

## **JUDICIAL AUTHORITY AND PROFESSIONAL DIGNITY: RETHINKING THE LIMITS OF CONTEMPT POWERS IN NIGERIAN COURTS**

By

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### **Abstract**

*The contempt jurisdiction of Nigerian courts has recently attracted significant scholarly and professional attention following reported incidents in which a judicial officer directed a legal practitioner to perform acts of physical submission (kneeling) in open court. This article undertakes a critical doctrinal examination of the legal foundations of contempt powers in Nigeria, interrogating whether such directives find support in statutory law, constitutional provisions, or established jurisprudence. Drawing upon the Criminal Code Act, the Sheriffs and Civil Process Act, the 1999 Constitution, and authoritative decisions of the Supreme Court of Nigeria, the paper argues that while courts possess inherent authority to preserve decorum and enforce compliance, this authority is not unbounded. It must yield to constitutional guarantees of human dignity under section 34 and to procedural safeguards embedded in committal jurisprudence. Through comparative engagement with South African and Indian authorities, the article proposes a normative framework for exercising contempt powers that balances judicial authority with the professional autonomy and constitutional rights of advocates. The conclusion advocates for judicial restraint, clearer procedural guidelines, and renewed dialogue between the Bench and the Bar to safeguard the integrity of Nigeria's justice system.*

## 1. Introduction

The administration of justice depends fundamentally on the authority of courts to command respect, ensure orderly proceedings, and enforce compliance with their directives. In Nigeria, this authority is underpinned by the power to punish for contempt, a jurisdiction historically regarded as inherent to superior courts of record.<sup>1</sup> Yet the manner in which this power is exercised has increasingly come into tension with fundamental rights guaranteed by the Constitution. Recent reports of judicial directives requiring lawyers to kneel or prostrate before the court have ignited a robust debate concerning the boundaries of judicial discretion and the dignity of the legal profession.<sup>2</sup> These incidents are not merely procedural anomalies. They strike at the heart of the relationship between the judiciary and the legal profession, raising profound questions about whether physical submission is a lawful sanction for perceived contempt or constitutes degrading treatment prohibited by section 34 of the Constitution.<sup>3</sup> When a judge orders an advocate to kneel, the act transforms a procedural sanction into a symbolic assertion of dominance that may undermine the constitutional architecture of rights and the professional standing of legal practitioners.

This article examines the legal limits of contempt powers in Nigeria through a rigorous doctrinal methodology. It analyses whether orders for physical submission are grounded in statutory authority, consistent with constitutional guarantees, or supported by binding precedent. The discussion is anchored in Nigerian constitutional law

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<sup>1</sup> Constitution of the Federal Republic of Nigeria 1999 (as amended), s 6.

<sup>2</sup> 'NBA slams judge for ordering Sowore's lawyer to kneel in court' Punch (17 March 2026) <<https://punchng.com/nba-slams-judge-for-ordering-sowores-lawyer-to-kneel-in-court/>> accessed 19 March 2026.

<sup>3</sup> Constitution of the Federal Republic of Nigeria 1999 (as amended), s34(1).

and statutory interpretation but draws upon comparative jurisprudence to propose a principled framework for reform. The central thesis is that the contempt power, while essential for the administration of justice, must be exercised within the bounds of human rights standards, procedural fairness, and professional ethics to maintain public confidence in the rule of law.

## **2. The Legal Architecture of Contempt Jurisdiction in Nigeria**

### **2.1 Statutory Foundations**

Contrary to perceptions of a unified statutory regime, contempt law in Nigeria is dispersed across multiple instruments. The primary statutory provisions are found in section 133 of the Criminal Code Act, applicable in southern states, which criminalises acts calculated to bring a court or judge into contempt or to lower judicial authority.<sup>4</sup> The provision enumerates specific conduct, including disrupting proceedings, publishing prejudicial reports, or intentionally disrespecting judicial processes.<sup>5</sup> In northern states, analogous provisions exist in the Penal Code. Additionally, section 72 of the Sheriffs and Civil Process Act governs committal for disobedience of court orders other than payment of money, prescribing procedural safeguards for enforcement.<sup>6</sup>

The Administration of Criminal Justice Act 2015, while primarily focused on criminal procedure, reinforces the principle that deprivation of liberty requires strict adherence to due process.<sup>7</sup> Crucially, none of these statutes authorises courts to compel physical acts of submission as a sanction for contempt. The absence of such authorisation is significant: in a legal system governed by the principle of legality, judicial power to punish must find a basis in law.<sup>8</sup>

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<sup>4</sup> Criminal Code Act, Cap C38, Laws of the Federation of Nigeria 2004, s 133.

