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The Right to a Fair Examination: Paper Leaks, Due Process and Constitutional Accountability

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Recurring paper leaks in recruitment and entrance examinations have turned a problem of administration into a problem of constitutional law. This paper argues that a fair examination is not merely a matter of good governance but an enforceable incident of Articles 14, 16, 19(1)(g) and 21 of the Constitution of India. It examines how courts have balanced deference to examining bodies against the demands of due process, evaluates the remedy of cancellation against the innocence of honest candidates, and assesses the Public Examinations (Prevention of Unfair Means) Act, 2024 as a legislative response. It concludes that criminalisation alone cannot secure fairness, and that accountability must also be institutional: transparent procedures, reasoned decisions, public-law compensation and continuing judicial supervision where investigations falter.

Keywords: *paper leak, due process, opportunity, public examinations, accountability.*

INTRODUCTION

For millions of Indian candidates, a competitive examination is the only door to public employment or professional education. The State controls that door, and the Constitution promises that it will open on equal terms. A paper leak breaks that promise quietly: the questions are sold, the marks are inflated, and the honest candidate discovers only afterwards that the contest was never real.

The scale of the problem has made it impossible to treat each leak as an isolated crime. Allegations surrounding the Madhya Pradesh Professional Examination Board (Vyapam) examinations, state recruitment tests and the NEET-UG 2024 controversy show a pattern in which the same institutional weaknesses recur.[1] The question this paper addresses is a legal one: what, if anything, does the Constitution require of the State to secure the integrity of examinations, and what remedies follow when it fails?

The argument proceeds in six steps. Part II describes how leaks operate as a systemic failure. Part III locates the constitutional foundations of a right to a fair examination. Part IV considers due process in its procedural and substantive senses. Part V examines judicial remedies, especially the tension between cancelling an examination and protecting untainted candidates. Part VI evaluates the 2024 statute and state laws. Part VII turns to accountability, and Part VIII offers reform proposals.

PAPER LEAKS AS A SYSTEMIC FAILURE

A leak is rarely the act of a single dishonest official. It is usually the product of a chain: printing, storage, transport, centre-level custody and, increasingly, digital delivery. Each link is held by a different actor, often a private contractor, and the accountability of each is thinly specified. Where an examination is conducted through outsourced vendors, the State's duty of custody does not disappear, but the practical ability to supervise it often does.

Two features make leaks constitutionally significant rather than merely criminal. First, the harm is collective and unequal: it falls on every candidate who played by the rules, and it advantages those with the money and networks to buy the paper. Second, the wrongdoer's gain is the State's loss of legitimacy, since selection to public office is the means by which the State renews itself. A compromised selection process taints the institution that results from it.

The State examining bodies concerned are generally 'State' within Article 12. The Supreme Court established early that bodies performing public functions under governmental control must observe constitutional standards, including fairness in selection.[2] This forecloses the

[1] 'Supreme Court Hands Over Vyapam Case to CBI' *The New Indian Express* (09 July 2015) <https://www.newindianexpress.com/india/2015/Jul/09/supreme-court-hands-over-vyapam-case-to-cbi-781499.html> accessed 18 August 2026; *Vanshika Yadav v Union of India and Ors* (2024) INSC 568

[2] *Ajay Hasia v Khalid Mujib Sehravardi and Ors* AIR 1981 SC 487

argument that an examining agency's internal arrangements are beyond constitutional scrutiny.

CONSTITUTIONAL FOUNDATIONS OF A RIGHT TO A FAIR EXAMINATION

Equality and Equality of Opportunity: Article 14 prohibits arbitrariness as well as unreasonable classification.[3] Article 16(1) guarantees equality of opportunity in public employment, and its core is a selection on merit assessed by a process open to all on the same terms.[4] A leaked paper divides candidates into two classes, those who knew the questions and those who did not, on a basis that bears no rational relation to merit. That is classification of the most arbitrary kind. The Supreme Court's later reading of Article 14 as striking down manifestly arbitrary state action strengthens the point.[5]

Equality of opportunity is also a structural idea. It would be hollow to guarantee the right to apply while tolerating a process in which the result can be bought. Scholars of Indian constitutional law has long stressed that equality under Article 16 is a guarantee about the integrity of the process, not only the absence of discriminatory eligibility rules.[6]

Life, Livelihood and Education: Article 21, after *Maneka Gandhi*, requires that any procedure affecting life or personal liberty be just, fair and reasonable.[7] The Court has read the right to life to include livelihood,[8] and the right to education flows from Article 21, as confirmed by Article 21A and the Eighty-sixth Amendment.[9] While the Court has been careful not to convert every disappointed aspiration into a fundamental right, the denial of a fair chance at a public post or a professional course, through the State's own failure to secure the examination, engages the substance of these guarantees.

