



# Public Examinations (Prevention of Unfair Means) Bill, 2024

**For Prelims:** Public Examinations (Prevention of Unfair Means) Bill, 2024, Lok Sabha, Optical Mark Recognition (OMR), UPSC CSE PYQ.

**For Mains:** Public Examinations (Prevention of Unfair Means) Bill, 2024, Government policies and interventions for development in various sectors and issues arising out of their design and implementation.

[Source: TH](#)

## Why in News?

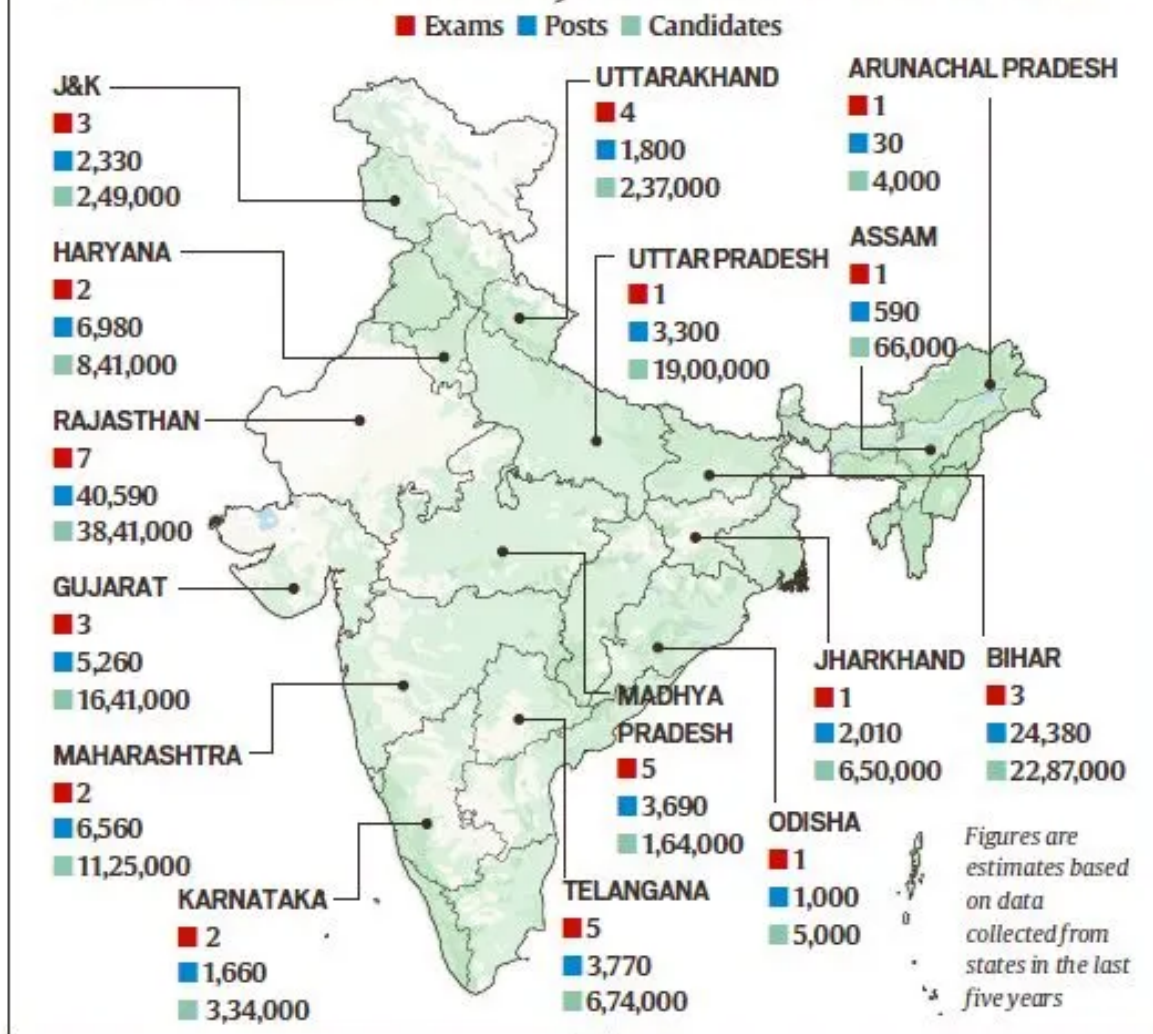
Recently, the **Public Examinations (Prevention of Unfair Means) Bill, 2024**, has been introduced in [Lok Sabha](#), aiming to prevent “**Unfair Means**” in order to “bring greater transparency, fairness and credibility to the **Public Examinations System**”.

- The Bill, once it becomes law, will also serve the important function of being “a model draft for States to adopt at their discretion”.

## What is the Need for Such a Bill?

- **Instances of Question Paper Leaks:**
  - There have been a **very large number of cases of question paper leaks** in recruitment exams across the country in recent years.
    - At least **48 instances of paper leaks in 16 states over the last five years**, in which the process of hiring for government jobs was disrupted.
    - The leaks touched the lives of at least 1.51 crore applicants for about 1.2 lakh posts.
- **Malpractices Lead to Delay in Examinations:**
  - Malpractices in public examinations **lead to delays and cancellation of examinations**, adversely impacting the prospects of millions of youth.
  - At present, there is **no specific substantive law to deal with unfair means** adopted or offenses committed.
  - **Identifying and effectively addressing elements that exploit vulnerabilities** within the examination system is crucial through comprehensive central legislation.
- **To Bring Greater Transparency:**
  - The objective of the **Bill is to bring greater transparency, fairness and credibility** to the public examination systems and **to reassure the youth that their sincere and genuine efforts** will be fairly rewarded and their future is safe.
  - The Bill is aimed at **effectively and legally deterring persons, organised groups or institutions that indulge in various unfair means** and adversely impact the public examination systems for monetary or wrongful gains.

