



"Unfair Means in Public Examinations: A Critical Analysis of the Public Examinations (Prevention of Unfair Means) Act, 2024"

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Abstract

The Public Examinations (Prevention of Unfair Means) Act, 2024, is a recent piece of legislation passed by the Indian Parliament with the aim of curbing cheating and other unfair practices in public examinations. This research article offers a critical analysis of the Act, examining its key provisions, strengths, and weaknesses. The study examines into the definitions of unfair means, the offenses stipulated, and the penalties prescribed under the Act. It also explores the potential impact of the Act on various stakeholders, including students, teachers, examination authorities, and service providers. The research methodology involves a comprehensive review of the Act, relevant legal literature, and case laws. Additionally, it draws upon expert opinions and media reports to provide a holistic perspective. The findings highlight both the positive and negative aspects of the Act. While it is lauded for its stringent measures against cheating, concerns are raised regarding its potential for misuse and the disproportionate impact on certain groups of students. The article concludes by offering recommendations for improving the Act and its implementation, with the goal of ensuring fairness and transparency in public examinations.

Keywords: *Public examinations, unfair means, Public Examinations (Prevention of Unfair Means) Act, 2024, Indian education system, examination reforms, academic integrity.*

I. Introduction

Public examinations occupy a position of critical significance within the socio-legal framework of India, serving as primary conduits for ensuring merit-based access to public employment¹ and higher education opportunities, principles implicitly linked to constitutional guarantees of equality and fairness. The integrity of these examinations is paramount not only for upholding the principle of meritocracy² but also for maintaining public confidence³ in state institutions. However, the prevalence of unfair means⁴ – encompassing a spectrum of illicit activities from question paper leakage and impersonation to collusion and digital manipulation poses a substantial threat to the sanctity and credibility of these processes. Such malpractices undermine equal opportunity, cause significant detriment to deserving candidates, and raise fundamental questions about the rule of law in selection procedures.

In response to the escalating challenge and the recognized need for a dedicated legal framework, the Parliament of India enacted The Public Examinations (Prevention of Unfair Means) Act, 2024.⁵ This statutory intervention aims "to prevent unfair means in the public examinations and to provide for matters connected therewith or incidental thereto". The Act introduces a comprehensive regime targeting malpractices associated with examinations conducted by designated public examination authorities, including the Union Public Service Commission, Staff Selection Commission, National Testing Agency, and others as specified or notified. It meticulously defines various forms of 'unfair means', establishes cognizable, non-bailable, and non-compoundable offences, prescribes stringent punishments including imprisonment and substantial fines for individuals, service providers, and organized crime syndicates, outlines provisions for investigation by senior police officers or central agencies, and includes measures for the attachment and forfeiture of assets derived from organized crime.

This article seeks to provide a critical analysis of The Public Examinations (Prevention of Unfair Means) Act, 2024. It will examine the legislative intent, the scope and key provisions

¹ Althaus, C., 2023. Public sector reform and merit: principles, practices, and pushback. *Handbook of Public Administration Reform*, pp.27-40.

² Daniels, N., 1978. Merit and meritocracy. *Philosophy & Public Affairs*, pp.206-223.

³ Kumar, D., Pratap, B. and Aggarwal, A., 2021. Public trust in state governments in India: Who are more confident and what makes them confident about the government?. *Asian journal of comparative politics*, 6(2), pp.154-174.

⁴ SREEKANTH, Y., 2006. Public Examination-Means or Ends of Evaluation. In *meeting of the Asia-Pacific Educational Research Association*.

⁵ India code: Public Examinations (Prevention of Unfair Means) act, 2024. Available at: https://www.indiacode.nic.in/handle/123456789/20100?view_type=browse (Accessed: 20 April 2025).

of the Act, evaluate its potential efficacy as a deterrent against examination malpractice, and discuss its implications for ensuring fairness, transparency, and accountability within India's public examination system. The analysis will consider the legal architecture established by the Act in the context of existing laws and the persistent challenges faced in conducting large-scale, high-stakes examinations.

II. Legal System Dealing with Public Examination Pre 2024

Before the enactment of the Public Examinations (Prevention of Unfair Means) Act in 2024, India lacked a specific, unified central law to combat unfair means in public examinations. This legislative gap became increasingly apparent due to numerous instances of large-scale malpractices, including significant paper leaks like the CBSE leak in 2018 and the Vyapam scam uncovered around 2013.⁶ The absence of a dedicated national framework meant there was no consistent legal approach to deter or penalize organized cheating, impersonation, and other fraudulent activities that undermined the integrity of the examination system and eroded public trust.

In the absence of a central statute, issues related to unfair means were addressed through a fragmented system. Offences like cheating or fraud could potentially be prosecuted under relevant sections of the Indian Penal Code (IPC).⁷ Concurrently, individual examination conducting bodies, such as the UPSC, SSC, and later the NTA, relied on their internal administrative rules and regulations to take action against candidates engaging in malpractice, often leading to disqualification. Additionally, some states, including Gujarat, Bihar, and Uttarakhand, had implemented their own state-specific anti-cheating laws⁸, leading to a lack of uniformity in legal standards and penalties across the country.

⁶ Gauns Dessai, K.G., 2018. Study of Public Examination System and Proposed E-examination to Control Malpractices and Evaluation Anomalies (Doctoral dissertation, Goa University).

⁷ General provisions of the IPC were often invoked, although their application to the specific nuances of examination fraud had limitations: Cheating (Section 415, 420): Applicable to impersonation or deceiving examination authorities, proving ingredients like 'dishonest inducement' could be complex.

Forgery (Section 463, 468): Used for forged admit cards, answer sheets, or certificates.

Criminal Breach of Trust (Section 405, 409): Applicable to officials leaking information.

Criminal Conspiracy (Section 120A, 120B): Crucial for tackling organized rackets, but difficult to establish agreement.

Mischief (Section 425): Potentially covered tampering with computer systems.

