji . *Free Judiciary and Contempt Of Court*. PT. Erlangga . Jakarta . 1998 . p78.

- a) Acts of contempt for the judiciary carried out by using notifications or publication (*sub judice rule*), namely an effort in the form of actions, or attitudes shown or statements verbally, especially in writing, which will later become a matter of the press and its legal aspects to be able to influence a decision. to be handed down by the judge.
- b) Unsustainable either in court (*misbehaving in court*), i.e. any gestures or words that constitute an obstacle or obstruct the normal and harmonious flow of proceedings in court. Included in this category are all actions in the form of signs or words that threaten the court.
- c) Attacking the integrity and impartiality of the court (*scandalizing the court*), i.e. statements out of court and often publications that cover a broad range of circumstances. Scandalizing the court includes annoying statements, contain abusive words or contain insults directed at judges.
- d) Not fulfilling a court order (*disobeying a court order*), which is an act that does not obey a court order or demeans the authority, authority or justice of the court.
- e) Disrupting a judiciary is an act aimed at or having the effect of distorting, disrupting the normal functioning and smooth running of a judicial process.

Contempt Of Court in Indonesia has not been regulated in an integrated manner in one statutory regulation as mandated in Law no. 14 of 1985 concerning the Supreme Court. Meanwhile, the regulation on CoC can be found in several forms namely (1) Law Enforcement Code of Ethics Regulations; (2) Court Rules of Procedure; (3) the Criminal Procedure Code; (4) the Criminal Code; (5) Criminal Regulations Outside the Criminal Code; (6) Draft Criminal Code.

The scope of *contempt of court* as a prohibited act can be identified based on the regulations governing and the nature of the prohibition into several categories. (1) *Contempt of court* as a violation of ethics. Enforcement of this violation is carried out by the ethics board of each law enforcement profession. (2) *Contempt of court* as a violation of the rules. Violation of this may be subject to a direct warning or up to the act of expulsion and prohibition from entering the courtroom or judicial environment. (3) *Contempt of court* as a criminal offense with a settlement mechanism through the criminal justice system.

As a comparison material for the *Contempt of Court arrangement* in a law, it can be examined through the arrangements in several countries such as, in England the

Contempt of Court is regulated in the *Contempt of Court Act 1981*. *Contempt of Court arrangements* in Indonesia and England have similarities in terms of the substance of the arrangement regarding *misbehaving in court*. The difference lies in the legal system, the form of regulation, humiliation through publication, the type of perpetrator, the type of punishment, formal procedures, the use of media during the trial, the regulation of the *subjudice rule* and the protection of judges, witnesses, court officials, and lawyers. The arrangement of the *Contempt of Court* is regulated in a separate law that is clear and systematic like the UK in order to encourage the realization of the protection of the honor and impartiality of the Indonesian judiciary.²⁸

Meanwhile, in the United States, the law on *contempt of court* has long been enacted by both the state and the federal government to guide judges, considering the forms and nature of harassment can vary. The Federal Government has governed the *contempt of court since 1873 and 1964 (18 USC 1964)*, while the states later governed it in their respective *Contempt of Court* statutes. The Australian *contempt of court* is governed by various laws and other regulations that apply to both the Federal Court and state courts, such as: the *Judiciary Act 1903*, the *Federal Court of Australia Act 1976*, the *Federal Court Rules*, and *The Criminal Cod*.²⁹

Based on the study conducted, some suggestions can be submitted to be considered for the improvement of *contempt of court arrangements* in the future in Indonesia. (1) It is necessary to reach an agreement on the use of a standard term in the Indonesian language for the term *contempt of court*, given that this term originates from another country; (2) It is necessary to further study the scope of the act and the possible norms of the rules so that politically the legislation will be clear, whether a separate law is made as mandated by Law No. 14 of 1985 on the Supreme Court.

III. CLOSING

A. Conclusion

Contempt Of Court in Indonesia has not been regulated in an integrated manner in one statutory regulation as mandated in Law no. 14 of 1985 concerning

²⁸ Poppy Arianis . 2019. *Comparative Study of Contempt Of Court Arrangements in Indonesian Criminal Law and English Criminal Law*. Diploma Thesis, Andalas University.

²⁹Research and Development Center for Law and Justice of the Supreme Court of the Republic of Indonesia. 2002. *Contempt Of Court Research Academic Papers*. Jakarta: Ma Ri Research and Development Center. Case. 25

the Supreme Court. Meanwhile, the regulation on CoC can be found in several forms, namely (1) Law Enforcement Code of Ethics Regulations; (2) Court Rules of Procedure; (3) the Criminal Procedure Code; (4) the Criminal Code; (5) Criminal Regulations Outside the Criminal Code; (6) Draft Criminal Code. It is still very biased when the regulation of the same act is regulated based on different regulations, with unclear procedures, so specific and comprehensive arrangements are needed to be related to *Contempt Of Court actions*. through an idea the *Contempt Of Court Act* with the Scope of Regulation in the future containing: Violation of Court Ethics, Violation of Court Procedures, Court Criminal Violations and CoC Settlement Procedures/Flows. The presence of the *Contempt Of Court Law* is expected to increase obedience during legal trials as well as an effort to maintain the dignity of the Indonesian judiciary.

B. Suggestion

1. *Contempt of Court Law* separately so that the regulation is more comprehensively related to sanctions and the flow or procedure for their settlement, not being regulated and included in the Draft Criminal Code or the regulations under it.
2. To the parties involved in the enforcement of the Indonesian judiciary (judges, prosecutors, police, advocates) so that they can always coordinate in every trial process to maintain court security and order.
3. To the general public who attend the trial to maintain security and order during the trial process in the Court as a form of respect and maintain the dignity of the judge in the ongoing trial.

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