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# Contempt of Court: A Comparison of U.S. Regulations and Their Implications for Legal Reform in Indonesia

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## ABSTRACT

An independent judiciary is a fundamental requirement of a state that is governed by the rule of law. However, judicial independence may be undermined when court proceedings are disrupted, judicial orders are disregarded, or judges are subjected to intimidation through contempt of court. This study aims to compare the substantive and procedural regulations of contempt of court in the United States and Indonesia and formulate an adaptive model for legal reform in Indonesia. This study employs a normative juridical method using statutory, comparative, conceptual, and case-based approaches. The legal materials analyzed include 18 U.S.C. § 401, Federal Rule of Criminal Procedure 42, Law Number 1 of 2023 concerning the Criminal Code, and Law Number 20 of 2025 concerning the Criminal Procedure Code. The findings indicate that the United States regulates contempt of court through the doctrine of inherent judicial power, supported by substantive authority and procedural safeguards, including summary proceedings for direct contempt. Indonesia has made significant progress by codifying offenses against the administration of justice; however, it still lacks a specific procedural mechanism for addressing direct contempt swiftly and proportionately. This study argues that Indonesia should adopt an adaptive framework consisting of clear definitions, functional classifications, proportional sanctions, limited summary proceedings, and safeguards to ensure due processes and freedom of expression. This study contributes to ongoing legal reform efforts by proposing a balanced model that protects judicial authority while preventing the misuse of contempt powers.

**Keywords:** Contempt of Court, Judicial Independence, Due Process, Adaptive Legal Transplantation, Criminal Law Reform.

## I. Introduction

The authority and independence of the judiciary are fundamental elements of a democratic rule of law state. Courts must be able to adjudicate disputes impartially, free from intimidation, obstruction, and public pressure that may interfere with due administration of justice. In this context, contempt of court is not merely a matter of courtroom discipline but a legal mechanism intended to protect judicial integrity, procedural order, and public trust in the administration of justice. Conduct that obstructs court proceedings, disobeys judicial orders, intimidates judges, or undermines the dignity of the judiciary may weaken the legitimacy of courts and threaten effective law enforcement. Contempt of court generally refers to conduct



that disrespects, obstructs, or challenges the court's authority. In the United States, this concept is closely connected to the inherent power of the courts to maintain order and ensure compliance with judicial commands. At the federal level, contempt authority is regulated under 18 U.S.C. § 401, which authorizes courts to punish contemptuous conduct by fine or imprisonment, including misconduct in or near the courtroom, misconduct by court officers, and disobedience of lawful court orders (18 U.S.C. § 401, 2024). Procedurally, Federal Rule of Criminal Procedure 42 regulates criminal contempt proceedings by distinguishing between contempt prosecuted after notice and contempt that may be punished summarily when directly observed by the judge (Fed. R. Crim. P. 42, 2024). This framework shows that the United States combines substantive contempt authority with procedural safeguards designed to protect due-process rights. Indonesia has also begun strengthening the legal basis for addressing acts that undermine the judicial process through national criminal law reform. The enactment of Law No. 1 of 2023 in the Criminal Code represents an important shift from fragmented colonial-era provisions toward more systematic regulation of crimes against the judicial process. In addition, Law No. 20 of 2025 on the Criminal Procedure Code reflects a broader reform of Indonesian criminal procedure and was enacted as a new national procedural framework. However, Indonesia still faces an important regulatory challenge because contempt of court has not yet been developed into a comprehensive and procedurally clear framework in the country. Existing provisions remain limited in clarifying the scope of contemptuous conduct, the procedural mechanism for handling such conduct, and the balance between judicial authority, due process, freedom of expression, and judicial impartiality.

The urgency of this issue can be observed in several contemporary developments in the field. Attacks, intimidation, disruptive behavior, and public pressure against courts may directly affect judges' independence and the dignity of the judicial process. In Indonesia, this problem is not limited to physical disturbances inside the courtroom but also extends to the broader social and digital environment. The rise of digital democracy has made legal issues more visible to the public, but it has also created new forms of pressure on legal institutions. Recent scholarship in the Golden Ratio of Law and Social Policy Review explains that viral digital mobilization may transform public anger into political and legal pressure, particularly in Indonesia's democratic environment (Arintyas et al., 2026). This insight is relevant to contempt of court because public criticism, digital campaigns, and viral narratives may affect public trust in the courts and, in certain situations, pressure judicial institutions beyond acceptable democratic oversight. The issue of contempt of court is also closely related to judicial accountability and institutional oversight. Shadiq (2025) emphasizes that the synergy between the Judicial Commission and the Supreme Court is essential for realizing the professional supervision of judges and maintaining the integrity, accountability, and public trust of the judiciary. This perspective is important because contempt of court regulations should not only protect judges from external threats but also ensure that judicial authority is exercised proportionally and transparently. Therefore, any reform of contempt of court regulations in Indonesia must be designed to protect judicial independence while preventing potential abuse of judicial power. Compared with Indonesia, the United States provides a more established model of contempt regulation through a combination of substantive provisions and procedural rules. Nevertheless, the American model cannot be mechanically adopted into the Indonesian legal system.