The IPC lacked specificity for unique examination offences like pre-exam paper leaks or the roles of coaching centres and service providers.

⁸ Kalra, R. and Dwivedi, M., 2023. Tackling Academic Dishonesty in India: An Overview of Anti-Cheating Policies. Issue 2 Indian JL & Legal Rsch., 5, p.1.

Ultimately, this patchwork of general criminal law, administrative rules, and inconsistent state legislation proved inadequate to tackle the growing challenge of organised and technologically aided examination fraud. The pre-2024 legal landscape was ill-equipped to effectively deter or dismantle sophisticated cheating networks. Recognizing this deficiency, the Indian Parliament passed the Public Examinations (Prevention of Unfair Means) Act, 2024, aiming to establish a comprehensive, stringent, and uniform legal framework at the central level to specifically prevent and punish unfair means in public examinations, thereby restoring fairness and credibility to the system.

III. Aims and Objectives of The Public Examinations (Prevention of Unfair Means) Act, 2024

The foremost objective of The Public Examinations (Prevention of Unfair Means) Act, 2024 (hereinafter “the Act”), is explicitly stated in its title: to prevent the use of unfair means in public examinations across India. This central aim encompasses tackling a wide range of malpractices, including question paper leakage, unauthorized assistance to candidates, impersonation, and tampering with examination processes or documents. By directly addressing these issues, the Act seeks to fundamentally enhance the integrity, transparency, and overall credibility of the public examination system, restoring faith in its fairness.

Flowing from the primary goal of prevention, a key objective is to establish a strong deterrent against potential offenders. The Act aims to discourage individuals, organized groups, and crucially, the service providers involved in conducting examinations, from engaging in or facilitating any form of malpractice. This is achieved through the imposition of stringent penalties, including significant imprisonment terms and substantial fines. Concurrently, by curbing such illicit activities, the Act strives to protect the interests and futures of genuine, meritorious candidates, ensuring their hard work and preparation are the determining factors for success.

Finally, the legislation aims to create a specific and comprehensive legal framework at the central level dedicated solely to addressing offences related to public examinations. Prior to this Act, such issues were handled through a fragmented combination of general criminal laws, administrative rules of examination bodies, and disparate state-level laws. Therefore, a significant objective of the 2024 Act is to consolidate the legal approach, providing clear

definitions of offences and uniform procedures for prosecution, thereby addressing the inadequacies of the previous system and establishing a robust mechanism to uphold the sanctity of public examinations nationwide.

IV. Key Provisions of The Act

The Act aims to establish a dedicated legal framework to prevent, deter, and punish the use of unfair means in public examinations conducted by authorities specified in the Schedule (such as the UPSC, SSC, Railway Recruitment Boards, NTA, etc.) or any other authority notified by the Central Government. Chapter I provides preliminary details, including the short title and commencement clause (Section 1), and crucial definitions (Section 2). Key definitions include "candidate," "public examination authority," "service provider," "unfair means," and notably, "organised crime," defined as unlawful activity by persons colluding for wrongful gain in respect of a public examination.

Chapter II delineates the scope of "unfair means" (Section 3), providing an extensive, though not exhaustive, list of prohibited acts. These range from leakage of question papers and answer keys, unauthorized possession or access to examination materials, tampering with documents and computer systems, manipulating seating arrangements, to threatening personnel involved in the examination process, and even creating fake websites or conducting fake examinations for monetary gain. The Act specifically criminalizes conspiracy to facilitate unfair means (Section 4) and actions intended to disrupt the conduct of examinations (Section 5). It imposes obligations on service providers to report offences (Section 6) and prohibits the unauthorized use of premises other than designated examination centres (Section 7). Section 8 addresses offences by service providers and associated persons, including failure to report incidents and establishes vicarious liability for senior management under certain conditions (consent or connivance).

Chapter III details the punishments. Significantly, all offences under the Act are cognizable, non-bailable, and non-compoundable (Section 9). For individuals resorting to unfair means, the punishment includes imprisonment of three to five years and a fine up to ten lakh rupees (Section 10(1)). Service providers face fines up to one crore rupees, recovery of examination costs, and a four-year ban from conducting public examinations (Section 10(2)). Directors or senior management of culpable service providers face imprisonment of three to ten years and

a fine of one crore rupees (Section 10(3)). Section 11 addresses "organised crime," prescribing stricter punishment: imprisonment of five to ten years and a minimum fine of one crore rupees. For institutions involved in organised crime, attachment and forfeiture of property, along with recovery of examination costs, are mandated (Section 11(2)). The Act references the Bharatiya Nyaya Sanhita, 2023 for additional punishment in default of fine payment, with a proviso for the Indian Penal Code, 1860 to apply until the former comes into force.

Chapter IV outlines the inquiry and investigation procedures. Investigations are to be conducted by officers not below the rank of Deputy Superintendent of Police or Assistant Commissioner of Police (Section 12(1)), with the Central Government retaining the power to refer investigations to a Central Investigating Agency (Section 12(2)). Chapter V contains miscellaneous provisions, deeming officials of the examination authority as public servants (Section 13), providing protection for actions taken in good faith (Section 14), and clarifying that the Act's provisions are in addition to, not in derogation of, other laws, while also having overriding effect in case of inconsistency (Section 15). It empowers the Central Government to make rules (Section 16) and remove difficulties (Section 18). Chapter VI amends the Criminal Law (Amendment) Ordinance, 1944, to include offences under this Act within its schedule, facilitating property attachment related to the proceeds of crime.

The Act was enacted to address the use of unfair means in public examinations and related matters. Its primary objective is to ensure transparency, fairness, and credibility in public examination systems across India by defining and penalizing various offences associated with cheating and malpractice. The Act applies to examinations conducted by major central bodies like the Union Public Service Commission (UPSC), Staff Selection Commission (SSC), Railway Recruitment Boards (RRBs), Institute of Banking Personnel Selection¹ (IBPS), the National Testing Agency (NTA), and other authorities notified by the Central Government.

