
FROM EXAMINATION LEAKS TO CONSTITUTIONAL TORTS: CAN REPEATED FAILURES IN PUBLIC RECRUITMENT VIOLATE ARTICLES 14, 16, AND 21 OF THE CONSTITUTION OF INDIA?

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ABSTRACT

Recurring examination leaks, recruitment scams, and the cancellation and indefinite postponement of public examinations have become a structural feature of India's public-employment landscape. This paper asks whether such repeated failures are merely administrative irregularities or criminal offences, or whether they rise to the level of constitutional violations under Articles 14, 16, and 21 of the Constitution of India, capable of attracting public-law compensation. The constitutional significance of the question lies in the centrality of public recruitment to the guarantees of equality, equal opportunity, and dignity, and in the disproportionate harm that systemic failure inflicts upon young aspirants. Adopting a doctrinal, constitutional, and comparative methodology, the paper analyses the equality and dignity jurisprudence of the Supreme Court, the constitutional-tort lineage from *Rudul Sah* to *Nilabati Behera* and *D.K. Basu*, and the recent recruitment jurisprudence culminating in *Vanshika Yadav v. Union of India*. It compares the safeguards of the United Kingdom, Canada, Germany, and Singapore. The principal findings are that fair public recruitment is implicit in Articles 14 and 16; that examination leaks attributable to State or agency default deny equal opportunity and offend the dignity protected by Article 21; that recurring, systemic failure may be characterised as a constitutional wrong distinct from the underlying crime; and that the absence of effective coaching regulation aggravates systemic inequality. The paper develops a novel argument for a constitutional right to reasonably competent administration in public recruitment and contends that egregious, repeated failures should attract public-law compensation on the model already applied to State negligence. It recommends a statutory right to fair recruitment, an independent recruitment-integrity authority, a candidate-compensation framework, mandatory age relaxation after cancelled examinations, and coaching regulation, concluding that competent, transparent recruitment is a

constitutional obligation rather than a discretionary administrative aspiration.

Keywords: public recruitment; examination leaks; Articles 14, 16 and 21; constitutional tort; equal opportunity; competent governance; public-law compensation.

I. Introduction

Few institutions bear as heavy a constitutional load in contemporary India as the competitive public examination. For millions of young citizens, a government post represents not merely employment but security, mobility, and dignity, and the examination is the gateway through which the constitutional promise of equal opportunity is meant to be realised. When that gateway is compromised by leaked question papers, manipulated results, fraudulent appointments, or the abrupt cancellation of examinations after years of preparation the injury is not confined to the disappointed candidate. It strikes at the equality and fairness on which the legitimacy of public administration depends.¹

The phenomenon is neither isolated nor rare. Parliament's enactment of a dedicated central statute to criminalise unfair means in public examinations is itself an official acknowledgement of the scale and recurrence of the problem,² and the Supreme Court, while declining to cancel a national medical-entrance examination in 2024, recorded serious concerns about the manner in which the testing agency had conducted it.³ These developments invite a question that has so far been addressed largely through the lens of criminal law and service jurisprudence, but rarely as a matter of constitutional first principle: can repeated examination leaks, recruitment failures, and administrative incompetence in public employment constitute violations of Articles 14, 16, and 21, thereby giving rise to constitutional liability and public-law compensation?

This paper argues that they can. Its thesis is that recurring examination leaks and recruitment failures are not discrete incidents of misconduct but symptoms of systemic governance failure that undermine the constitutional guarantees of equality, equal opportunity,

¹India Const. arts. 14, 16, 21.

²The Public Examinations (Prevention of Unfair Means) Act, No. 1 of 2024 (India) (criminalising leakage of question papers, manipulation of merit lists, and collusion by service providers).