<sup>5</sup> *ibid* s 133(1)-(9).

<sup>6</sup> Sheriffs and Civil Process Act, Cap S6, Laws of the Federation of Nigeria 2004, s 72.

<sup>7</sup> Administration of Criminal Justice Act 2015, s 1.

<sup>8</sup> Constitution of the Federal Republic of Nigeria 1999 (as amended), s 1(1).

## 2.2 Inherent Jurisdiction to Punish Contempt and Its Limits

Nigerian superior courts have long asserted inherent jurisdiction to punish contempt, particularly contempt in the face of the court (in *facie curiae*).<sup>9</sup> This jurisdiction, derived from English common law, enables courts to act summarily to preserve order when contempt occurs within their immediate view. However, the Supreme Court has consistently emphasised that this power is not arbitrary. In *Omoijahe v. Umoru*,<sup>10</sup> the Court held that contempt jurisdiction exists to protect the administration of justice itself, not to vindicate the personal dignity of individual judges.<sup>11</sup> Similarly, in *INEC v. Oguebego*,<sup>12</sup> the Court cautioned that summary punishment for contempt should be exercised sparingly and only in serious cases where justice would otherwise be obstructed.<sup>13</sup>

The distinction between mere discourtesy and actionable contempt is critical. In *Joseph Izuora v. The Queen*,<sup>14</sup> the Privy Council observed that not every act of discourtesy by counsel amounts to contempt; the conduct must cross the threshold into interference with the administration of justice.<sup>15</sup> This principle was reaffirmed by the Supreme Court in *Oku v. State*,<sup>16</sup> underscoring that judicial sensitivity alone cannot convert professional disagreement into contempt.<sup>17</sup> These authorities establish that inherent jurisdiction is constrained by substantive and procedural norms.

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<sup>9</sup> Sylvester Innocent, 'Contempt Of Court Under Nigeria Legal System: An Overview' (*Sabi Law*, 1 August 2022) <<https://sabilaw.org/contempt-of-court-under-nigeria-legal-system-an-overview/>> Accessed 19 March 2026.

<sup>10</sup> (1992) 3 NWLR (Pt 231) 577

<sup>11</sup> *Ibid*, at 590.

<sup>12</sup> (2010) 10 NWLR (Pt 1203) 349

<sup>13</sup> *Ibid* at 378.

<sup>14</sup> (1959) 4 FSC 75, (Privy Council).

<sup>15</sup> *Ibid* at 78.

<sup>16</sup> (1972) 1 All NLR 262.

<sup>17</sup> *Ibid* at 268.

### 2.3 Procedural Safeguards for Contempt Ex Facie Curiae

For contempt committed outside the immediate view of the court (ex facie curiae), Nigerian law imposes rigorous procedural requirements. As clarified in *Dikibo v. Ibuluya*,<sup>18</sup> committal proceedings that may deprive a person of liberty must follow strict statutory procedures, including personal service of Form 48 (notice of consequences of disobedience) and Form 49 (notice to show cause), before a motion on notice for committal may be brought.<sup>19</sup> The Supreme Court in *Omoijahe v. Umoru*<sup>20</sup> further held that in trials for criminal contempt, the accused is entitled to the benefit of a full criminal trial, and the judge whose order was allegedly flouted should not preside over the committal proceedings to avoid bias.<sup>21</sup>

These safeguards reflect the quasi-criminal nature of contempt proceedings and the constitutional right to fair hearing.<sup>22</sup> Any departure from the prescribed procedure risks rendering the committal a nullity.<sup>23</sup> The absence of comparable procedural rigour for in facie curiae contempt does not licence arbitrary punishment; rather, it heightens the duty of judicial restraint and proportionality.