The Act provides a comprehensive definition of "unfair means".⁹ This includes, but is not limited to, leaking or attempting to leak question papers or answer keys, unauthorized possession of question papers or OMR sheets, providing unauthorized assistance to candidates during exams, tampering with answer sheets or assessment processes, tampering with documents related to candidate selection or merit lists, and tampering with computer networks or systems used for examinations. It also covers manipulation of seating arrangements, threatening or obstructing examination personnel, and creating fake websites or conducting fake examinations for monetary gain.

Stringent punishments are prescribed for individuals and entities engaging in unfair means.¹⁰ Any person resorting to unfair practices faces imprisonment for a term of three to five years and a fine of up to ten lakh rupees. Service providers involved in such activities can be fined up to one crore rupees, may have to bear the proportionate cost of the examination, and can be barred from conducting public examinations for four years. If senior management or directors of a service provider firm are found to be involved with consent or connivance, they face imprisonment for three to ten years and a fine of one crore rupees.

⁹ Section 3 of the Act, . Unfair means.—The unfair means relating to the conduct of a public examination shall include any act or omission done or caused to be done by any person or group of persons or institutions, and include but not be restricted to, any of the following acts for monetary or wrongful gain—

- (i) leakage of question paper or answer key or part thereof;
- (ii) participating in collusion with others to effect leakage of question paper or answer key;
- (iii) accessing or taking possession of question paper or an Optical Mark Recognition response sheet without authority;
- (iv) providing solution to one or more questions by any unauthorised person during a public examination;
- (v) directly or indirectly assisting the candidate in any manner unauthorisedly in the public examination;
- (vi) tampering with answer sheets including Optical Mark Recognition response sheets;
- (vii) altering the assessment except to correct a bona fide error without any authority;
- (viii) willful violation of norms or standards set up by the Central Government for conduct of a public examination on its own or through its agency;
- (ix) tampering with any document necessary for short-listing of candidates or finalising the merit or rank of a candidate in a public examination;
- (x) deliberate violation of security measures to facilitate unfair means in conduct of a public examination;
- (xi) tampering with the computer network or a computer resource or a computer system;
- (xii) manipulation in seating arrangements, allocation of dates and shifts for the candidates to facilitate adopting unfair means in examinations;
- (xiii) threatening the life, liberty or wrongfully restraining persons associated with the public examination authority or the service provider or any authorised agency of the Government; or obstructing the conduct of a public examination;
- (xiv) creation of fake website to cheat or for monetary gain; and
- (xv) conduct of fake examination, issuance of fake admit cards or offer letters to cheat or for monetary gain.

¹⁰ Chapter III, supra note 5

The Act specifically addresses "organised crime" related to public examinations, defined as unlawful activity by a person or group acting in collusion for wrongful gain.¹¹ Committing an organised crime under this Act attracts a harsher punishment: imprisonment for a term of five to ten years and a minimum fine of one crore rupees. If an institution is involved in organised crime, its property is liable for attachment and forfeiture, and it must bear the proportionate cost of the examination. All offences under this Act are classified as cognizable, non-bailable, and non-compoundable, empowering law enforcement to take swift action. Investigations into these offences are to be conducted by officers not below the rank of Deputy Superintendent of Police or Assistant Commissioner of Police,² although the Central Government can refer cases to a Central Investigating Agency.

V. Defining “Unfair Means” : A Critical Analysis

The Act represents a significant legislative effort to address malpractice in crucial public examinations within India. A cornerstone of this Act is its definition of “unfair means,” detailed in Section 3. This definition aims for comprehensive coverage but invites critical examination regarding its scope, the required intent, and potential ambiguities in its application. Section 3 broadly defines unfair means as “any act or omission done or caused to be done by any person or group of persons or institutions,” explicitly stating that the subsequent list of fifteen specific acts is illustrative, not exhaustive (“include but not be restricted to”). While this open-ended approach provides flexibility to tackle new forms of cheating, it may also introduce vagueness, potentially leading to inconsistent application or overly broad interpretations by authorities.

A key element of the definition is the stipulation that these acts must be committed for “monetary or wrongful gain”. This *mens rea* requirement focuses the Act on malpractice driven by financial motives or other clear illicit advantages, effectively targeting commercial cheating operations and corruption. However, it raises questions about the applicability to acts where such gain is absent or difficult to prove, such as assisting a friend out of misplaced loyalty without expectation of reward. The interpretation of “wrongful gain” will therefore be pivotal in determining the Act’s reach in scenarios lacking direct financial incentive but still compromising examination integrity.

¹¹ *Id*

The Act enumerates fifteen specific offences that constitute unfair means, covering a wide spectrum from traditional cheating methods to technology-facilitated malpractices. These include the leakage or unauthorized possession of question papers and answer keys, providing unauthorised assistance during exams, tampering with answer sheets or assessment processes, and willful violation of established examination norms or security measures. The definition also extends to manipulating seating arrangements or exam schedules, tampering with computer systems, threatening examination personnel, and engaging in deceptive practices like creating fake websites or conducting fake examinations for monetary gain. While the list is extensive, terms like “unauthorisedly” assisting, “tampering”, “willful violation”, and “deliberate violation” lack precise statutory definition, potentially creating challenges in proving the necessary intent during legal proceedings. Clarity on how examination “norms or standards” are established and communicated will also be essential for consistent enforcement.

Furthermore, the Act commendably incorporates offences related to modern technology, such as tampering with computer networks and creating fake websites. Nonetheless, the rapid pace of technological advancement, particularly in areas like artificial intelligence and sophisticated communication tools, may necessitate ongoing review and potential amendments or dynamic rule-making under Section 16 to ensure the definition remains effective against unforeseen future threats.