The United States operates within a common law tradition that recognizes broad inherent judicial power, whereas Indonesia follows a civil law tradition that emphasizes legality, codification, and procedural certainty. Therefore, the adoption of contempt of court mechanisms in Indonesia requires an adaptive legal transplantation approach. Such an approach allows Indonesia to learn from the United States model while adjusting it to national constitutional principles, due process guarantees, judicial impartiality, and the values of democratic accountability. Based on the foregoing background, this study focuses on the absence of a comprehensive and procedurally clear contempt of court framework in Indonesia. This regulatory gap is important because contempt of court provisions are expected to protect judicial authority and independence and remain consistent with the principles of due process, judicial impartiality, freedom of expression, and democratic accountability. Therefore, this study examines how contempt of court is substantively regulated in the United States and Indonesia, particularly within the context of Indonesia's national criminal law reform. In addition, this study analyzes the procedural differences between the United States model, especially under

Federal Rule of Criminal Procedure 42, and Indonesia's procedural approach to responding to acts that undermine the dignity and authority of the court. Through this comparison, the study seeks to formulate an adaptive model of contempt of court regulation that may be applied in Indonesian legal reform without merely transplanting foreign legal concepts. The proposed model is expected to balance the need to protect judicial independence with the obligation to safeguard due process, judicial impartiality, and constitutional rights in a democratic system.

## II. Literature Review and Hypothesis Development

### 2.1. Literature Review

From the perspective of a modern rule-of-law state, courts do not merely function as institutions for resolving legal disputes; they also serve as constitutional bodies responsible for upholding justice, legal certainty and public order. The judiciary represents the state's authority to enforce the law and protect individual rights. Therefore, the dignity and authority of the courts must be safeguarded against conduct that obstructs judicial proceedings, disobeys judicial orders, intimidates judges or undermines public confidence in judicial decisions. Such conduct is commonly referred to as contempt of court. In contemporary legal discourse, contempt of court should not be understood solely as misconduct that occurs within the courtroom. Rather, it should be viewed as a broader legal issue involving judicial independence, due process, freedom of expression, public criticism, and the evolving relationship between the courts and society. The development of digital communication has expanded the potential for contemptuous conduct. Public pressure, viral narratives, and online attacks directed at judges or judicial decisions may affect public trust in the judiciary and create new challenges in maintaining judicial authority within a democratic legal system (Arintyas et al., 2026). The constitutional basis for protecting judicial authority in Indonesia is found in Article 24(1) of the 1945 Constitution of the Republic of Indonesia, which provides that judicial power is an independent authority exercised to uphold the law and justice. This constitutional mandate demonstrates that judicial independence entails not only freedom from political interference but also the institutional capacity of courts to preserve the integrity of judicial proceedings. Without effective legal mechanisms to prevent and respond to contemptuous conduct, judicial independence becomes increasingly vulnerable.

However, the protection of judicial authority must be balanced against democratic accountability. Regulations concerning contempt of court should not be used to suppress legitimate criticism of the judiciary, restrict press freedom, or limit public participation in legal discourses. Such a balance is essential because modern courts operate in an environment where judicial legitimacy depends on transparency, professionalism, and public trust, in addition to formal authority. In this regard, Shadiq (2025) emphasizes that institutional synergy between the Judicial Commission and the Supreme Court is crucial for strengthening professional oversight, accountability, and integrity. This argument is particularly relevant to contempt of court because the protection of judicial dignity must be accompanied by mechanisms that prevent the misuse of such authority. Previous studies have examined the urgency of regulating contempt of court in Indonesia's legal system. Subarsyah (2020), for example, explains that the regulation of contempt of court remains fragmented because acts that may be categorized as contempt are dispersed across various legal provisions. This study argues that Indonesia requires a specific legal framework to regulate contempt of court in a more systematic manner. However, he also emphasized that such regulations should not become an instrument for suppressing criticism of the judiciary or threatening freedom of the press. Subarsyah's study is significant because it identifies the existence of a regulatory gap in Indonesia. Nevertheless, this study primarily focuses on the substantive need for contempt of court regulations and does not adequately explain how contempt proceedings should be procedurally designed to ensure due process, judicial impartiality, and proportional sanctions. This limitation provides a point of departure for the present study. The issue is not merely whether Indonesia requires contempt of court regulations but also how such regulations should be procedurally structured to protect judicial authority without infringing on constitutional rights.

