

News / Explained / Outrage over paper leaks: what does India's law against use of unfair means in exams say?

Outrage over paper leaks: what does India's law against use of unfair means in exams say?

Even before the recent incidents involving NEET-UG and UGC-NET, an investigation by The Indian Express had found at least 48 instances of paper leaks in 16 states over the last five years. In February, Parliament passed a tough new law to tackle the problem.

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New Delhi | Updated: June 20, 2024 22:42 IST

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Students stage a protest over the NEET-UG and UGC-NET examinations issue, in New Delhi, Thursday, June 20, 2024. (Express/Amit Mehra)

The [cancellation](#) of the University Grants Commission-National Eligibility Test (UGC-NET) is the first time a centrally-conducted public examination has been scrapped after Parliament passed a tough new law to prevent paper leaks in February.

UGC-NET 2024 was cancelled on June 19 after the Union Home Ministry found that the “integrity of the examination may have been [compromised](#)”.

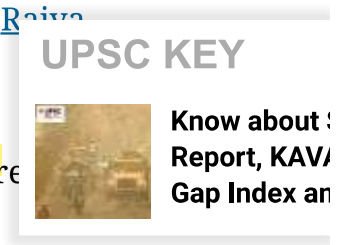
UGC-NET, which was taken by more than 9 lakh candidates in 317 cities, is the qualifying exam for admission to PhD programs, and to apply for an entry-level teaching position at an Indian university.

What is India's anti-unfair means law, what specific offences does it cover, and what punishments does it prescribe?

What is India's law against use of unfair means in public examinations?

The Public Examinations (Prevention of Unfair Means) Bill, 2024, was introduced in the 17th Lok Sabha on February 5. It was passed the following day, and by [Rajya Sabha](#) on February 9.

The Bill aims to prevent “unfair means” in order to “bring greater transparency and fairness and credibility to the public examinations system”.



What is meant by the use of “unfair means” in an examination?

Section 3 of the Act lists at least 15 actions that amount to using unfair means in public examinations “for monetary or wrongful gain”.

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These actions include: “leakage of question paper or answer key or part thereof” and colluding in such leakage; “accessing or taking possession of question paper or an Optical Mark Recognition response sheet without authority”; “tampering with answer sheets including Optical Mark Recognition response sheets”; “providing solution to one or more questions by any unauthorised person during a public examination”, and “directly or indirectly assisting the candidate” in a public examination.

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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 a computer resource or a computer system”; “creation of fake website” and “conduct of fake examination, issuance of fake admit cards or offer letters to cheat or for monetary gain” as illegal acts.

Which exams are “public examinations” as defined in the Act?

Under Section 2(k), a “public examination” is defined as any examination conducted by a “public examination authority” listed in the Schedule of the Act, or any “such other authority as may be notified by the Central Government”.

The schedule lists five public examination authorities: (i) the Union Public Service Commission (UPSC), which conducts the Civil Services Examination, Combined Defence Services Examinations, Combined Medical Services Examination, Engineering Services Examination, etc.; (ii) the Staff Selection Commission (SSC), which recruits for Group C (non-technical) and Group B (non-gazetted) jobs in the central government; (iii) the Railway Recruitment Boards (RRBs), which recruit Groups C and D staff in the Indian Railways; (iv) the Institute of Banking Personnel Selection (IBPS), which hires at all levels for nationalised banks and regional rural

banks (RRBs); and (v) National Testing Agency (NTA), which conducts the JEE (Main), NEET-UG, UGC-NET, the Common University Entrance Test ([CUET](#)), etc

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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" 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.

What punishment does the law provide for violations?

Section 9 of the Act states that all offences shall be cognizable, non-bailable, and non-compoundable — which 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.

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.

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 Nyaya Sanhita, 2023," Section 10(1) says.

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Under Section 10(2), a service provider who is engaged to provide "support of any computer resource or any material, by whatever name it may be called" for the conduct of the examination can be fined up to Rs 1 crore, along with other penalties.

The Act provides for harsher punishment in cases of organised paper leaks, where “organised crime” is defined as unlawful activity by a group of persons colluding in a conspiracy “to pursue or promote a shared interest for wrongful gain in relation to a public examination”.

Section 11(1) says the punishment for organised crime will be “imprisonment for a term not less than five years but which may extend to ten years” and a fine “which shall not be less than one crore rupees”.

Why did the government bring this Bill?

There have been a very large number of cases of question paper leaks in recruitment exams across the country in recent years — the UGC-NET leak and the many questions raised about NEET-UG in recent weeks are part of this same unfortunate trend.

Before these recent incidents, an investigation by [The Indian Express](#) had found 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.

The Statement of Objects and Reasons of the Bill said: “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 offences committed... It is imperative that elements that exploit vulnerabilities of examination system are identified and effectively dealt with by a comprehensive Central legislation.”

The Statement added: “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.”

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It clarified that “Candidate as defined in the Bill shall not be liable for action within the purview of the Bill and shall continue to be covered under the extant administrative provisions of the concerned public examination authority.”

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This is a revised and updated version of an [explainer](#) that was first published on February 6, 2024.

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First uploaded on: 20-06-2024 at 16:34 IST

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