## 3. Constitutional Tensions: Dignity, Fair Hearing, and Judicial Power

### 3.1 The Right to Dignity under Section 34

Section 34(1) of the 1999 Constitution guarantees every individual the right to respect for the dignity of their person and prohibits torture, inhuman or degrading treatment.<sup>24</sup> The Supreme Court has interpreted this provision robustly. In *Okogwu v. The State*,<sup>25</sup> the

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<sup>18</sup> (2009) 17 NWLR (Pt 1170) 321

<sup>19</sup> (2009) 17 NWLR (Pt 1170) 345.

<sup>20</sup> *Supra*

<sup>21</sup> *ibid* at 592.

<sup>22</sup> Constitution of the Federal Republic of Nigeria 1999 (as amended), s 36.

<sup>23</sup> *Dikibo v. Ibuluya* (*Supra*) 346.

<sup>24</sup> Constitution of the Federal Republic of Nigeria 1999 (as amended), s 34(1)(a).

<sup>25</sup> (2000) 14 NWLR (Pt 686) 581

Court held that treatment which lowers a person's dignity in the eyes of others may violate section 34.<sup>26</sup> Compelling a legal practitioner to kneel in open court, before peers, clients, and court staff, arguably meets this threshold. The act is public and symbolic, and it carries connotations of subservience that may diminish professional standing and personal dignity.

While the state may limit certain rights in the interest of public order, such limitations must be proportionate and prescribed by law.<sup>27</sup> The question is whether physical submission is necessary to maintain courtroom decorum. In most instances, less intrusive measures such as adjournment, verbal warnings, or fines are available and sufficient. Choosing physical submission when alternatives exist suggests the measure may be punitive rather than corrective, raising concerns under section 34.

### 3.2 Fair Hearing and the Rule Against Bias

Section 36 of the Constitution guarantees the right to fair hearing, including the right to be heard by an impartial tribunal.<sup>28</sup> In contempt proceedings, this principle requires that a judge who feels personally affronted by alleged contempt should not sit as arbiter in the committal process. The Supreme Court's guidance in *Omoijahe v. Umoru*<sup>29</sup> on this point reinforces the structural importance of impartiality.<sup>30</sup> When a judge summarily orders physical submission in response to perceived disrespect, the line between adjudication and personal reaction may blur, undermining the appearance of fairness.

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<sup>26</sup> *ibid* at 595.

<sup>27</sup> Constitution of the Federal Republic of Nigeria 1999 (as amended) s 45

<sup>28</sup> Constitution of the Federal Republic of Nigeria 1999 (as amended) s36(1).

<sup>29</sup> *Supra*.

<sup>30</sup> *ibid* at 592.

### **3.3 Separation of Powers and Judicial Accountability**

The judiciary, like other arms of government, is bound by the Constitution. In *Attorney-General of the Federation v. Abacha*,<sup>31</sup> the Supreme Court affirmed that no arm of government is above the Constitution.<sup>32</sup> Judicial officers cannot claim immunity from constitutional provisions when exercising contempt powers. A judicial order that violates section 34 or section 36 is void to the extent of its inconsistency with the Constitution.<sup>33</sup> This constitutional supremacy framework requires courts to exercise contempt powers with heightened awareness of fundamental rights.

## **4. Professional Ethics and the Autonomy of the Advocate**

### **4.1 Duties to the Court under the Rules of Professional Conduct**

The Rules of Professional Conduct for Legal Practitioners 2023 impose clear duties on lawyers to treat the court with respect, dignity, and honour.<sup>34</sup> Rule 31(1) provides that a lawyer shall always maintain decorum in dealings with judicial officers.<sup>35</sup> However, respect is not synonymous with physical subservience. A lawyer can uphold professional courtesy while standing upright. The Rules do not mandate, nor contemplate, physical acts of submission as a component of professional respect.

### **4.2 The Chilling Effect on Zealous Advocacy**

The relationship between judge and advocate is collaborative; both are officers of the court tasked with administering justice. When a judge orders a lawyer to kneel, this partnership is degraded. The lawyer becomes a subordinate in a manner that exceeds professional hierarchy. This can have a chilling effect on advocacy. Lawyers may hesitate to raise valid objections, cross-examine vigorously, or

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<sup>31</sup> (2000) 6 NWLR (Pt 660) 228

<sup>32</sup> *ibid* at 280.