Compared to Indonesia, the United States has developed a more comprehensive framework for regulating contempt of court. The U.S. legal system recognizes contempt authority as part of the courts' inherent power to maintain order and enforce compliance with judicial directives. This authority is supported by substantive provisions of 18 U.S.C. § 401 and procedural provisions of Federal Rule of Criminal Procedure 42. The American framework distinguishes between contempt proceedings that require notice and a hearing and direct contempt that may be punished summarily when the judge personally observes contemptuous conduct. The U.S. model demonstrates that effective contempt of court regulation requires both substantive and procedural clarity. Substantive rules define the types of conduct that may constitute contempt, whereas procedural rules determine how such conduct is processed, what safeguards must be provided to the accused, and how judicial authority may be exercised without becoming arbitrary or capricious. This distinction is particularly relevant to Indonesia because the absence of clear procedural rules may result in two opposing problems: inadequate protection of judicial authority, on the one hand, and the potential abuse of judicial power, on the other. The discrepancy between the ideal constitutional framework and legal reality constitutes the central problem of this study. Ideally, the Indonesian Constitution envisions an independent and authoritative judiciary. However, the handling of contemptuous conduct remains limited, fragmented, and procedurally unclear. Judges lack a clear and proportionate procedural mechanism to respond promptly to conduct that disrupts court proceedings or undermines their authority. Consequently, the protection of judicial dignity relies heavily on ordinary criminal procedures, administrative measures, and disciplinary processes that may not adequately address the immediate needs of judicial proceedings.

This highlights the need for an adaptive regulatory model. Indonesia cannot simply replicate the U.S. contempt framework because the two countries are grounded in different legal systems. The United States operates within a common law system that recognizes broad inherent judicial powers, whereas Indonesia follows a civil law tradition that emphasizes codification, legality, and procedural certainty in its legal framework. Therefore, comparative analysis should not be used to mechanically imitate foreign law but rather to identify elements that can be adapted to Indonesia's constitutional values and procedural principles. Comparative Law Theory is particularly relevant to this study because it facilitates the analysis of legal systems through similarities, differences, and functional equivalences. The objective of comparative analysis is not merely to describe foreign legal systems but also to understand how different jurisdictions address similar legal issues. In the context of contempt of court, comparative law helps explain how the United States and Indonesia protect judicial authority through distinct substantive and procedural mechanisms. This study applies Comparative Law Theory as an analytical rather than a merely descriptive tool. This comparison aims to identify the functional strengths and limitations of each legal system. The United States is examined as a jurisdiction with a relatively clear procedural framework for contempt proceedings, while Indonesia is examined as a jurisdiction undergoing criminal law reform but still facing procedural uncertainty. This analytical comparison supports the formulation of a more precise and contextually appropriate reform proposal for Indonesia's education system. Legal Transplant Theory is relevant because this study explores the possibility of adapting elements of the U.S. contempt of court framework to the Indonesian legal system. Watson (1993, 1995) argues that legal development frequently occurs through borrowing or transplanting legal concepts from other jurisdictions. However, legal transplantation is not always successful when the borrowed rule is incompatible with the recipient country's legal culture, institutional structure, or constitutional principles.

Therefore, this study does not apply Legal Transplant Theory mechanically. Instead, it develops the concept of adaptive transplantation therapy. Adaptive transplantation refers to the selective adoption of foreign legal concepts after they have been adjusted to fit the receiving legal system in the host country. In the Indonesian context, this means that any adoption of contempt of court procedures from the United States must be modified to comply with the principles of legality, due process, judicial impartiality, proportionality, and protection of freedom of expression. Progressive Law Theory further strengthens the analytical framework of this study. According to Rahardjo (2009), the law exists for human beings and should be directed toward achieving substantive justice. This theory rejects a rigid legalistic approach that prioritizes formal rules

while disregarding social reality. In the context of contempt of court, Progressive Law Theory encourages legal reforms that respond to the practical challenges faced by courts, judges, litigants, advocates, journalists, and the broader public. Progressive Law Theory is particularly relevant because contempt of court regulations must respond to contemporary social transformations. Today, judicial authority is challenged not only by physical disruptions within courtrooms but also by digital discourse, media pressure, and a decline in public trust in legal institutions. Consequently, contempt of court reform should be designed as a responsive legal instrument that protects judicial independence while simultaneously preserving democratic rights and ensuring public accountability.

## 2.2. Hypothesis Development

Based on the literature reviewed above, this study proposes four hypotheses. These hypotheses are not intended to be tested statistically because this study employs a normative and comparative legal approach. Instead, they serve as analytical propositions that guide the comparative examination of contempt of court regulations in the United States and Indonesia. The hypotheses are derived from comparative law, legal transplant, and progressive law theories, and contemporary discussions concerning judicial independence in the digital era. Clear substantive regulations are essential for defining the types of conduct that may undermine judicial authority. Without clear substantive provisions, contempt of court may be interpreted inconsistently, creating legal uncertainty for judges, advocates, litigants, journalists and the public. Substantive clarity also helps distinguish between legitimate criticism of the judiciary and conduct that directly interferes with the administration of justice. Therefore, the first hypothesis is as follows:

H1 : Clear substantive regulations on contempt of court strengthen the protection of judicial authority and independence.