## 15 states, leaks in 41 job-recruitment exams



### What are the Key Provisions of the Bill?

#### ▪ Defines Public Examination:

- **Under Section 2(k), a Public Examination** is defined as any examination **conducted by a “public examination authority”** listed in the Schedule of the Bill, or any such other authority as may be notified by the Central Government.
  - The schedule lists **five public examination authorities**, Union Public Service Commission (UPSC), the Staff Selection Commission (SSC), the Railway Recruitment Boards (RRBs), the Institute of Banking Personnel Selection (IBPS), the National Testing Agency (NTA).
    - NTA conducts the JEE (Main), NEET-UG, UGC-NET, the Common University Entrance Test (CUET)
- Apart from these designated public examination authorities, all “Ministries or Departments of the Central Government and their attached and subordinate offices for recruitment of staff” **will also come under the purview of the new law.**
  - The central government can add new authorities in the schedule through a notification as and when required.

#### ▪ Punishments:

- **Section 9 of the Bill** states that all **offences shall be cognizable, non-bailable, and non-compoundable.**
  - In **cognizable offences**, police has a duty to investigate the case without seeking permission from the Magistrate.

- A **non-compoundable offence** is one in which the **case cannot be withdrawn by the complainant even when the complainant and the accused have reached a compromise**, and a trial must necessarily follow.
  - It means that an **arrest can be made without a warrant** and bail will not be a matter of right; rather, a magistrate will determine whether the accused is fit to be released on bail.
- **Punishment** for “any person or persons resorting to unfair means and offences” can be **three to five years in prison, and a fine up to Rs 10 lakh**.
- If the convict fails to pay the fine, “an additional punishment of imprisonment shall be imposed, as per the provisions of the [Bharatiya Nyay Sanhita, 2023](#).”
- **Punishment for the Service Providers:**
  - A **service provider, engaged by the public examination authority** for the conduct of examinations, shall also be **liable to be punished with imposition of a fine up to Rs 1 crore** and proportionate cost of examination shall also be recovered from it, **if the service provider is involved in illegal practices**.
- **Defines Unfair Means:**
  - **Section 3 of the Bill** lists at least 15 actions that amount to using unfair means in public examinations for monetary or wrongful gain.
    - These acts include: leakage of question paper or answer key or part thereof and taking possession of question paper or an **Optical Mark Recognition (OMR)** response sheet without authority, providing solution to questions by any unauthorised person during a public examination.
  - The section also lists **tampering with any document necessary** for short-listing of candidates or finalising the merit or rank of a candidate; tampering with the computer network or computer system; creation of fake website and issuance of fake admit cards or offer letters to cheat or for monetary gain as illegal acts.
- **Investigation and Enforcement:**
  - The bill mandates that offenses under the proposed law will be investigated by **officers not below the rank of Deputy Superintendent of Police** or Assistant Commissioner of Police.
- **Model Draft for States:**
  - The bill **also serves as a model draft for states to adopt at their discretion**, with the aim of assisting states in preventing criminal elements from disrupting the conduct of their state-level public examinations.
- **High Level National Technical Committee:**
  - Formation of a High-Level National Technical Committee on Public Examinations.
    - This committee will focus on developing protocols to secure digital platforms. It will devise strategies for implementing foolproof IT security systems.
    - The committee will formulate national standards and service levels for both IT and physical infrastructure. These standards will be deployed for the conduct of examinations to ensure efficiency and reliability.

## What are the Concerns Related to the Bill?

- **Discretion of State Governments:**
  - While the bill aims to **serve as a model for states to adopt**, the discretion given to state governments may lead to **variations in implementation across different states**.
    - This could **potentially weaken the effectiveness of the law** in preventing unfair means in public examinations.
- **Exploitable Loopholes in Sanctions:**
  - The provisions of the bill, such as the punishment for offenders, may contain loopholes that can **be exploited to evade criminal sanctions**.
    - For example, if the **fine imposed on a service provider is not commensurate with the financial gains** they derive from unfair means, it may **not serve as a sufficient deterrent**.
- **Lack of Clarity on National Technical Committee:**
  - While the bill proposes the formation of a High-Level National Technical Committee on Public Examinations, there is a **lack of clarity regarding its composition, qualifications, and mandate**.

- Without clear guidelines on the composition and qualifications of committee members, there may be **concerns** regarding their expertise and impartiality in **devising foolproof IT security systems and national standards for examination conduct.**
- **Potential for Legal Challenges:**
  - The bill may **face legal challenges related to its provisions on cognizability, non-bailability, and non-compoundability of offenses.** There **could be debates on whether such stringent measures are proportionate to the gravity of the offenses** and whether they **adhere to principles of natural justice.**

## Conclusion

- While the bill outlines measures for investigation and enforcement by designated law enforcement officers, there is a **need for comprehensive oversight mechanisms to ensure accountability** and transparency in the examination process.
- This includes monitoring the conduct of examinations, handling of complaints, and auditing of examination procedures to detect and prevent malpractices effectively.

PDF Reference URL: <https://www.drishtias.com/printpdf/public-examinations-prevention-of-unfair-means-bill-2024>