Freedom of Profession and the Directive Principles: Article 19(1)(g) protects the freedom to practise any profession, and entrance examinations to medical, engineering and legal education are the gate to that freedom. The Directive Principles supply interpretive support:

[3] *EP Royappa v State of Tamil Nadu and Anr* AIR 1974 SC 555
[4] *Indra Sawhney v Union of India and Ors* AIR 1993 SC 477; MP Jain, *Indian Constitutional Law* (8th edn, LexisNexis 2022)
[5] *Shayara Bano v Union of India* (2017) 9 SCC 1
[6] HM Seervai, *Constitutional Law of India* (vol 1, 4th edn, Universal Law Publishing 2005)
[7] *Maneka Gandhi v Union of India* AIR 1978 SC 597
[8] *Olga Tellis and Ors v Bombay Municipal Corporation and Ors* (1985) 3 SCC 545
[9] *Mohini Jain v State of Karnataka* AIR 1992 SC 1858; *Unni Krishnan JP & Ors v State of Andhra Pradesh* & Ors AIR 1993 SC 2178; Constitution (Eighty-sixth Amendment) Act 2002

Article 41 directs the State to make effective provision for the right to work and education within its economic capacity, and Article 39(a) points to an adequate means of livelihood.[10] Directive Principles are not enforceable on their own, but the Court has repeatedly used them to give content to fundamental rights.[11]

International Obligations: India is a party to the International Covenant on Civil and Political Rights, which guarantees access, on general terms of equality, to public service,[12] and to the International Covenant on Economic, Social and Cultural Rights, which recognises the right to education.[13] These instruments reinforce, rather than create, the constitutional position. Taken together, these provisions support the proposition that a candidate has a justiciable claim that the State conducts selection through a process reasonably secured against corruption. The claim is not that every examination must be flawless, but that the State must take reasonable and proportionate steps to protect its integrity and respond fairly when it fails.

DUE PROCESS: PROCEDURAL AND SUBSTANTIVE DIMENSIONS

Procedural Fairness before and after the Examination: The rules of natural justice apply to administrative action that affects rights, and the Court has long held that they are not confined to judicial or quasi-judicial functions.[14] In the examination context, procedural fairness operates at two stages.

Before the examination, fairness requires clear and published rules for conduct, custody and security, together with predictable arrangements for centres and invigilation. A candidate cannot plan or comply with a process the State has left vague.

After a leak is alleged, fairness requires that candidates be heard, directly or through representation, before drastic consequences such as cancellation are imposed, and that the decision be reasoned. The Supreme Court has said that where a candidate's rights may be adversely affected on the ground of unfair means, a minimum opportunity to respond is ordinarily required, though in cases of mass malpractice a hearing of each individual may be

[10] Constitution of India 1950, arts 39(a), 41
[11] *Unni Krishnan JP and Ors v State of Andhra Pradesh and Ors* AIR 1993 SC 2178
[12] International Covenant on Civil and Political Rights (1976, art 25(c)
[13] International Covenant on Economic, Social and Cultural Rights 1976, art 13
[14] *AK Kraipak and Ors v Union of India and Ors* AIR 1970 SC 150

impracticable and the requirement is adapted accordingly.[15] The concept of legitimate expectation adds a further layer: candidates who participate in a published process expect that it will be honestly administered and that results will not be reversed arbitrarily.[16]

Substantive Due Process and Proportionality: Indian law does not formally adopt American substantive due process, but *Maneka Gandhi* effectively imported a substantive content into Article 21 by requiring that the law itself be fair, just and reasonable. Proportionality has since become the principal tool for testing restrictions on fundamental rights.[17] The test asks whether the measure serves a legitimate aim, is suitable and necessary, and strikes a balance between the right restricted and the goal pursued.

