



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.

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Why in News?

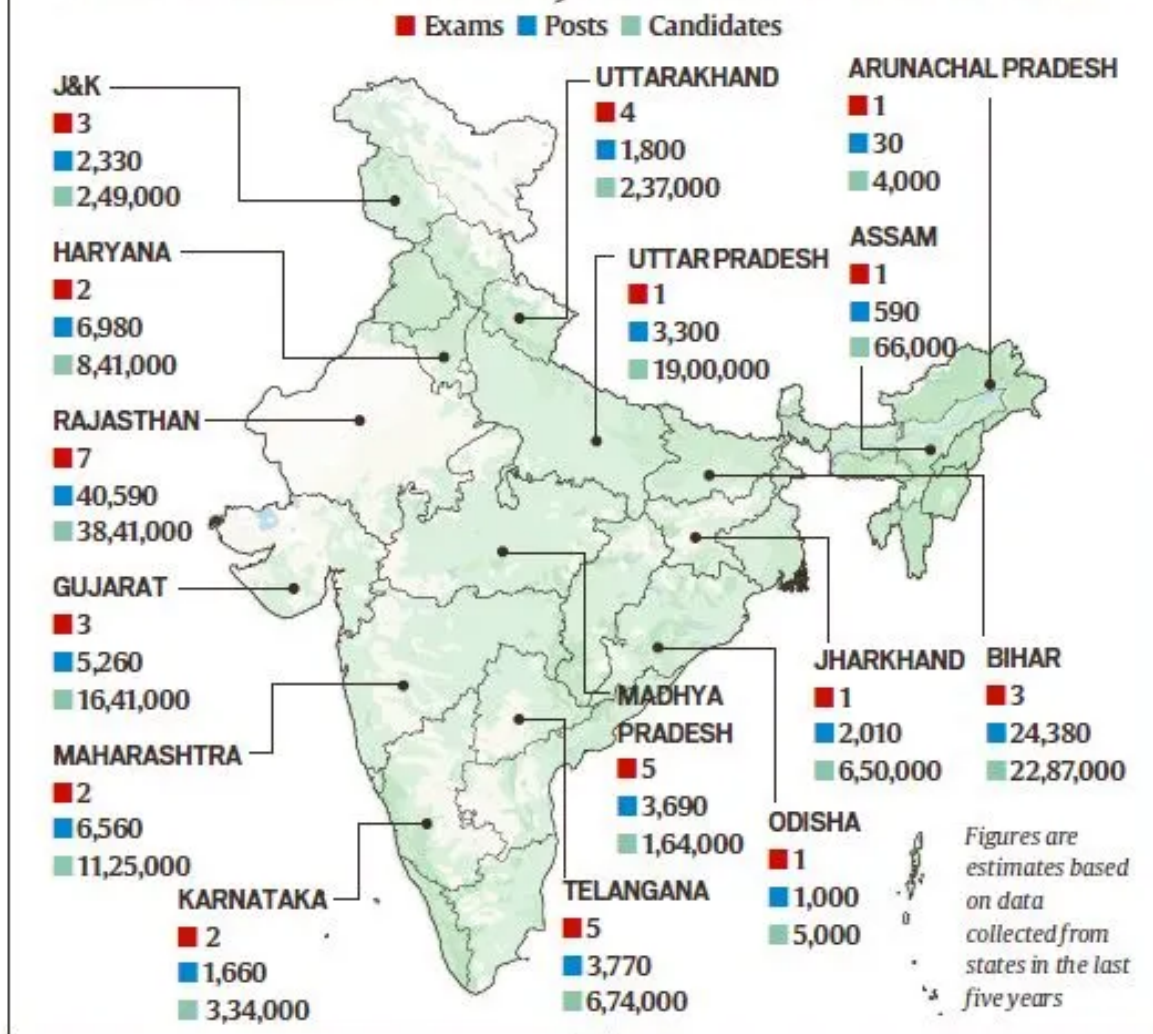
Recently, the **Public Examinations (Prevention of Unfair Means) Bill, 2024**, has been introduced in [Lok Sabha](#), aiming to prevent “**Unfair Means**” in order to “bring greater transparency, fairness and credibility to the **Public Examinations System**”.

- 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.

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