In conclusion, Section 3 of the Act establishes a broad definition of “unfair means,” centered on acts committed for monetary or wrongful gain. Its inclusive, non-exhaustive list provides adaptability but also introduces potential ambiguities that require careful judicial interpretation. The specific inclusion of technology-related offences is a positive step. The ultimate effectiveness of this definition in curbing examination malpractice will hinge on how courts interpret key terms related to intent and authorisation, and on the clear articulation and dissemination of examination norms. While the Act marks important progress, its practical impact will be shaped significantly by its implementation and enforcement in real-world scenarios.

VI. Offences under The Act

The Act represents a significant legislative effort to combat the pervasive issue of malpractice in public examinations, aiming to preserve meritocracy and the integrity of selection processes. Chapter II, delineating various forms of unfair means and related offences, forms the cornerstone of this legislation. However, a critical analysis reveals both strengths and potential challenges in the scope, definition, and application of these provisions.

Section 3 provides an expansive, though explicitly non-exhaustive, definition of "unfair means." It commendably covers a wide spectrum of activities, ranging from the leakage of question papers and answer keys (S. 3(i), (ii)) to tampering with documents and computer systems (S. 3(vi), (ix), (xi)), manipulating seating arrangements (S. 3(xii)), and even creating fake websites or conducting fake examinations (S. 3(xiv), (xv)). The inclusion of acts like providing unauthorised solutions during exams (S. 3(iv)), assisting candidates (S. 3(v)), and threatening personnel (S. 3(xiii)) demonstrates an intent to capture various facets of examination fraud. Crucially, the definition hinges on these acts being committed for "monetary or wrongful gain." While this targets the commercialisation of exam fraud, it potentially narrows the scope. Acts of sabotage, mischief, or unfair means driven by motives other than direct gain might fall outside this definition, necessitating reliance on other penal laws and potentially complicating prosecution under this specific Act. The breadth of terms like "tampering," "deliberate violation," and "unauthorisedly" may also require judicial interpretation to prevent ambiguity and ensure consistent application.

The Act specifically criminalises conspiracy (Section 4) and actions intended to disrupt examinations (Section 5).¹² Section 5 distinguishes between unauthorised entry by outsiders with disruptive intent (S. 5(1)) and breaches by authorised personnel involving premature

¹² Section 4. Conspiracy for unfair means.—No person or group of persons or institutions shall collude or conspire to facilitate indulgence in any such unfair means.

Section 5. Disruption to conduct public examination.—(1) No person, who is not entrusted or engaged with the work pertaining to the public examination or conduct of public examination or who is not a candidate, shall enter the premises of the examination centre, with intent to disrupt the conduct of the public examination.

(2) No person authorised, engaged or entrusted with the duties to conduct public examination shall, before the time fixed for opening and distribution of question papers—

(a) open, leak or possess or access or solve or seek assistance to solve such question paper or any portion or a copy thereof in unauthorised manner for monetary or wrongful gain;

(b) give any confidential information or promise to give such confidential information to any person, where such confidential information is related to or in reference to such question paper for monetary or wrongful gain.

(3) No person, who is entrusted or engaged with any work pertaining to public examination shall, except where he is authorised in furtherance of his duties so to do, reveal or cause to be revealed or make known to any other person any information or part thereof which has come to his knowledge for any undue advantage or wrongful gain.

access, leakage, or disclosure of confidential information (S. 5(2), (3)). Again, the qualifier "for monetary or wrongful gain" (S. 5(2)) or "for any undue advantage or wrongful gain" (S. 5(3)) applies to breaches by insiders. This raises the question of whether insiders leaking information for reasons unrelated to personal gain (e.g., whistleblowing perceived irregularities, albeit through improper channels) could escape the specific offence under this section, although other service rules or laws might apply. The focus remains squarely on gain-motivated breaches.

Recognising the crucial role of external agencies, the Act introduces specific offences related to service providers and associated persons (Sections 7 and 8).¹³ Holding service providers liable for using unauthorised premises (Section 7) addresses a known *modus operandi* in organised cheating. Section 8 imposes liability on service providers and their associates for assisting in unfair means (S. 8(1)) and, significantly, for *failing to report* known incidents (S. 8(2)). This positive obligation to report is a welcome step towards ensuring accountability. Furthermore, Section 8(3) incorporates the principle of vicarious liability for senior management if an offence occurs with their consent or connivance, though it provides a standard "due diligence" defence. The effectiveness of this defence in practice will be critical; establishing lack of knowledge or connivance might be challenging for prosecution, while proving due diligence could be a hurdle for the accused management personnel.

¹³ Section 7. No premises other than examination centre shall be used for public examination.—It shall be an offence for the service provider or any person associated with the service provider to cause any premises, other than the examination centre, authorised by the public examination authority, to be alternatively used for the purpose of holding public examination, without the written approval of the public examination authority:

Provided that nothing contained in this section shall be an offence where any change in the examination centre without prior consent of the public examination authority is due to any force majeure.

Section 8. Offences in respect of service providers and other persons.—(1) Any person, including the person associated with a service provider, shall be deemed to have committed an offence if he individually or in collusion with any other person or group of persons or institutions assists any person or group of persons or institutions in any manner unauthorisedly in the conduct of public examination.

(2) Service provider or any person associated with it shall be deemed to have committed an offence if he fails to report incidence of any unfair means or commission of any offence.

(3) Where an offence committed by a service provider is, *prima facie*, established during investigation to have been committed with the consent or connivance of any director, manager, secretary or other officer of such service provider, such person shall also be liable to be proceeded against:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment under the Act, if he proves, that the offence was committed without his knowledge and that he exercised all due diligence to prevent the commission of such offence.

Perhaps the most potent provision is Section 11, dealing with "organised crime," defined in Section 2(h) as unlawful activity by a person or group involving unfair means, committed in collusion and conspiracy for wrongful gain. This section carries substantially higher penalties, including mandatory minimum imprisonment (5 years extendable to 10) and a minimum fine of one crore rupees, alongside provisions for property attachment of involved institutions (S. 11(2)). While this targets the ringleaders and large-scale operations effectively, the distinction between individual acts of unfair means (Section 3) and organised crime (Section 11) rests on proving the elements of "collusion and conspiracy" for a "shared interest." This evidentiary burden could be significant in investigations, requiring proof beyond individual culpability to establish a coordinated criminal enterprise specifically focused on examination fraud for gain.

