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Compatibility of the Contempt of Court with International Standards

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Why in News

The **International Commission of Jurists (ICJ)** has urged for a review of criminal contempt laws in India, expressing its concerns over the Supreme Court's decision to convict **Advocate Prashant Bhushan for criminal contempt.**

Key points

- **The Supreme Court's Decision:**
 - The Court found Prashant Bhushan guilty of 'scandalizing the court' on a suo-motu consideration of his two tweets. It has fined him with Rs. 1.
 - It held that tweets on its "role" in the "last six years" and a photograph of the Chief Justice of India on a motorbike undermines its dignity and the office of the Chief Justice of India (CJI) in the public eye.
 - **Contempt of Court:**
 - **Constitutional Provisions: Article 129 and 215 of the Constitution** of India empowers the Supreme Court (SC) and High Court respectively to punish people for their respective contempt.
Article 142 of the Indian Constitution also empowers the SC to punish for its contempt. However, **what is contempt of court per se has not been defined** by the Indian Constitution.
 - **Statutory Provisions: The Contempt of Court Act, 1971** elaborately deals with the concept of contempt of court.
The Act divides contempt into civil and criminal contempt.

- **International Commission of Jurists' Views:**
 - For the ICJ, the conviction appears to be inconsistent with international standards on freedom of expression and the role of lawyers.
 - **The Universal Declaration of Human Rights:** The judgement goes against the general protection of free speech and expression in the **Universal Declaration of Human Rights**.
 - The Declaration was proclaimed by the United Nations General Assembly in 1948. For the first time, fundamental human rights were made universally applicable and protected.
 - It states that 'All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.'
 - **The International Covenant on Civil & Political Rights:** The judgement is inconsistent with the freedom of expression law guaranteed by the **International Covenant on Civil and Political Rights**.
 - The ICCPR is a key international human rights treaty, providing a range of protections for civil and political rights.
 - The Covenant compels governments to take administrative, judicial, and legislative measures in order to protect the rights enshrined in the treaty and to provide an effective remedy.
 - The Covenant was adopted by the UN General Assembly in 1966 and came into force in 1976. 173 countries including **India have ratified** the Covenant.
 - **The United Nations' Basic Principles on the Role of Lawyers:** The judgement goes against the principles enshrined under the UN Basic Principles on the Role of Lawyers.
 - **Principle 23:** Lawyers "shall have the right to take part in public discussion of matters concerning the law, the administration of justice and the promotion and protection of human rights".
 - These Principles were adopted by the 8th United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Cuba in 1990.
- The **Bar Association of India** also highlighted that "the exercise of contempt jurisdiction by the Court in this manner has potential for more self-harm than the avowed purpose of safeguarding the prestige of the institution".

International Commission of Jurists

- Since **1952**, the International Commission of Jurists (ICJ) has performed a unique and prominent role as a **Non Governmental Organization (NGO)** defending human rights and the rule of law worldwide.
- It is headquartered in **Geneva, Switzerland**.

Way Forward

- The contempt of court should not be allowed to be used as a means to prevent criticisms and in the **era of social media**, besides the need to revisit the law on criminal contempt, even the test for contempt needs to be evaluated.
- In contemporary times, it is more important that courts are seen to be concerned about **accountability** rather than threats of contempt action, and processes are **transparent**.
- On criminal contempt, India can learn from Britain which abolished the offence of scandalizing the judiciary as a form of contempt of court in 2013.
- The **Law Commission of India** held that there is a need to retain the provision regarding the contempt of courts. However, it also recommended the definition of contempt in the Contempt of Court Act should be restricted to civil contempt, i.e., **willful disobedience of judgments of the court**.

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