Procedural rules are equally important because they determine how contempt cases are managed. A contempt mechanism that protects the courts while disregarding due process may create the risk of arbitrary judicial power. Conversely, the absence of clear procedures may weaken courts' ability to respond effectively to contemptuous conduct. The U.S. model demonstrates that contempt of court regulations require both judicial authority and procedural safeguards, particularly through notice, hearings, and limited summary proceedings. Therefore, the second hypothesis is formulated as follows:

H2 : Clear procedural rules ensure that the enforcement of contempt of court remains consistent with due process, judicial impartiality and proportional sanctions.

The comparison between the United States and Indonesia demonstrates that legal reform cannot rely on the direct imitation of foreign models. The United States operates within a common law tradition that recognizes broad inherent judicial powers, whereas Indonesia follows a civil law tradition that emphasizes statutory legality and procedural certainty. Consequently, any adoption of the U.S. contempt of court framework must be adapted to Indonesia's constitutional principles, legal culture, and institutional requirements. Therefore, the third hypothesis is formulated as follows:

H3 : Adaptive transplantation is an appropriate approach for developing contempt of court regulations in Indonesia because it allows foreign legal concepts to be modified in accordance with national legal principles and institutional needs.

Contemporary social and technological developments have expanded the scope of contempt of court beyond physical courtrooms. Digital public pressure, viral legal narratives, and online attacks directed at judicial institutions may affect public trust and indirectly pressure judges. Nevertheless, contempt of court

regulations must continue to protect freedom of expression and democratic accountability. Therefore, the fourth hypothesis is formulated as follows:

H4 : Modern contempt of court regulations must respond to social and technological developments while maintaining a balance between judicial dignity, freedom of expression, and democratic accountability.

### III. Research Method

This study employs a normative juridical research method to analyze the data. This method is appropriate because the primary object of the study is not social behavior or statistical data but rather the legal norms, legal principles, judicial authority, and procedural mechanisms governing contempt of court in the United States and Indonesia. Normative juridical research enables the author to examine how legal rules are constructed, how they operate within each legal system, and how they can be improved through legal reform. Unlike empirical research, this study did not involve respondents, samples, or field surveys. The data used in this study consisted of legal materials collected through library research and document analysis. The analysis focuses on primary, secondary, and tertiary legal materials relevant to contempt of court, judicial authority, due process and adaptive legal transplantation. Normative juridical research aims to identify the legal rules, principles, and doctrines relevant to the issues under examination. In this approach, law is conceptualized as a set of norms embodied in legislation, judicial decisions, and legal doctrines that guide institutional behavior and legal reasoning. Therefore, the chosen method is directly related to the research problem, namely, the absence of a comprehensive and procedurally clear contempt of court framework in Indonesia. This study employs four research approaches: statutory, comparative, conceptual, and case. The statutory approach examines the legal instruments governing contempt of court and the protection of judicial processes. In the United States, the analysis focuses on 18 U.S.C. § 401 and the Federal Rule of Criminal Procedure 42. In Indonesia, this study examines Law No. 1 of 2023 concerning the Criminal Code and Law No. 20 of 2025 concerning the Criminal Procedure Code. These legal instruments were analyzed to identify the scope of contemptuous conduct, judicial authority, available sanctions, and procedural safeguards. A comparative approach is employed to compare the substantive and procedural regulations of contempt of court in the United States and Indonesia. This comparison extends beyond identifying similarities and differences by examining the functional logic underlying each legal system. The United States is analyzed as a common law jurisdiction that recognizes broad inherent judicial powers, whereas Indonesia is examined as a civil law jurisdiction that emphasizes legality, codification, and procedural certainty in its judicial review. This comparison is necessary to determine which elements of the U.S. model may be adapted to Indonesia without compromising due process or judicial impartiality.

The conceptual approach is used to examine key legal concepts, including contempt of court, inherent power, summary disposition, due process, judicial independence, and adaptive transplants. These concepts provide a framework for connecting legal doctrines with practical reform needs. In particular, adaptive transplantation serves as an analytical framework for explaining how selected elements of the U.S. contempt of court model may be modified to align with Indonesia's constitutional principles, civil law tradition, and democratic legal culture. A case approach is employed to strengthen the comparative analysis through the examination of concrete examples of contempt-related issues. In the United States, the study refers to the federal contempt doctrine and the procedural safeguards provided under Federal Rule of Criminal Procedure 42, which requires notice for most criminal contempt proceedings and limits summary punishment to instances of direct contempt personally observed by the court (Fed. R. Crim. P. 42, 2024). In Indonesia, this study considers contemporary cases involving courtroom disruptions and attacks against judges as examples demonstrating the need for clearer procedural rules. These cases illustrate that contempt of court is not merely a theoretical issue but also a practical problem that affects judicial security, courtroom decorum, and public confidence in the judiciary. The legal materials used in this study comprise primary,

secondary, and tertiary sources. Primary legal materials include 18 U.S.C. § 401, Federal Rule of Criminal Procedure 42, Law No. 1 of 2023 concerning the Criminal Code, Law No. 20 of 2025 concerning the Criminal Procedure Code, and relevant judicial decisions and official legal documents concerning contempt of court and judicial authority. Secondary legal materials consist of recent academic journals, books, legal commentaries, and previous studies published from 2018 onward, particularly those addressing contempt of court, judicial independence, comparative criminal procedure, digital public pressure, and legal reforms. Tertiary legal materials include legal dictionaries, encyclopedias, and other supporting references used to clarify technical legal concepts.