Applied here, proportionality does two things. It disciplines the State's response to leaks: a blanket cancellation that punishes thousands of honest candidates for a localised breach is hard to defend where a narrower remedy is available. And it disciplines the State's *inaction*: a regime that leaves examinations insecure, despite known risks, fails the requirement of reasonable protection of the equality interest. Due process thus constrains both over-reaction and under-protection.

The Right to Information: Fairness also depends on transparency. In *CBSE v Aditya Bandopadhyay*, the Supreme Court held that an examinee is entitled to inspect evaluated answer books under the Right to Information Act, 2005, while recognising limits grounded in the integrity of the examination system.[18] The decision rests on the idea, rooted in the Court's earlier recognition of a public right to know,[19] that examining bodies hold records as fiduciaries for candidates. The same logic supports disclosure of the audit trail of paper custody, the identity of vendors and the findings of internal inquiries, subject to the legitimate needs of an ongoing investigation.

[15] *Bihar School Examination Board v Suresh Prasad Sinha* (2009) 8 SCC 483
[16] *Union of India & Ors v Hindustan Development Corporation & Ors* AIR 1994 SC 988
[17] *Modern Dental College and Research Centre and Ors v State of Madhya Pradesh & Ors* (2016) 7 SCC 353; *Justice KS Puttaswamy and Anr v Union of India and Ors* (2017) 10 SCC 1
[18] *Central Board of Secondary Education and Anr v Aditya Bandopadhyay and Ors* (2011) 8 SCC 497; Right to Information Act 2005
[19] *State of Uttar Pradesh v Raj Narain and Ors* (1975) 4 SCC 428

JUDICIAL REMEDIES: BETWEEN DEFERENCE AND FAIRNESS

The Deference Tradition: Courts have traditionally been reluctant to interfere in the academic and administrative affairs of examining bodies. The Supreme Court has repeatedly said that, absent a rule permitting it, courts should not direct re-evaluation or substitute their own view for that of the experts.[20] That restraint rests on institutional competence and on the practical difficulty of supervising large examinations.

Deference, however, has a boundary. When the allegation is not about the marking of a script but about fraud in the process itself, the matter goes to the legality of the selection. The Court has recognised that fraud vitiates the most solemn proceedings, and that a result obtained by fraud cannot be allowed to stand.[21] It has also held that the power of an examining authority to cancel an examination for mass malpractice is real, but must be exercised on material and not on suspicion.[22]

The Severability Problem: The hardest question is whether a tainted examination should be cancelled in its entirety. Cancellation vindicates the equality of the process, but it penalises honest candidates, imposes costs and delay, and rewards no one except the wrongdoers' opponents. The Supreme Court has therefore leaned toward separating the tainted from the untainted where that is feasible. In *Anamica Mishra*, where the selection was shown to be vitiated by large-scale irregularities, the Court upheld cancellation of the process; in other cases, it has refused to set aside a whole selection where the tainted candidates can be identified and removed.[23]

The Court applied the same reasoning in the NEET-UG 2024 litigation. Examining allegations of a leak at specific centres in Hazaribagh and Patna, it declined to order a re-test, reasoning that the material before it did not establish a systemic breach affecting the sanctity of the examination as a whole, and that a re-test would impose serious hardship on lakhs of candidates.[24] The decision illustrates the doctrine's practical shape: the burden lies on those

[20] *Ran Vijay Singh and Ors v State of Uttar Pradesh and Ors* (2018) 2 SCC 357
[21] *SP Chengalvaraya Naidu (D) by LRs v Jagannath (D) by LRs and Ors* (1994) 1 SCC 1
[22] *Bihar School Examination Board v Suresh Prasad Sinha* (2009) 8 SCC 483
[23] *Kumari Anamica Mishra and Anr v Uttar Pradesh Public Service Commission and Ors* AIR 1990 SC 461; *Inderpreet Singh Kahlon and Ors v State of Punjab and Ors* (2006) 11 SCC 356
[24] *Vanshika Yadav v Union of India and Ors* (2024) INSC 568

seeking cancellation to show that the taint is so widespread that the tainted and untainted cannot be separated, and in that event cancellation is justified.

