PUNISHMENT WITHOUT PREVENTION: CAN HARSHER PENALTIES DETER EXAMINATION PAPER LEAKS?

Dev Pratap Singh, University School of Law and Legal Studies, GGSIPU

Introduction

The integrity of a public examination rests on one basic promise: every candidate competes under substantially the same conditions. When a question paper leaks, that promise is broken before the criminal justice system even has a chance to respond. Arrest, prosecution and conviction can establish accountability, but none of it can hand back the opportunity lost by a student who sat an exam whose fairness had already been compromised.

The NEET-UG 2024 controversy showed how large that problem can get. The Supreme Court recorded that the question paper had been leaked before the examination at centres in Hazaribagh and Patna, setting off investigations eventually handed to the Central Bureau of Investigation.[1] Two years later, NEET-UG 2026 was cancelled outright after a fresh leak.

The legislative response has leaned heavily on criminal punishment through the Public Examinations (Prevention of Unfair Means) Act, 2024, which was made considerably harsher in 2026.[2,11] The question, however, is not whether examination fraud deserves severe punishment. It clearly does. The harder question is whether **increasing the severity of punishment necessarily produces greater deterrence**. Punishment responds to an offence that has already occurred; deterrence tries to influence conduct before it happens. That gap matters enormously in examination fraud, where the principal harm is done the moment the paper leaks, long before any prosecution, or any court, reaches a conclusion.

Punishment and the Problem of Deterrence

Classical deterrence theory assumes that people weigh the costs and benefits of an offence before committing it, so a harsher punishment should reduce the incentive to offend. But severity is only half the equation. Deterrence is shaped just as much, arguably more, by the perceived **certainty and swiftness** of punishment. The National Institute of Justice's review of the literature is blunt: the certainty of being caught is a far more powerful deterrent than the

severity of the eventual punishment, and increasing severity alone has limited value where offenders expect a low probability of detection.[3]

Consider two systems with identically severe penalties. In the first, examination materials pass through numerous poorly monitored stages, and a leak is unlikely to be traced to anyone. In the second, access is tightly restricted, every transfer is logged, and investigators can usually identify exactly where and with whom a leak began. The second deters more effectively, not because the punishment on paper is harsher, but because the offender faces a credible probability of being caught.

Examination leaks make this problem acute because they resemble white-collar and organised economic crime: financial incentives, multiple participants, abuse of legitimate access, and long evidentiary chains running from insiders through intermediaries to candidates. Prosecution must reconstruct that chain after the fact. A severe penalty on the statute book does nothing, by itself, to stop the initial breach. The deterrent value of criminalisation therefore cannot be measured by the maximum sentence Parliament prescribes, but only by the practical probability that an offender will be identified and convicted.

Reading the Statute: What the 2024 Act Actually Requires

Read closely, the 2024 Act is not purely punitive. Section 3 defines "unfair means" expansively, covering leakage of a question paper or answer key, collusion to effect a leak, unauthorised access to examination material and tampering with OMR sheets.[11] Section 5(2) speaks directly to the leak scenario, prohibiting anyone entrusted with examination duties from opening, possessing, accessing or solving a question paper before the fixed time, or revealing confidential information about it, for wrongful gain: a near-exact statutory description of what happened at Hazaribagh and Patna.[11]

More significant for the certainty argument are the provisions aimed at detection rather than sentencing. Section 6 obliges the service provider to report any unfair means to the police "forthwith", and Section 8(2) makes a failure to report an offence in its own right. Section 8(3) then pierces the corporate veil: where a service provider's offence is committed with the "consent or connivance" of a director, manager or other officer, that individual is personally liable, subject to a due-diligence defence. Section 12 requires investigation by an officer not below the rank of Deputy Superintendent of Police and allows the Centre to refer cases to a

Central agency.[11] These provisions are architecture, not punishment: they are designed to stop a leak being absorbed inside an institution and to make responsibility travel to a named person.