The data collection technique employed in this study was document-based legal research. Legal materials were collected by identifying relevant statutes, procedural rules, court-related documents, academic literature, and comparative legal sources. The collected materials were classified into three main categories: substantive regulations, procedural mechanisms, and adaptive reform models. This classification enables a systematic analysis from legal norms to procedural comparisons and ultimately to the formulation of reform recommendations. The data were analyzed using qualitative legal analysis methods. The analysis was conducted in four stages as follows. First, this study identifies the substantive elements of contempt of court in the United States and Indonesia. Second, it compares the procedural mechanisms employed in both jurisdictions, particularly regarding notices, hearings, judicial authority, and summary dispositions. Third, it evaluates whether the U.S. model can be adapted to the Indonesian legal system by considering the principles of legality, due process, proportionality, judicial impartiality, and freedom of expression. Fourth, it formulates an adaptive model of contempt of court regulations that may support legal reform in Indonesia. This methodological design also establishes a connection between the research method and the hypotheses developed in the previous section. H1 is examined through a statutory analysis of substantive contempt provisions. H2 is examined by comparing the procedural mechanisms in the United States and Indonesia. H3 is examined through the adaptive transplantation framework, which assesses whether foreign legal concepts can be modified to align with Indonesian legal principles. H4 is examined by considering contemporary challenges, including digital public pressure, freedom of expression, and public accountability in the development of contempt of court regulations. This methodology seeks to produce a normative, comparative, and reform-oriented analysis. The objective is not only to describe existing regulations but also to identify their weaknesses, compare their procedural logic, and propose a practical legal-reform model for Indonesia. Accordingly, the research method is expected to provide a clear, systematic, and replicable analytical framework for examining contempt of court regulations in both jurisdictions.

## IV. Result and Discussion

### 4.1. Conceptual Clarification of Key Terms

Before discussing the comparative findings, several key terms must be clarified to avoid any conceptual ambiguity. Contempt of court refers to conduct that obstructs, disrespects, or undermines the authority, dignity, or functions of a court in the administration of justice. Inherent power refers to the authority vested in courts to maintain order, enforce compliance with judicial orders, and protect the integrity of judicial proceedings. Summary disposition refers to an expedited procedural mechanism that allows a judge to impose immediate sanctions for contemptuous conduct committed in the presence of the court, provided that the conduct is personally observed by the judge and requires an urgent response to restore order in the courtroom. These definitions are important because contempt of court regulations must clearly distinguish between legitimate criticism of the judiciary and conduct that directly interferes with the administration of justice.

#### 4.2. Substantive Construction of Contempt of Court in the United States and Indonesia

In the United States, contempt of court is historically rooted in common law and the doctrine of inherent judicial power. Although the authority to punish contempt was recognized in early federal judicial practice, its modern statutory foundation is found in 18 U.S.C. § 401, which authorizes federal courts to punish three principal categories of contemptuous conduct: misbehavior occurring in or near the court that obstructs the administration of justice, misconduct by court officers in the performance of their official duties, and disobedience or resistance to lawful court orders. This legal framework demonstrates that the United States does not treat contempt of court as an ordinary criminal offense. Rather, it is regarded as a legal instrument necessary for preserving the operational authority of the judiciary. The existence of contempt powers is closely connected to the practical need for courts to control proceedings, ensure compliance with judicial orders and prevent obstruction of justice. The importance of this function becomes even more apparent when viewed in light of the broader workload of federal judiciaries. In 2024, combined filings in U.S. district courts involving civil cases and criminal defendants increased by 17 percent to 414,026, while pending civil cases and criminal defendants rose to 746,577 (Administrative Office of the U.S. Courts, 2024). This context illustrates why procedural efficiency and judicial authority are essential for the effective administration of justice. However, the U.S. model also presents certain risks. The broad scope of inherent judicial power may create opportunities for excessive judicial discretion if it is not constrained by adequate procedural safeguards. This concern is reflected in the historical evolution of the contempt doctrine, particularly following the controversy involving Judge James H. Peck contributed to subsequent statutory and procedural limitations on contempt powers. The U.S. experience demonstrates that contempt authority must be accompanied by procedural guarantees to prevent judicial arbitrariness.