³*Vanshika Yadav v. Union of India*, 2024 INSC 568 (India) (declining to cancel NEET-UG 2024 for want of a systemic breach, while recording serious concerns regarding the conduct of the examination and directing reform).

and dignity, and that egregious and repeated failures may be characterised as constitutional torts warranting public-law remedies, compensation, and structural reform. The objectives are to locate a right to fair recruitment within the constitutional text, to analyse examination leaks as constitutional rather than merely criminal wrongs, to account for the human cost of recruitment failure, to evaluate the role of an unregulated coaching ecosystem, to develop a theory of competent administration, and to propose reforms. The scope is confined to public recruitment and competitive public examinations; it does not address private employment, and it evaluates institutions and doctrine rather than the conduct of any government or party.

The constitutional stakes of this inquiry are heightened by the demographic and social reality of contemporary India. With a vast cohort of young citizens competing for a comparatively small number of secure public posts, the competitive examination has become the principal instrument through which the State distributes a scarce and consequential public good. Where such an instrument is repeatedly compromised, the harm is not merely to individual aspirants but to the credibility of the constitutional settlement that promises equal opportunity in public employment.⁴ The relationship between public recruitment and constitutional equality is, in this sense, direct and structural: the examination is the operational form that equality of opportunity takes in the domain of State employment, and its integrity is therefore the practical test of whether that equality is real or merely declaratory. It is against this backdrop that the doctrinal analysis below proceeds.

Research Methodology

The study is doctrinal in method, identifying and systematising constitutional provisions, statutes, and judicial decisions and reasoning from them to a coherent account of the governing law.⁵ It employs constitutional interpretation to locate fair recruitment within Articles 14, 16, and 21; case-law analysis to trace the equality, dignity, and constitutional-tort jurisprudence of the Supreme Court; and administrative-law principles legitimate expectation, the duty to act fairly, and the control of arbitrariness to assess recruitment administration. Comparative legal analysis examines four jurisdictions to identify transferable safeguards, with attention to differences of constitutional structure that condition transplantation. Constitutional-tort jurisprudence supplies the remedial framework, drawing on the line of authority that has

⁴India Const. art. 16(1).

⁵On the doctrinal method, see Terry Hutchinson & Nigel Duncan, *Defining and Describing What We Do: Doctrinal Legal Research*, 17 Deakin L. Rev. 83 (2012).

awarded compensation for State violations of fundamental rights.⁶ Finally, public-policy evaluation tests the adequacy of existing mechanisms and the feasibility of reform. The approach is analytical and critical rather than descriptive: each institution and doctrine is assessed against constitutional principle, and the novel claims advanced particularly the right to competent administration and the characterisation of recruitment failure as a constitutional tort are tested against established doctrine and foreseeable objection.

II. Evolution of Public Recruitment and Examination Administration in India

Public recruitment in India rests on a constitutional architecture designed to insulate State employment from patronage. Articles 315 to 323 establish the Union and State Public Service Commissions as independent constitutional bodies charged with conducting examinations for appointment to the services, while Article 309 empowers the legislature and the executive to regulate recruitment and conditions of service.⁷ The premise of this design is that access to public office should turn on merit assessed through fair and open competition, not on influence a premise the Supreme Court has repeatedly affirmed in insisting that public appointments conform to the constitutional scheme of Articles 14 and 16.⁸

Over time, the administration of recruitment has expanded well beyond the Public Service Commissions. Staff selection bodies, subordinate services selection boards, and, increasingly, specialised national testing agencies now conduct examinations at a scale unprecedented in any democracy, screening millions of candidates for a comparatively small number of posts and academic places.⁹ This expansion reflects the growing dependence of Indian society on competitive examinations as the principal, and often the only, route to secure public employment and professional education. The consequence is that examination integrity has migrated from the periphery of administrative concern to the centre of constitutional governance: where a single examination determines the life-chances of millions, its fairness is no longer a matter of mere administrative efficiency but a condition of the equality the Constitution guarantees. The integrity of the examination, in short, has become the integrity of

⁶*Rudul Sah v. State of Bihar*, (1983) 4 SCC 141 (India).

⁷India Const. arts. 309, 315-323 (regulation of services; Union and State Public Service Commissions).