Punishment sits on top. Section 9 makes every offence cognizable, non-bailable and non-compoundable. As enacted, Section 10 prescribed three to five years and a fine of up to ₹10 lakh for individuals, and Section 11 five to ten years and a minimum fine of ₹1 crore for organised crime.[2] The Amendment Act, 2026, passed after the second NEET-UG leak, raised the individual minimum to five years with fines up to ₹50 lakh, the service-provider fine to ₹5 crore with an eight-year debarment, and the organised-crime minimum to seven years with a ₹10 crore fine. It also inserted Sections 12A and 12B, requiring investigations to finish within two months, trials in Special Fast Track Courts within three months of the chargesheet, and a time-bound appeal to the High Court.[11]

The shape of that response is telling. Faced with a second leak, Parliament raised severity and sped up the process once an investigation begins. It did not add any new mechanism for catching a leak in progress. The measures that do that work, such as same-day printing, escorted transport and biometric entry, arrived through administrative action outside the statute.[5,6] The Act contains real certainty-oriented tools in Sections 6, 8(2) and 8(3), but when Parliament revisited the law, it reached first for severity and speed.

Lessons from Academic-Integrity Research

Academic-integrity research offers a limited but useful comparison. A 2024 *SAGE Open* study of 486 students at the University of Montenegro found that the severity of punishment had no significant effect on how seriously students regarded cheating; their understanding of institutional policy mattered more.[4] A university student is a very different actor from an organised syndicate selling a national entrance paper, but the study supports the broader proposition that **severity alone does not determine behaviour**. Institutional clarity, legitimacy and the functioning of the integrity system all shape compliance.

The NEET Case: When the Harm Comes First

The Supreme Court's handling of NEET-UG 2024 shows how limited a backstop the judicial process can be. In *Vanshika Yadav v. Union of India*, a batch of Article 32 petitions, a Bench of Chief Justice D.Y. Chandrachud and Justices J.B. Pardiwala and Manoj Misra declined on

23 July 2024 to cancel the examination, holding that there was no material to show a "systemic breach" of its sanctity, even while accepting that a leak had occurred.[12] Reasons followed on 2 August 2024.[1]

Drawing on *Tanvi Sarwal v. CBSE* and *Sachin Kumar v. DSSSB*, the Court asked not whether a leak had happened, which was conceded, but whether it had vitiated the examination as a whole or whether tainted beneficiaries could be segregated from the rest.[1] On the CBI's material at that stage, the leak's benefit traced to roughly 155 candidates out of over 23 lakh. The Court also corrected a separate error, directing revision of results on a disputed physics question following an IIT Delhi expert report.[1]

The equality argument ran in both directions. Petitioners argued that the leak denied equality of opportunity under Article 14. Candidates opposing cancellation invoked the same guarantee in reverse, arguing that a nationwide retest would punish an overwhelmingly untainted majority for the wrongdoing of a few. The Court resolved this through proportionality: cancellation is warranted only where the breach is systemic and the taint cannot be segregated. It weighed the harm on record against the disruption a retest would cause to the admission calendar, to reserved category candidates and to the future supply of doctors, and found the balance against cancellation.[1]

Whatever one thinks of that balance, the standard itself is revealing. Under a "systemic breach" threshold, most leaks, being localised and involving identifiable beneficiaries, will never produce the remedy that fully restores equal competition, however clearly Article 14 is engaged for the candidates affected. Judicial doctrine therefore confirms that courts cannot undo a leak except in extreme cases. Tellingly, the Court's forward-looking directions were preventive: it asked the NTA to tighten storage and transport security and avoid administrative "flip-flops".[1] Criminal punishment and judicial correction both operate after the offence; examination security has to operate before and during it.

From Punishment to Prevention, and Its Limits

The administrative response to 2024 did take prevention seriously. A High-Level Committee recommended printing papers on examination day, removing the storage-and-transport window that made the leak possible.[6] For NEET-UG 2025, papers moved under police escort instead of the arrangements that had seen them ferried on an e-rickshaw in 2024, biometric authentication

became mandatory across more than 5,000 centres, and a three-tier CCTV-backed surveillance structure covered over 2.27 million candidates.[5] This is deterrence through certainty: fewer hands on the paper and better odds that any breach is traced to a name.

Prevention is not a silver bullet, though. Surveillance is only as reliable as the people operating it, and every added checkpoint is another insider who could be compromised. Running this machinery nationally, with thousands of centres and tens of thousands of invigilators and police personnel, is also expensive and logistically fragile. Prevention raises the probability of detection; it does not eliminate failure, and it can create new vulnerabilities even as it closes old ones.