In Indonesia, contempt of court has evolved within a civil law system that emphasizes codification and legality. The term was formally introduced in the General Explanation of Law No. 14 of 1985, concerning the Supreme Court. Recently, Indonesia has sought to regulate acts against the judicial process through Law No. 1 of 2023 concerning the Criminal Code, particularly in the chapter governing crimes against the administration of justice. This development represents significant progress because contempt-related offenses are no longer entirely dispersed across various statutes. However, the Indonesian framework is incomplete. The new Criminal Code primarily provides substantive criminal provisions but does not establish a specific procedural framework for contempt of court. This creates a gap between legal norms and their enforcement. While substantive provisions define prohibited conduct, the absence of clear procedural rules creates uncertainty for judges and law enforcement authorities regarding the appropriate handling of contempt cases. This situation differs from that in the United States, where substantive authority under 18 U.S.C. § 401 is complemented by procedural regulations under Federal Rule of Criminal Procedure 42. The comparison indicates that Indonesia has made substantial progress in terms of codification but still lacks procedural immediacy in its legal system. In the United States, contempt of court regulations are designed to protect both judicial authority and procedural fairness. In Indonesia, substantive criminal provisions may provide formal protection for judicial authority; however, the absence of a specialized procedural mechanism reduces their practical effectiveness. This finding supports the argument that legal reform in Indonesia should focus not only on defining contempt of court but also on designing fair, limited, and proportionate procedures for enforcing it.

#### 4.3. Procedural Comparison: Federal Rule 42 and Indonesian Criminal Procedure

The most significant difference between the United States and Indonesia lies in the procedural enforcement. In the United States, the Federal Rule of Criminal Procedure 42 establishes two procedural mechanisms. First, contempt may be prosecuted through notice and hearings when the conduct requires further examination. Second, contempt may be punished summarily when it occurs directly before the judge, and immediate action is necessary to restore courtroom order. This distinction is important because it

prevents all contempt cases from being treated as identical. Direct contempt, such as physical disruption in the courtroom, requires a rapid response to preserve the continuity of judicial proceedings. Indirect contempt, such as disobedience occurring outside the courtroom or criticism alleged to obstruct justice, requires a more formal process involving notice, an opportunity to be heard, and impartial adjudication to be proven. Accordingly, the U.S. model combines procedural efficiency with due process protection. Indonesia has taken important steps through Law No. 20 of 2025 concerning the Criminal Procedure Code, which strengthens the procedural safeguards and judicial oversight of criminal proceedings. However, Indonesia does not recognize a specific summary procedure for direct contempt. When disruptions occur in court, judges may preserve order by issuing warnings or removing offenders from the courtroom; however, criminal sanctions generally remain subject to ordinary criminal procedures.

The absence of a specialized contempt procedure has two practical consequences. First, it weakens the immediate deterrent effect because disruptive conduct occurring directly before court cannot be addressed through a swift and proportionate judicial response. Second, it may increase the institutional burden on the judiciary because contempt-related conduct must be processed through ordinary criminal mechanisms, even when the relevant facts are openly presented in the courtroom. This issue becomes particularly significant when viewed in the context of Indonesia's broader judicial workload. The Supreme Court of Indonesia reported substantial case management demands in its recent annual reports, including case backlogs at the Supreme Court, appellate courts, and first-instance courts, as well as challenges related to judgment enforcement and electronic court services (Supreme Court of the Republic of Indonesia, 2025). These indicators suggest that procedural efficiency remains a major concern for Indonesian judicial administration. The courtroom disruption involving advocates in 2025 illustrates this procedural gap in the system. The response to the incident was largely administrative and professional-ethical rather than a direct contempt sanction imposed through a specialized judicial procedure. This does not imply that judges should be granted unlimited authority to punish contemptuous behavior. Rather, it highlights the need for a carefully limited procedural mechanism that enables courts to respond effectively to direct contempt while safeguarding the rights of alleged contemnors.

#### 4.4. Comparison with Previous Literature and Theoretical Implications

This study's findings are consistent with previous Indonesian scholarship arguing that Indonesia requires clearer contempt of court regulations. Subaryah (2020) identified the fragmented nature of contempt-related provisions and emphasized the need for a specific legal framework. The present study supports this argument by demonstrating that substantive regulation alone is insufficient. The primary contribution of this study lies in its emphasis on the procedural design. Previous studies have generally focused on the urgency of criminalizing contempt of court. This study argues that the more pressing issue concerns not only which conduct should be prohibited, but also how such conduct should be processed. Without procedural clarity, contempt of court regulations may either become ineffective or risk violating due process. Accordingly, this study complements the existing literature by linking substantive contempt regulations with procedural safeguards, judicial impartiality, and proportional sanctions. These findings also contribute to discussions on legal transplants. According to Alan Watson's theory, legal systems frequently develop by borrowing legal rules from other jurisdictions. However, a comparison between the United States and Indonesia demonstrates that direct transplantation may be problematic. The U.S. model is grounded in a common law tradition characterized by inherent judicial powers, whereas Indonesia operates within a civil law system based on legality and codified procedures.