In conclusion, the Act's framework for offences is comprehensive in its attempt to cover various methods of examination malpractice, particularly those involving organised elements and service providers. The emphasis on "monetary or wrongful gain" provides a clear focus but may inadvertently exclude certain types of misconduct. The success of the Act will depend not only on the stringent penalties prescribed in Chapter III but also on the ability of investigative agencies (under Section 12) to effectively gather evidence to meet the specific requirements of each offence, particularly concerning intent (*mens rea*) and the elements of conspiracy and organised crime. The positive duty imposed on service providers to report offences is a notable strength, but its enforcement and the application of vicarious liability provisions will require careful monitoring.

VII. Punishments and Penalties under The Act

The Act introduces a stringent punitive framework, primarily detailed in Chapter III, aimed at safeguarding the integrity of public examinations in I. A foundational aspect of this framework is the classification of all offences under the Act as cognizable, non-bailable, and non-compoundable.¹⁴ This serious classification allows police to arrest suspects without a warrant and restricts the automatic right to bail, signalling the gravity of examination malpractice, though the non-bailable provision necessitates careful judicial consideration regarding pre-trial detention. Furthermore, making offences non-compoundable ensures they are pursued through the criminal justice system rather than being settled privately.

¹⁴ *supra* note 10

The Act prescribes significant penalties for individuals found engaging in unfair means, such as leaking papers, tampering with documents, or unauthorised assistance during exams. Such persons face imprisonment for a term between three and five years, along with a substantial fine of up to ten lakh rupees. The legislation also holds service providers—entities responsible for conducting examinations—highly accountable. If a service provider is found complicit in unfair means, it faces a fine of up to one crore rupees, recovery of the proportionate examination costs, and a four-year debarment from conducting future public examinations. Crucially, senior management personnel like directors or managers who consented to or connived in the offence face personal criminal liability, including imprisonment for three to ten years and a fine of one crore rupees. However, the Act incorporates a fairness element by allowing such personnel to avoid punishment if they can prove the offence occurred without their knowledge and that they exercised due diligence.

A distinctive feature of the Act is its strong emphasis on combating "organised crime" related to public examinations, defined as collusive and conspiratorial unlawful activities involving unfair means for wrongful gain. The penalties for organised crime are particularly severe, mandating imprisonment for a term of five to ten years and a minimum fine of one crore rupees. When institutions are implicated in such organised crime, the Act provides for the attachment and forfeiture of their property, in addition to the recovery of proportionate examination costs. This focus reflects a strategic move to dismantle the systemic networks often behind large-scale examination malpractice, targeting not just individuals but the financial and organisational structures supporting them.

In critically evaluating this punitive framework, it's clear the Act prioritises deterrence through harsh minimum sentences and significant fines. While this may effectively discourage potential offenders, the proportionality of these high minimum penalties, especially the ₹1 crore fines and mandatory imprisonment terms, warrants careful consideration during sentencing. The legislation notably shifts focus towards penalising organised syndicates and complicit service providers, imposing heavier consequences on them compared to individual candidates, although candidates using unfair means remain punishable. The successful implementation of these penalties, however, will heavily depend on effective and thorough investigation, mandated to be conducted by senior police officers (DSP/ACP rank or above) or central agencies, and the judicious application of the law by the courts, balancing deterrence with fairness and proportionality.

VIII. Potential Impact of the Act on Stakeholders

The enactment of the Act represents a significant legislative step towards safeguarding the integrity of public examinations in India. Its provisions introduce stringent measures and penalties aimed at curbing systemic corruption and unfair practices. The potential impact of this Act is multidimensional, affecting various stakeholders involved in the examination ecosystem.

IX. Impact on Students

For the vast majority of genuine candidates, the Act aims to foster a fairer and more level playing field. By deterring large-scale cheating operations, question paper leaks (Section 3(i), 3(ii)), and manipulation of results (Section 3(ix), 3(xi)), the Act seeks to ensure that merit prevails. This can enhance the credibility of examination results and restore faith in the selection process.¹⁵ However, students might also experience heightened scrutiny and potentially increased anxiety due to the stricter environment and the gravity of the offenses defined. While the Act primarily targets organized syndicates and facilitators rather than individual malpractice by candidates (which may still be governed by examination board regulations), any student colluding or participating in activities defined as 'unfair means' for monetary or wrongful gain (Section 3) could potentially fall within the Act's purview, facing severe consequences if prosecuted under its provisions (Section 10(1)). The definition of 'candidate' includes scribes (Section 2(a)), extending the Act's applicability.

X. Impact on Teachers and Examination Personnel

Teachers, invigilators, and other personnel involved in conducting examinations, whether directly employed by the examination authority or engaged otherwise, fall under the Act's ambit. They are granted the status of 'public servants' while performing duties under the Act (Section 13), offering them protection for actions taken in good faith (Section 14). Conversely, this status also implies a higher degree of responsibility. Any involvement in facilitating unfair means, such as leaking question papers (Section 5(2)(a)), assisting candidates unauthorisedly (Section 3(v)), tampering with answer sheets (Section 3(vi)), or violating security measures (Section 3(x)), can attract severe penalties, including

¹⁵ Kellaghan, T. and Greaney, V., 2019. Public examinations examined. World Bank Publications.

imprisonment and fines (Section 10, Section 11). The Act serves as a strong deterrent against complicity by examination personnel in corrupt practices.