2026: When the Leak Happened Again

That fragility proved real. NEET-UG 2026 was held on 3 May, and on 12 May the NTA cancelled it amid fresh leak allegations, with the CBI investigating and a retest fixed for 21 June, for which the Indian Air Force flew papers to centres.[8] A Bench of Justices P.S. Narasimha and Alok Aradhe called it "sad" that the NTA had not learned from 2024.[7] On 29 May 2026 the Court sought a comprehensive plan to strengthen the agency, observing that problems would persist unless individual accountability was fixed, and that a diffused obligation is not the same as knowing which individual holds which duty.[9]

That is, almost exactly, the certainty argument, and it echoes the logic of Section 8(3)'s individual liability. Legislation, a High-Level Committee and layered security had not pinned responsibility on identifiable people, and Parliament's 2026 amendment again raised severity while leaving the detection architecture untouched. The Centre's subsequent affidavit pointed to facial-recognition checks, metal detectors, duplicate sealed OMR sheets and a possible move to computer-based testing,[10] measures aimed at making the next leak harder and more traceable, though whether they succeed remains to be seen.

Conclusion

The more effective model is not **punishment versus prevention**, but punishment as one component of prevention. Secure custody chains, restricted access, monitoring, clear institutional responsibility and rapid reporting raise the probability that a leak is detected. Layered with meaningful penalties, they change what a potential offender is actually weighing:

not a severe sentence in theory, but a real chance of being caught and identified. The yardstick for future reform should be whether the system, statutory and administrative alike, has actually raised that chance.

Stronger penalties have their place, but **severity should not be mistaken for deterrence**. Deterrence research favours certainty over severity, academic-integrity research shows that harshness alone does not drive behaviour, and the Supreme Court's own "systemic breach" standard shows why judicial correction can only partly substitute for prevention. A prosecution may punish the person responsible and a court may correct a discrete error, but neither can fully restore what an honest candidate lost.

The success of India's examination reforms should therefore be measured not by arrests and convictions after the next leak, which measure response, but by whether the system makes leaks harder to execute, raises the probability of detection, and, as the Supreme Court has now insisted, makes it possible to identify exactly who was responsible. The strongest legal framework is not one that merely promises severe punishment after the damage is done. It is one that makes a potential offender believe the damage cannot be done without being caught.

Endnotes:

1. Supreme Court of India, *Vanshika Yadav v. Union of India & Ors.*, W.P. (C) No. 335 of 2024, 2024 INSC 568 (2 August 2024), api.sci.gov.in.

2. The Public Examinations (Prevention of Unfair Means) Act, 2024 (as originally enacted), India Code, indiacode.nic.in.

3. National Institute of Justice, "Five Things About Deterrence," nij.ojp.gov.

4. Jovana Janinovic et al., "Assessing the Effectiveness of Academic Integrity Institutional Policies: How Can Honor Code and Severe Punishments Deter Students' Cheating — Moderating Approach?", *SAGE Open* (2024), journals.sagepub.com.

5. Anu Parthiban, "From e-rickshaw blunder to police escorts: NEET-UG 2025 undergoes major security overhaul," Careers360, 29 April 2025, news.careers360.com.

6. Vagisha Kaushik, "NTA Exam Changes: Reforms in NEET UG, JEE Main, CUET,"

Careers360, 17 December 2024, news.careers360.com.

7. "NEET Paper Leak 2026: Supreme Court Seeks NTA Reply, Directs Affidavit Within 3 Days," LawBeat, 25 May 2026, lawbeat.in.

8. "NEET UG 2026 paper leak row LIVE: NTA files affidavit in Supreme Court," India.com, 29 May 2026, india.com.

9. "NEET UG 2026 Paper Leak Supreme Court Seeks Comprehensive Plan to Overhaul NTA," LawStreet, 30 May 2026, lawstreet.co.

10. "NEET Security Gets Major Upgrade, Centre Weighs Shift to Computer-Based Exam," The420.in, August 2026, the420.in.

11. The Public Examinations (Prevention of Unfair Means) Act, 2024, as amended by Act No. 10 of 2026 (consolidated text as on 31 July 2026), India Code, upload.indiacode.nic.in.

12. Supreme Court of India, *Vanshika Yadav v. Union of India & Ors.*, W.P. (C) No. 335 of 2024, 2024 INSC 553 (23 July 2024), api.sci.gov.in.