A Critique: This standard is defensible but carries two risks. First, it places a heavy evidentiary burden on petitioners who, by definition, lack access to the examining body's internal records. Fairness requires that the burden shift once a credible *prima facie* case of leakage is shown, so that the examining body must demonstrate the integrity of its process. Second, a rule favouring severability gives the State an incentive to confine investigations to narrow, locally identified wrongdoing rather than to inquire into whether the breach is systemic. Judicial review must therefore examine not only the evidence presented but the adequacy of the investigation that produced it.

THE LEGISLATIVE RESPONSE

The Public Examinations (Prevention of Unfair Means) Act 2024: In February 2024, Parliament enacted the Public Examinations (Prevention of Unfair Means) Act, 2024, which came into force in June 2024.[25] It applies to specified public examination authorities, among them the Union Public Service Commission, the Staff Selection Commission, the Railway Recruitment Boards, the Institute of Banking Personnel Selection and the National Testing Agency, as well as central ministries and departments for recruitment.

The Act defines a range of unfair means, including leakage of question papers or answer keys, tampering with answer sheets and computer resources, and conducting fake examinations, and prescribes imprisonment and fines for offences. It creates a more severe category for organised crime and makes service providers liable, including through a bar on their engagement and recovery of the cost of the examination. Offences are cognizable, non-bailable and non-compoundable, and the Central Government may direct a central agency to investigate. The Act expressly excludes candidates from its principal penal provisions, aiming at organised networks rather than examinees. Several states had already legislated, including Rajasthan, Gujarat and Uttarakhand, and Uttar Pradesh followed with its own

[25] Public Examinations (Prevention of Unfair Means) Act 2024

measure in 2024.[26] The result is a patchwork of central and state regimes with differing definitions and penalties.

Assessment: The Act is a necessary step. It recognises that leaks are organised, commercial offences and equips the State to prosecute networks, not merely couriers. Its attention to the liability of service providers is particularly welcome, because outsourcing had previously diffused responsibility. But its limits are plain. First, it is primarily penal. It deters and punishes after the harm, and says comparatively little about prevention, such as mandatory standards for paper custody, audit or digital security. Second, it is directed at offenders, and does not create a duty of care owed by the examining authority to candidates, nor a remedy for them when the authority fails. Third, severity is not the same as certainty: the deterrent effect of heavy penalties depends on investigation and conviction, and the record of prosecutions in earlier scandals has been slow. A statute that promises severe punishment but delivers delayed trials offers an appearance of accountability rather than the substance.

ACCOUNTABILITY: BEYOND CRIMINAL LAW

Institutional Accountability: Constitutional accountability asks who answers for a failure, to whom, and with what consequence. In the leak context, the answer is currently unclear. Examining bodies are accountable to their parent ministries, sometimes to Parliament, and in practice to the courts only when a petition succeeds. The Constitution provides strong guarantees of independence for Public Service Commissions, including security of tenure for members, but independence is not immunity from scrutiny.[27] Independence from executive interference is compatible with, and in fact requires, transparent and auditable procedures.

The constitution of expert committees after major controversies, such as the high-level committee appointed in 2024 to review the National Testing Agency's functioning, is a recognition that structural reform is needed.[28] But ad hoc committees are a poor substitute for standing obligations. A statutory duty to publish an annual security audit, to disclose

[26] Rajasthan Public Examination (Measures for Prevention of Unfair Means in Recruitment) Act 2022; Gujarat Public Examinations (Prevention of Unfair Means) Act 2023; Uttarakhand Competitive Examination (Measures for Prevention and Redressal of Unfair Means in Recruitment) Act 2023; Uttar Pradesh Public Examinations (Prevention of Unfair Means) Act 2024

[27] Constitution of India 1950, arts 315-323

[28] 'Ministry of Education constitutes a High-Level Committee of Experts to ensure transparent, smooth and fair conduct of examinations' (*Press Information Bureau*, 22 June 2024) <https://www.pib.gov.in/PressReleasePage.aspx?PRID=2027892&reg=48&lang=2> accessed 17 August 2026

vendor arrangements and to report breaches within a defined time would convert reform from a response to scandal into a routine of governance.