XI. Impact on Public Examination Authorities

The Act empowers public examination authorities (as listed in the Schedule and others notified by the Central Government) by providing a robust legal framework to combat unfair means.¹⁶ It clearly defines offenses (Section 3) and establishes mechanisms for investigation by senior police officers or central agencies (Section 12). Authorities like UPSC, SSC, NTA, etc., can leverage the Act to pursue criminal action against organized cheating mafias and colluding entities. However, the Act also places significant accountability on the authorities themselves. If an examination authority as an institution is found involved in organized crime related to examinations, it faces severe consequences, including potential forfeiture of property and recovery of examination costs (Section 11(2)). Furthermore, personnel within these authorities are subject to prosecution if found complicit (Section 11(1), Section 14 proviso).

XII. Impact on Service Providers

Service providers – entities engaged by examination authorities for conducting examinations, including technology partners, logistics providers, and examination centres (Section 2(n)) – face stringent regulations and significant liabilities under the Act. They are mandated to report any observed unfair means or offenses (Section 6). Failure to report is itself an offense (Section 8(2)). If a service provider, or its senior management (directors, managers), is found to be involved in or conniving in unfair means, they face substantial fines (up to ₹1 crore), recovery of examination costs, potential debarment from conducting public examinations for four years, and imprisonment for key personnel (Section 10(2), 10(3)). Using unauthorized

¹⁶ How India can dismantle the paper-leak industry (2024) India Today. Available at: <https://www.indiatoday.in/india/story/how-india-can-dismantle-paper-leak-industry-anti-cheating-law-provisions-merits-experts-ugc-net-neet-nta-2556314-2024-06-22> (Accessed: 20 April 2025).

premises for examinations is also penalized (Section 7). These provisions significantly increase the compliance burden and operational risk for service providers, compelling them to implement robust security measures and internal controls to ensure the integrity of the examination process they manage.

XIII. Judicial Approach to Public Examination (Prevention of Unfair Means)

The integrity of public examinations is paramount for ensuring meritocracy and public trust in selection processes. While legislative frameworks, culminating in the Act, aim to curb malpractices, the Indian judiciary has long been engaged in addressing the complexities surrounding unfair means in examinations. Judicial decisions over the years have established crucial principles balancing the need to maintain examination sanctity with the rights of the accused candidates.

A fundamental principle underscored by the courts is the application of natural justice. Examination bodies, when dealing with allegations of unfair means, are generally considered to be acting in a quasi-judicial capacity. This necessitates providing the accused candidate with a reasonable opportunity to present their case and rebut the allegations, although the strict rules of evidence applicable in criminal trials may not always apply in these inquiries. Courts have examined what constitutes “unfair means,” often including the mere possession of unauthorized material during examination hours, irrespective of actual use. Cases like *Nidhi Kaim vs State Of M P*¹⁷ explored the evidence required to establish the adoption of unfair means, such as identical answers among multiple candidates.

The judiciary has consistently viewed the use of unfair means as a serious offense, detrimental not only to the education system but also to nation-building, emphasizing that those resorting to such practices deserve significant consequences. However, courts also scrutinize the proportionality of the punishment imposed. In *Yogesh Parihar v Delhi Technological University*¹⁸, the Supreme Court, while upholding the finding of guilt, reduced

¹⁷ (2017) 4 SCC 1, 2017 INSC 131 (India).

¹⁸ Abhimanyu Hazarika, Supreme Court reduces punishment of DTU student found guilty of using unfair means in examination, (June 6, 2023),

the penalty, deeming the initial punishment disproportionate to the offense committed. This highlights a judicial trend towards ensuring penalties align with the specific nature and severity of the malpractice.

Cases involving large-scale or mass cheating present unique challenges. While individual hearings might be impractical, courts have examined the threshold of evidence required and the applicability of natural justice principles in such scenarios. The Supreme Court has indicated that if tainted candidates can be segregated from untainted ones, cancelling the entire examination might not be justified, as it would unduly penalize honest candidates. The focus remains on a proportionate response that addresses the malpractice without causing disproportionate harm.

The enactment of The Act, effective from June 21, 2024, represents a significant legislative step to create a dedicated legal framework against unfair means in examinations conducted by central agencies. This Act defines various offenses, including leakage, collusion, tampering, and conducting fake exams, and prescribes stringent penalties, including imprisonment and substantial fines, for individuals, service providers, and as part of organized crime. It designates offenses as cognizable, non-bailable, and non-compoundable. While this Act provides a comprehensive legislative structure, its specific interpretation and application by the judiciary will evolve as cases arise under its provisions.

In conclusion, the judicial approach towards unfair means in public examinations in India reflects a consistent effort to uphold examination integrity. Courts have emphasized procedural fairness for accused individuals through the principles of natural justice, while simultaneously recognizing the gravity of malpractices. The judiciary carefully considers the evidence, the nature of the offense, and the proportionality of penalties, striving to protect the credibility of the examination system and the future of deserving candidates. The new 2024 Act provides a stronger statutory basis for tackling this issue, and its interplay with established judicial principles will shape the future legal landscape in this domain.

XIV. The Public Examinations (Prevention of Unfair Means) Act, 2024: Key Changes and Effectiveness

<https://www.barandbench.com/news/litigation/supreme-court-reduces-punishment-dtu-student-examination-cheating>.

The enactment of The Act marks a significant legislative intervention aimed at preserving the integrity of public examinations in India. Confronted with recurring instances of question paper leaks, cheating rackets, and other malpractices undermining meritocracy, the Act introduces a dedicated legal framework specifically targeting unfair means in examinations conducted by major public bodies like the UPSC, SSC, Railway Recruitment Boards, IBPS, NTA, and various central government departments, as listed in its Schedule. It establishes a comprehensive definition of "unfair means," encompassing a wide array of activities ranging from question paper leakage, unauthorized possession or solving of papers, tampering with answer sheets or evaluation processes, manipulating seating arrangements, to creating fake websites and conducting fraudulent examinations (Section 3).