⁸*Secretary, State of Karnataka v. Umadevi (3)*, (2006) 4 SCC 1, ¶¶ 43-45 (India) (public appointments must conform to the constitutional scheme of arts. 14 and 16).

⁹The National Testing Agency was established by the Ministry of Human Resource Development (now Ministry of Education), Gov't of India, in 2017 to conduct major entrance examinations; cf. India Const. arts. 315-323 (Public Service Commissions).

the constitutional promise of equal opportunity itself.

The historical trajectory reinforces this constitutional centrality. The framers inherited a tradition of recruitment to the higher services through competitive examination, institutionalised before independence and carried forward through the Public Service Commissions, whose independence Articles 315 to 323 were designed to guarantee precisely because the integrity of selection had been recognised as a safeguard against patronage and favouritism. The post-independence decades saw the principle of merit-based selection entrenched and the duty to act fairly in selection extended by the courts to administrative bodies generally, so that fairness in recruitment came to be understood not as a matter of executive grace but as a legal obligation.¹⁰ The contemporary shift has been one of scale and delegation: as examinations have multiplied and been entrusted to specialised agencies operating under intense logistical pressure, the locus of risk has moved from overt patronage to systemic operational failure leakage, compromise, and collapse of process while the constitutional stake has only grown. The history thus discloses a constant principle, the fairness of public selection, applied to a transformed institutional reality in which that fairness is increasingly difficult to secure and increasingly consequential when lost.

III. Constitutional Foundations of Fair Public Recruitment

A. Article 14 and Equality Before Law

Article 14 guarantees equality before the law and the equal protection of the laws, and it has long been read to forbid arbitrariness in State action.¹¹ In *E.P. Royappa v. State of Tamil Nadu*, the Court held that equality and arbitrariness are sworn enemies, and that State action which is arbitrary is, by that fact alone, a denial of equality.¹² The non-arbitrariness principle was deepened in *Maneka Gandhi v. Union of India*, which required State procedure affecting fundamental rights to be fair, just, and reasonable,¹³ and applied to selection processes in *Ajay Hasia v. Khalid Mujib Sehravardi*, where the Court struck down an allocation of

¹⁰*A.K. Kraipak v. Union of India*, (1969) 2 SCC 262 (India) (principles of natural justice and the duty to act fairly extend to administrative selection).

¹¹India Const. art. 14.

¹²*E.P. Royappa v. State of T.N.*, (1974) 4 SCC 3, ¶ 85 (India) (equality and arbitrariness as “sworn enemies”).

¹³*Maneka Gandhi v. Union of India*, (1978) 1 SCC 248 (India) (procedure under art. 21 must be fair, just and reasonable).

disproportionate weight to an oral interview as arbitrary and therefore violative of Article 14.¹⁴ A recruitment process whose integrity is compromised by leakage or manipulation is the paradigm of arbitrariness: it distributes public office not according to a rational and uniform standard but according to fraud and chance, which Article 14 cannot countenance.

B. Article 16 and Equal Opportunity in Public Employment

Article 16(1) guarantees equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State. Equal opportunity is not satisfied by formal access to the examination hall; it requires that the competition itself be fair, so that candidates are ranked by ability rather than by access to leaked material or corrupt advantage. The Court's insistence that public employment follow the constitutional scheme, rather than back-door or fraudulent routes, rests on precisely this understanding of Article 16 as a guarantee of substantive, not merely formal, equality of opportunity. Where a leak or manipulation advantages some candidates over others identically situated, the equal-opportunity guarantee is denied at its core, for the very metric of comparison has been corrupted.

C. Article 21 and Human Dignity

Article 21 protects life and personal liberty, and the Court has held that life means more than mere animal existence it includes the right to live with human dignity.¹⁵ The relevance of Article 21 to recruitment is twofold. First, the fairness of procedure that *Maneka Gandhi* requires extends to State processes that determine access to livelihood. Second, the dignity dimension captures the human reality that a candidate who invests years of preparation and scarce resources, only to be defeated by a leak or an arbitrary cancellation, suffers an injury to dignity and autonomy that a purely procedural account omits. To treat such candidates as interchangeable statistical units is to miss the constitutional significance of the harm.