Public-Law Compensation: The Supreme Court has held that where a fundamental right is violated by the State, compensation under public law may be awarded in writ jurisdiction, independently of any private-law remedy.[29] This doctrine is underused in the examination context. Candidates who lose fees, years and opportunities because an examination was cancelled owing to the State's failure to secure it have a principled claim to restitution of costs at the least. Such liability would also create a financial incentive for examining bodies to invest in security. The objection that the State's resources are limited is answered by proportion: compensation need not be extravagant to be effective, and the deterrent value lies in its automatic character.

Continuing Mandamus and Investigative Independence: Where investigations stall, courts have devised the continuing mandamus. In *Vineet Narain*, the Supreme Court supervised the investigation of high-profile corruption to ensure it was not compromised by the investigating agency's dependence on the executive.[30] The Court's direction in the Vyapam matter to transfer investigations to the Central Bureau of Investigation follows the same logic. Where a leak implicates officials or politically connected persons, an investigation conducted by agencies answerable to the very executive that runs the examination invites doubt. Judicial supervision of such investigations is, in this light, a legitimate extension of the Court's duty to enforce Articles 14 and 21, and not an intrusion on executive function.

Individual Accountability: Finally, accountability must reach individuals. Disciplinary proceedings against officials, blacklisting of contractors and cancellation of appointments obtained through fraud are all necessary, and the Act contemplates several. The principle that appointments secured by fraud may be annulled, without regard to the length of service, is settled and should be applied consistently, so that the beneficiaries of a leak do not retain their posts while honest candidates wait.

[29] *Rudul Sah v State of Bihar and Anr* (1983) 4 SCC 141; *Smt Nilabati Behera Alias Lalit Behera v State of Orissa and Ors* (1993) 2 SCC 746

[30] *Vineet Narain and Ors v Union of India and Anr* (1998) 1 SCC 226

PROPOSALS FOR REFORM

Drawing these threads together, this paper proposes the following reforms:

A Statutory Duty of Integrity: Parliament should impose on every public examining authority an express duty to maintain the security of examinations, specifying minimum standards for paper custody, digital delivery, centre allotment and audit. The duty should be owed to candidates and enforceable by them.

Burden-Shifting in Litigation: Where a petitioner shows a credible *prima facie* case of leakage, the examining body should bear the burden of demonstrating that the integrity of the examination was not compromised, with disclosure of relevant records to the court under suitable safeguards.

Graduated Remedies: Courts and authorities should apply a graduated scheme: exclusion of identified beneficiaries first, re-examination of affected centres or batches second, and cancellation of the entire examination only where the taint cannot be isolated. This preserves proportionality without ignoring systemic breach.

Public-Law Compensation: A statutory fund, financed in part by recoveries from defaulting service providers, should reimburse honest candidates for direct costs where an examination is cancelled or repeated owing to a failure of security.

Transparency Obligations: Examining bodies should publish annual security audits, vendor details and breach reports, consistent with the Right to Information Act, 2005.

Independent Investigation: Where a leak is alleged, investigation should be assigned to an agency insulated from the examining authority's parent ministry, with time-bound reporting to the court.

Harmonisation: A model framework should align the definitions and penalties in central and state laws, to prevent forum-shopping by organised networks operating across state lines.

CONCLUSION

A paper leak is more than a crime against an examination. It is a failure of the State's constitutional duty to provide a fair contest for public opportunity. The Constitution, read through Articles 14, 16, 19(1)(g) and 21, supports a right to an examination reasonably secured against corruption, enforceable through due process and proportionality. Courts have developed a careful, if cautious, jurisprudence on remedies, balancing the sanctity of the process against the interests of honest candidates.

The 2024 Act is a significant step, but its emphasis on punishment leaves a gap that only institutional accountability can fill. Transparency, burden-shifting, compensation and independent investigation would convert the abstract promise of equal opportunity into something candidates can claim. In the end, the legitimacy of public selection depends on a simple proposition: those who succeed must be seen to have earned it, and those who fail must be able to trust that the contest was real.