A pivotal change introduced by the Act is the criminalization of these unfair practices¹⁹ with stringent punitive measures. Section 10(1) prescribes a minimum imprisonment term of three years, extendable to five years, coupled with a fine up to ten lakh rupees for any individual resorting to unfair means. Significantly, the Act extends liability beyond individual candidates or perpetrators to encompass service providers engaged for conducting examinations. Service providers face substantial fines up to one crore rupees, potential recovery of examination costs, and debarment from conducting public examinations for four years (Section 10(2)). Furthermore, if unfair means are committed with the consent or connivance of senior management within a service provider firm, such individuals face enhanced penalties, including imprisonment ranging from three to ten years and a fine of one crore rupees (Section 10(3)). The Act also introduces the concept of "organised crime" (Section 2(h)) in this context, defined as unlawful activity by colluding individuals or groups for wrongful gain, attracting even harsher penalties: imprisonment from five to ten years and a minimum fine of one crore rupees, along with provisions for attachment and forfeiture of property if an institution is involved (Section 11).

The effectiveness of the Act hinges on several factors. Its strength lies in creating a strong deterrent effect through severe penalties and specifically addressing organised syndicates and complicit service providers, often perceived as major facilitators of large-scale malpractices.²⁰ By designating all offences under the Act as cognizable, non-bailable, and

¹⁹ Mitra, N.L., 1988. Criminalisation of copying in examinations. *Student Advoc.*, 1, p.41.

²⁰ Priyanshu Bharadwaj, An In-Depth Analysis Of Public Examinations (Prevention Of Unfair Means) Act, 2024, (July 15, 2024), <https://www.livelaw.in/lawschool/articles/in-depth-analysis-public-examinations-prevention-unfair-means-act-263436>.

non-compoundable (Section 9), it underscores the seriousness with which these transgressions are viewed and aims to expedite the initial stages of the criminal justice process. Mandating investigation by senior police officers (Deputy Superintendent of Police/Assistant Commissioner of Police or above) or central agencies (Section 12) potentially ensures a higher standard of investigation. However, the Act's success will depend critically on rigorous enforcement and the ability of investigative agencies to effectively gather evidence, particularly concerning collusion and connivance within service provider organizations or identifying the masterminds behind organised crime syndicates. Proving offences committed "without knowledge" despite exercising "all due diligence" (Section 10(4)) might present interpretational challenges in court. While the Act provides a robust framework, its ultimate effectiveness in restoring and maintaining the sanctity of public examinations will be determined by its consistent and impartial implementation on the ground.

XV. The Public Examinations (Prevention of Unfair Means) Act, 2024: A Holistic Perspective

Expert analyses and media reports generally acknowledge the Public Examinations (Prevention of Unfair Means) Act, 2024, as a critical and necessary legislative intervention. Its enactment is widely seen as a response to the escalating crisis of paper leaks and organised cheating that has undermined the credibility of public examinations and jeopardised the prospects of countless students.²¹ Experts commend the Act's comprehensive approach, particularly its broad definition of "unfair means" encompassing modern digital malpractices and its specific targeting of organised crime syndicates. The stringent penalties for individuals, service providers, and organised groups are highlighted as potentially strong deterrents, aimed at restoring public confidence in the fairness and integrity of the examination system. Furthermore, the emphasis on accountability for service providers involved in conducting exams is viewed as a significant step towards ensuring end-to-end process integrity.

²¹ Vajiram & Ravi, Understanding the Public Examinations (Prevention Of Unfair Means) Act 2024: A Comprehensive Overview, (Feb. 6, 2024), <https://vajiramandravi.com/upsc-daily-current-affairs/mains-articles/public-examinations-prevention-of-unfair-means-bill-2024/>.

However, expert commentary and media analysis also voice significant concerns and critiques regarding the Act's framework and potential implementation challenges. A major point of discussion revolves around the stringent, mandatory minimum punishments, which some argue might be disproportionate for minor infractions and could lead to unjust outcomes, particularly for individuals from disadvantaged backgrounds unable to pay hefty fines. Concerns about the potential for misuse of the broad investigative powers granted to authorities and the risk of corruption have also been flagged, emphasizing the need for robust oversight mechanisms. Ambiguity in defining certain offences, such as the unauthorised possession of electronic devices, is seen as problematic, potentially leading to inconsistent enforcement across different centres.

Experts have particularly focused on perceived gaps in the legislation. The Act's provisions related to cybercrime are considered insufficient by some, arguing it doesn't adequately address sophisticated methods like hacking or the use of the dark web for leaking papers, nor does it mandate specific cybersecurity protocols or specialised training for investigators and the judiciary to handle such techno-legal complexities. The lack of explicit whistleblower protection is another frequently cited weakness, potentially hindering the reporting of malpractices. Moreover, critics argue that the Act's strong focus on punitive measures overlooks the importance of preventive strategies, such as ethics education in schools and addressing the socio-economic pressures or systemic issues that might contribute to cheating. The timing of the Act's enforcement, following major scandals rather than proactively preventing them, has also drawn media attention and questions.²² Finally, the challenge of ensuring uniform and equitable implementation across India, given the digital divide and varying resources, remains a practical concern highlighted in analyses.

XVI. Critical Analysis of The Public Examinations (Prevention of Unfair Means) Act, 2024

The enactment of The Act, signals a robust legislative intent to preserve the integrity of public examinations in India. It aims to achieve this by comprehensively defining "unfair means" and establishing stringent punitive measures against various stakeholders, including candidates, institutions, and service providers. The Act's laudable objective is to combat practices like question paper leaks, unauthorized assistance, tampering with documents, and

²² <https://www.impriindia.com/insights/public-examinations-unfair-means-act/>.

the operation of fake examination setups, which undermine meritocracy and public trust.²³ The severity of the approach is underscored by making all offences cognizable, non-bailable, and non-compoundable, coupled with significant penalties involving imprisonment ranging from three to ten years and substantial fines potentially reaching one crore rupees, particularly for organized crime or offences involving service providers. Furthermore, provisions allow for the attachment and forfeiture of property belonging to institutions involved in organized crime.