This finding challenges the simplistic interpretations of legal transplant theory. This study demonstrates that legal rules cannot be transferred merely because they function effectively within their original legal environment. What may be transferred are not complete legal models but rather selected functional elements. In the context of contempt of court, these elements include the distinction between direct and indirect contempt, the necessity of procedural safeguards, and the concept of a limited and

immediate response to courtroom disruptions. Consequently, adaptive transplantation is more appropriate than direct transplantation for such cases. The findings also contribute to the Progressive Law Theory. Contempt of court regulations should not function as a shield for judicial egos or as a mechanism for suppressing legitimate criticism. Progressive law requires legal reforms to promote justice, public accountability, and institutional integrity. Therefore, contempt of court reform should focus on protecting the administration of justice, rather than merely safeguarding the personal dignity of judges. This theoretical implication is particularly significant in the digital age. Public criticism of judicial decisions is an essential component of democratic oversight. However, digital attacks, intimidation, disinformation, and organized public pressure directed at judges or judicial institutions can undermine judicial independence and public confidence in the legal system. Recent scholarship on digital democracy in Indonesia indicates that viral public pressure can influence legal discourse and policy formation (Arintyas et al., 2026). This finding supports the argument that modern contempt of court regulations must address not only physical misconduct within courtrooms but also digital forms of pressure that may threaten judicial independence.

#### 4.5. Ethical and Social Implications of Contempt of Court Regulation

The regulation of contempt of court has significant ethical and social implications. On the one hand, courts require legal protection against intimidation, obstruction, and attacks that may undermine judicial independence and the effective administration of justice in the country. However, overly broad or excessively restrictive contempt regulations may threaten freedom of expression, press freedom, academic criticism, and public participation in judicial oversight. Therefore, contempt of court laws must be carefully designed to establish a clear distinction between the punishable obstruction of justice and the legitimate criticism of judicial institutions. The primary ethical concern lies in the potential misuse of contempt powers by judges or courts to suppress public dissatisfaction or criticism of the judiciary. This risk is particularly relevant in societies where public trust in legal institutions is fragile or continues to evolve. Consequently, contempt of court regulations must incorporate adequate procedural safeguards, including written reasons for sanctions, limitations on the types and severity of penalties, the right to challenge detention orders, and the disqualification of judges in cases involving personal insults directed against them. Such safeguards are essential to ensure that contempt powers serve the administration of justice, rather than the protection of institutional prestige or individual judicial sensitivities. The social implications of this are equally significant. If contempt of court regulations are too weak, courts may become vulnerable to intimidation, disorder, and non-compliance with judicial decisions. Conversely, if the regulation is overly broad, it may be perceived as undemocratic and incompatible with fundamental civil liberties. Therefore, an effective regulatory framework must strike an appropriate balance between protecting judicial dignity and ensuring public accountability in the judicial system. Such a balance is crucial for maintaining public confidence in the judiciary and ensuring that judicial independence does not evolve into immunity.

#### 4.6. Adaptive Model for Indonesian Legal Reform

Based on this comparative analysis, Indonesia should not adopt the United States model of contempt of court in its entirety. Instead, it should develop an adaptive framework that combines the functional strengths of the U.S. contempt procedure with Indonesia's constitutional principles and civil law tradition. First, Indonesia requires a clear statutory definition of contempt of court. Such a definition should be precise, narrowly tailored, and limited to conduct that directly obstructs judicial proceedings, disobeys lawful court orders, intimidates judicial officers, or seriously interferes with the administration of justice. A narrowly defined provision is necessary to prevent contempt laws from being used to stifle legitimate criticism or public scrutiny of judicial institutions. Second, Indonesia should distinguish between direct and indirect contempt. Direct contempt refers to contemptuous conduct in the presence of the court that immediately disrupts judicial proceedings. Indirect contempt refers to conduct occurring outside the courtroom, such as

noncompliance with court orders or external actions that interfere with the administration of justice. This classification is important because each category requires a different procedural response. Third, Indonesia should consider adopting a limited summary disposition mechanism exclusively for cases of direct contempt. However, such a mechanism should not authorize unlimited imprisonment or unrestricted judicial discretion. Instead, it should permit the presiding judge to impose limited and proportionate sanctions, such as removal from the courtroom, formal warnings, administrative fines, community service, or short-term temporary detention, subject to immediate review. Fourth, any temporary detention order imposed through a summary procedure should be subject to an expedited appeal or a judicial review process before a higher court. This safeguard is necessary to prevent the abuse of power and ensure compliance with the principles of due process and judicial impartiality. Fifth, cases involving indirect contempt should continue to be processed through ordinary criminal procedures. This approach is essential because indirect contempt typically requires an evidentiary assessment, witness examination, and impartial adjudication. Furthermore, in cases involving personal insults directed at a judge, the judge concerned should not adjudicate the contempt proceedings to avoid actual or perceived conflicts of interest. This adaptive model reflects a balanced approach to judicial protection and upholding constitutional rights. It incorporates the functional strengths of the U.S. model—particularly procedural immediacy in cases of direct contempt—while adapting those features to Indonesia’s principles of legality, codification, proportionality, due process, and democratic accountability. The proposed framework seeks to enhance the effectiveness of judicial protection without compromising fundamental rights and constitutional safeguards.

