

Contempt of Court in Kenya



Contempt of court is the act of demeaning the court, preventing justice administration, or disobeying a sentence of the court. In Kenya, contempt of court is governed by the Contempt of Court Act 2016-the Act, whose objective is to define and limit the powers of courts in punishing for contempt of court. Under the act, contempt of court proceedings have to be instituted within six months of the occurrence of the alleged contempt. There are three forms of contempt as set out below;

1. **Civil contempt** which is the willful disobedience of any judgment, decree, direction, order, or other process of a court or willful breach of an undertaking given to a court;
2. **Criminal contempt** which is the publication of any matters or the doing of any other act which:
 - a. Scandalizes, lowers or tends to scandalize or lower the judicial authority or dignity of the court;

- b. Prejudices, interferes or tends to interfere with, the due course of any judicial proceeding or
 - c. Interferes with, obstructs or tends to interfere with or obstruct the administration of justice.
3. **An act relating to any other case which is neither civil nor criminal proceedings** that is willfully committed to interfere, obstruct or interrupt the due process of the administration of justice in relation to any court, or to lower the authority of a court, to scandalize a judge, judicial officer in relation to any proceedings before the court, on any other manner constitutes contempt of court.

The punishment for contempt of court, upon conviction is a maximum fine of two hundred thousand shillings or imprisonment for a maximum of six months or both. The court may also order the detention of the accused person in police custody until the rising of the court. Where the contempt of court is committed by a company, punishment can be enforced on the director or person in charge of the company with the leave of the court.

Acts that do not amount to contempt of court

The following Acts do not amount to contempt of court:

1. Fair and accurate reporting of judicial proceedings where the report is made in good faith
2. Fair criticism on the merits of any case, which has been heard and determined
3. A complaint made in good faith against a presiding officer of a subordinate court to a competent authority, judge or judicial officer
4. Publication of information relating to proceedings in chambers or in camera, except where the publication is contrary to any law, it has been expressly prohibited by the court, it relates to public order or national security or to a secret process, discovery or invention which is in issue in the proceedings
5. Refusing to disclose, the source of information contained in a publication for which the person is responsible, unless it is established to the satisfaction of the court that such disclosure is necessary in the interests of justice, national security, or for the prevention of disorder crime.