<sup>33</sup> Constitution of the Federal Republic of Nigeria 1999 (as amended), s 1(1), (3).

<sup>34</sup> Rules of Professional Conduct for Legal Practitioners 2023, r 31(1).

<sup>35</sup> *ibid*.

represent clients zealously if they fear humiliating sanctions. As the Nigerian Bar Association observed in its 2026 statement regarding the Sowore matter, judicial authority must be exercised within established legal limits to preserve the integrity of the legal profession.<sup>36</sup>

### **4.3 Institutional Dialogue between Bench and Bar**

The Nigerian Bar Association has a constitutional role under the Legal Practitioners Act to uphold the standards of the profession.<sup>37</sup> Constructive dialogue between the Bar and the Bench is essential to clarify expectations and prevent conflicts. Joint committees could develop guidelines on appropriate sanctions for courtroom misconduct, ensuring consistency and proportionality. Such initiatives would reinforce mutual respect while safeguarding the rights of practitioners.

## **5. Comparative Perspectives: Lessons from South Africa and India**

### **5.1 South Africa: Dignity as a Foundational Value**

South Africa's post-apartheid constitutional order places human dignity at its core. In *S v. Makwanyane*,<sup>38</sup> the Constitutional Court held that dignity is the foundation of all human rights and informs the interpretation of the entire Bill of Rights. South African courts have moved away from punitive contempt sanctions towards restorative measures that preserve judicial authority without compromising dignity. Humiliating conduct is viewed as inconsistent with the spirit of the Constitution. This approach offers a model for Nigeria: judicial authority can be maintained through reasoned orders and procedural fairness rather than coercive physical gestures.

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<sup>36</sup> 'NBA slams judge for ordering Sowore's lawyer to kneel in court' (n 2).

<sup>37</sup> Legal Practitioners Act, Cap L11, Laws of the Federation of Nigeria 2004, s 4.

<sup>38</sup> 1995 (3) SA 391 (CC) [144].

## 5.2 India: Voluntary Apology and Proportionality

Indian jurisprudence on contempt provides relevant insights. The Contempt of Courts Act 1971 permits apology as a means to purge contempt, but the Supreme Court of India has held that an apology must be voluntary to be valid.<sup>39</sup> In *Baradakanta Mishra v. Bhimsen Dixit*,<sup>40</sup> the Court emphasised that forced apologies, especially those involving physical gestures, lack sincerity and do not serve the purpose of contempt jurisdiction, which is to uphold the majesty of justice, not the majesty of the individual judge.<sup>41</sup> This principle aligns with Nigerian authorities such as *Omoijahe v. Umoru*<sup>42</sup> and reinforces that contempt powers are instrumental, not punitive.

## 5.3 United Kingdom: Statutory Codification and Restraint

In the United Kingdom, the Contempt of Court Act 1981 codifies contempt law and limits judicial discretion.<sup>43</sup> Sanctions are restricted to fines or imprisonment, with strict procedural safeguards. There is no provision for physical acts of submission. The UK judiciary relies on inherent respect for the office rather than enforced deference. This demonstrates that authority can be maintained without coercion of the body, a lesson pertinent to Nigerian courts navigating similar common law traditions.

## 6. Pathways for Reform: Towards a Principled Exercise of Contempt Powers

### 6.1 Judicial Guidelines and Training

The National Judicial Council should issue practice directions clarifying the limits of contempt powers. These guidelines should explicitly prohibit orders for physical submission and emphasise the

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<sup>39</sup> Contempt of Courts Act 1971 (India), s 12.

<sup>40</sup> *Baradakanta Mishra v. Bhimsen Dixit* AIR 1974 SC 319,

<sup>41</sup> *ibid* at 325.

<sup>42</sup> *supra*

<sup>43</sup> Contempt of Court Act 1981 (UK), s 14.

principle of proportionality in sanctions. Judicial training programmes should include modules on constitutional law, human rights, and professional ethics to ensure judges understand the implications of their orders.

## **6.2 Legislative Clarification**

While comprehensive contempt legislation may be desirable, interim measures could include amending the Sheriffs and Civil Process Act or High