## V. Conclusion

The issue of contempt of court arises from increasingly complex social dynamics in which public expressions and courtroom conduct may disregard legal ethics and procedural order, thereby undermining the dignity and authority of the judiciary. Fundamentally, contempt of court encompasses conduct that obstructs the administration of justice and weakens public confidence in the judicial institutions. In Indonesia, a significant gap remains between the constitutional ideal embodied in Article 24(1) of the 1945 Constitution, which guarantees an independent judiciary, and the practical reality in which contempt of court enforcement remains fragmented, procedurally unclear, and insufficiently responsive. In contrast, the United States has developed a more established framework that balances judicial authority with constitutional safeguards, particularly in response to historical controversies involving criticism of judicial decisions and concerns regarding the potential abuse of contempt powers in the courtroom. From a substantive perspective, contempt of court regulations in the United States are rooted in the doctrine of inherent judicial power, under which courts possess the authority to maintain order, enforce compliance with judicial orders, and protect the integrity of judicial proceedings. This authority is codified in 18 U.S.C. § 401, which empowers courts to punish misbehavior occurring in or near the courtroom, misconduct by court officers, and disobedience to lawful orders. Indonesia, as a civil law jurisdiction, regulates contempt-related conduct through statutory criminal provisions, particularly those contained in Chapter VI of Law No. 1 of 2023 concerning the Criminal Code, which addresses offenses against the administration of justice. Although this codification represents a significant step forward, it remains incomplete because it primarily focuses on criminal contempt and does not provide a comprehensive framework for civil contempt, indirect contempt, or non-compliance with judicial orders. This limitation demonstrates that substantive criminalization alone is insufficient to ensure effective protection of judicial authority.

The most significant difference between the two legal systems is their procedural frameworks. In the United States, contempt proceedings are governed by Federal Rule of Criminal Procedure 42, which distinguishes between contempt cases requiring notice and a hearing and those that may be punished summarily when contemptuous conduct occurs directly in the presence of the court. This framework enables courts to respond promptly to direct disruptions while preserving due-process guarantees in more complex contempt proceedings. In contrast, Indonesia continues to rely primarily on ordinary criminal procedures

under Law No. 20 of 2025 concerning the Criminal Procedure Code for the imposition of criminal sanctions. Consequently, Indonesia does not yet possess a specialized procedural mechanism that enables judges to respond swiftly, proportionately, and lawfully to direct contempt in the courtroom. This procedural gap diminishes the immediate deterrent effect of contempt regulation and creates uncertainty regarding the permissible scope of judicial discretion. The most appropriate reform strategy for Indonesia is not the mechanical transplantation of the U.S. model but its adaptive incorporation into the Indonesian legal system. This study proposes the concept of Limited Summary Disposition as an adaptive procedural mechanism. Under this framework, presiding judges may be granted limited authority to impose immediate and proportionate sanctions for minor acts of direct contempt committed in the courtroom, including formal warnings, removal from the courtroom, administrative fines and community service. More severe sanctions, particularly temporary detention, should remain subject to expedited review by a higher court to prevent the abuse of judicial power and safeguard due process rights. This approach draws upon the historical experience of the United States, including the controversy involving Judge James H. Peck, which highlighted the risks associated with excessive judicial authority and its potential impact on freedom of expression, was also cited.

Accordingly, establishing a specific and sui generis Contempt of Court Law is necessary in Indonesia. Such legislation should not be designed merely to protect judges as individuals but primarily safeguard the administration of justice as a constitutional institution. The law must clearly distinguish between legitimate criticism of the judiciary and conduct that genuinely obstructs judicial proceedings, intimidates judicial officers, or interferes with the execution of court orders. This distinction is essential to ensure that contempt of court regulations do not become a mechanism for suppressing public criticism, press freedom, academic debate, or democratic oversight. Based on the findings of this study, several key elements should be incorporated into Indonesia's future contempt of court law. First, the law should adopt a functional classification of contempt, including criminal, civil, direct, and indirect contempt, thereby ensuring that each category is addressed through an appropriate legal mechanism. Second, it should establish specific procedural rules governing contempt proceedings, including the application of Limited Summary Disposition for direct contempt and ordinary criminal procedures for indirect contempt. Third, it should provide clear, precise, and narrowly tailored definitions consistent with the principle of legality to prevent overly broad interpretations and arbitrary enforcement. Fourth, a system of proportionate and graduated sanctions should be established, ranging from warnings and removal from the courtroom to fines, community service, and limited temporary detention subject to immediate judicial review. Fifth, it should incorporate robust procedural safeguards, including written reasons for sanctions, the right to be heard, expedited appeal mechanisms, and judicial disqualification in cases involving personal insults directed at a judge. This study also identifies several avenues for future research. Subsequent studies should examine the empirical prevalence of courtroom disruptions, noncompliance with judicial orders, and digital forms of intimidation directed at judges in Indonesia. Further research is needed to evaluate the potential social impact of contempt of court regulations on freedom of expression, press freedom, public criticism, and access to justice. In addition, comparative studies involving other jurisdictions, such as the United Kingdom, Singapore, Australia, and India, may contribute to the development of an effective, democratically legitimate, Indonesian contempt of court framework that is fully consistent with constitutional principles and the rule of law.

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