Despite its clear objective to curb cheating, the Act raises significant concerns regarding its potential for misuse and the risk of disproportionate impact on certain student groups. The definitions of "unfair means" are expansive and, in some cases, potentially vague. For instance, clauses prohibiting "willful violation of norms or standards set up by the Central Government" or "obstructing the conduct of a public examination" could be open to broad interpretation, potentially encompassing actions beyond deliberate cheating, such as legitimate protest or administrative errors. This ambiguity creates a risk of the Act being wielded excessively or selectively, stifling dissent or penalizing minor, unintentional infractions with the same severity intended for large-scale, organized cheating rackets.²⁴ The power vested in officials (Deputy Superintendent of Police rank or higher, with potential referral to Central Agencies) for investigation, while necessary for tackling complex cases, also necessitates robust oversight mechanisms to prevent misuse of authority.

Furthermore, the stringent penalty framework warrants scrutiny for its potential disproportionate impact.²⁵ The imposition of hefty fines (up to ten lakh rupees for individuals and one crore rupees in certain contexts) and mandatory minimum prison sentences may disproportionately affect individuals from lower socio-economic backgrounds, who may lack the financial capacity to pay fines or access adequate legal representation. While the Act targets organized crime and collusion, its application to individual candidates, potentially including those acting without large-scale malicious intent or under duress, could lead to

²³ The Hindu Bureau, Anti-paper leak law: Act that punishes organised cheating in government exams comes into effect, *The Hindu* (June 21, 2024), <https://www.thehindu.com/news/national/act-that-punishes-organised-cheating-in-government-exams-comes-into-effect/article68318128.ece>.

²⁴ Sayed Kirdar Husain, Shielding Tomorrow: Can the 2024 Public Examinations Act Secure Our Youth's Future?, *NLIU Law Review* (July 15, 2024), <https://nliulawreview.nliu.ac.in/blog/shielding-tomorrow-can-the-2024-public-examinations-act-secure-our-youths-future/>.

²⁵ Saksham Agrawal, Damage Control Or Reform? Decoding The Public Examinations Act, 2024, *THE CONTEMPORARY LAW FORUM* (Aug. 1, 2024), <https://tclf.in/2024/08/01/damage-control-or-reform-decoding-the-public-examinations-act-2024/>.

devastating consequences that far outweigh the specific infraction. Concerns also arise regarding the blanket application of these severe penalties without sufficient consideration for mitigating circumstances or the specific context of the alleged unfair means. While the Act provides a defense if an offence was committed without knowledge and with due diligence, particularly for service provider management, the burden of proof lies on the accused, which can be challenging, especially for vulnerable individuals.²⁶ Therefore, while the Act's intent to ensure fairness in examinations is crucial, its implementation requires careful monitoring and potentially further clarification or guidelines to mitigate the risks of misuse and ensure its application does not unduly penalize already disadvantaged groups.

XVII. Concluding Recommendations: Enhancing Fairness and Transparency in Public Examinations

The enactment of The Act, represents a significant legislative step towards safeguarding the integrity of public examinations in India. However, like any legislation, its ultimate success hinges not only on its provisions but also on its effective and equitable implementation.²⁷ To further strengthen the Act and ensure it fully achieves its stated goals of fairness and transparency, several key areas warrant consideration for future refinement and robust execution.²⁸ These recommendations aim to build upon the existing framework, addressing potential ambiguities and bolstering enforcement mechanisms.

Firstly, enhancing definitional clarity and scope is paramount. While Section 3 enumerates various actions constituting "unfair means," the dynamic nature of malpractice necessitates ongoing review and potential expansion of these definitions through delegated legislation or clear guidelines. Furthermore, the mechanism for notifying authorities under Section 2(k) and (l) could benefit from greater transparency, outlining specific criteria for inclusion in the Schedule to ensure consistency and predictability. Establishing clear, objective standards for

²⁶ Vaishna Roy, New Public Examinations Act Aims to Prevent Cheating, But Delayed Rules Hinder Enforcement Amid NEET-UG and UGC-NET Paper Leaks, Frontline (June 24, 2024), <https://frontline.thehindu.com/columns/public-examinations-act-2024-cheating-neet-ug-ugc-net-paper-leaks/article68326782.ece>.

²⁷

<https://www.hindustantimes.com/analysis/explained-public-examinations-prevention-of-unfair-means-act-101719225290664.html>.

²⁸ Government notifies Public Examinations (Prevention of Unfair Means) Act, 2024, (June 22, 2024), <https://www.sconline.com/blog/post/2024/06/22/government-notifies-public-examinations-prevention-of-unfair-means-act-2024/>.

designating examinations and authorities covered by the Act would prevent potential arbitrariness and enhance public trust in its application, ensuring that the protective umbrella of the Act extends appropriately without overreach.

Secondly, the implementation framework requires dedicated capacity building and procedural safeguards. While Section 12 empowers senior police officers and central agencies to investigate, the specialized nature of examination-related offences, often involving complex digital trails and organized networks, calls for specialized training programs for investigating officers. Consideration should be given to establishing dedicated units or task forces equipped with forensic and technical expertise to handle these cases efficiently. Moreover, implementing robust whistleblower protection mechanisms could encourage individuals with knowledge of unfair practices to come forward, complementing formal investigation processes and adding a crucial layer to prevention and detection efforts, thereby reinforcing the Act's commitment to transparency.

Finally, strengthening accountability for all stakeholders, particularly service providers, and enhancing proactive transparency measures are crucial. The Act imposes significant penalties on service providers (Section 10), but proactive measures, such as mandating stringent security audits, standardized contractual clauses regarding data security and integrity protocols, and rigorous pre-engagement due diligence, could prevent breaches more effectively. Beyond punitive measures, fostering transparency requires proactive disclosure. Regular, anonymized reporting on the Act's enforcement—including the number of cases investigated, outcomes, and actions taken against institutions or service providers—would not only demonstrate the Act's efficacy but also serve as a deterrent, ultimately reinforcing the overarching goals of fairness and transparency in the vital sphere of public examinations.