The dignity analysis gains further force when read with the right to livelihood, which the Court has located within Article 21.¹⁶ Public recruitment is, for the overwhelming majority of

¹⁴*Ajay Hasia v. Khalid Mujib Sehravardi*, (1981) 1 SCC 722 (India) (disproportionate weight to oral interview held arbitrary under art. 14).

¹⁵*Francis Coralie Mullin v. Adm'r, U.T. of Delhi*, (1981) 1 SCC 608, ¶ 8 (India) (right to live with human dignity).

¹⁶*Olga Tellis v. Bombay Municipal Corp.*, (1985) 3 SCC 545 (India) (the right to livelihood as an integral facet of the right to life under art. 21).

aspirants, the gateway to livelihood, and a process that arbitrarily forecloses that gateway by leak, manipulation, or unexplained cancellation implicates not an abstract interest but the material basis of a dignified life. The convergence of the fairness, dignity, and livelihood strands of Article 21 means that recruitment failure engages the provision at several points at once, strengthening the claim that the resulting injury is constitutional rather than merely administrative.

D. Rule of Law and Constitutional Governance

The rule of law, a basic feature of the Constitution, requires that public power be exercised according to settled, non-arbitrary norms and that those who wield it be answerable for its abuse.¹⁷ A recruitment system in which leaks recur and accountability is diffuse is in tension with this principle, because it allows the consequences of State and agency default to fall on blameless candidates while the administrative apparatus that failed them remains insulated. Constitutional governance demands that the State not merely refrain from arbitrary action but maintain the institutional competence necessary to honour the rights it has undertaken to secure.

E. Constitutional Morality and Public Trust

Finally, the principles of constitutional morality and public trust reinforce these guarantees. Constitutional morality, which the Court has invoked to demand probity and good faith in the exercise of public power, is offended where recruitment is conducted with indifference to its integrity.¹⁸ The public-trust doctrine, though developed principally in the environmental context, expresses a more general idea applicable here: that certain resources and functions are held by the State in trust for the public and must be administered with corresponding fidelity.¹⁹ Public examinations, which allocate the scarce and consequential resource of State employment, are a paradigmatic object of such a trust, and their repeated compromise is a breach of it.

¹⁷*Indira Nehru Gandhi v. Raj Narain*, 1975 Supp SCC 1 (India) (rule of law and free and fair elections as basic features); see also *Kesavananda Bharati v. State of Kerala*, (1973) 4 SCC 225 (India).

¹⁸*Manoj Narula v. Union of India*, (2014) 9 SCC 1, ¶¶ 75-77 (India) (constitutional morality and good governance).

¹⁹*M.C. Mehta v. Kamal Nath*, (1997) 1 SCC 388 (India) (public-trust doctrine).

IV. Examination Leaks as Constitutional Violations

The dominant legal response to examination leaks has been criminal and, latterly, statutory. The Public Examinations (Prevention of Unfair Means) Act 2024 criminalises the leakage of question papers, the manipulation of results and merit lists, and collusion by service providers, prescribing significant terms of imprisonment and fines. Criminalisation is necessary but analytically incomplete, because it addresses the wrongdoer while leaving unanswered the constitutional position of the candidate whose equal opportunity has been destroyed. The argument advanced here is that examination leaks, particularly when recurring and attributable to systemic default, are constitutional wrongs and not merely crimes.

The Court's recruitment jurisprudence supports this characterisation, even where it has stopped short of articulating it in constitutional-tort terms. In *Tanvi Sarwal v. CBSE*, the Court cancelled and ordered the re-conduct of a national medical-entrance examination on finding that leakage had compromised its sanctity, treating the integrity of the examination as a condition of its legitimacy.²⁰ In *Sachin Kumar v. Delhi Subordinate Services Selection Board*, it affirmed the power to cancel a selection where systemic fraud rendered it impossible to separate the tainted from the untainted.²¹ And in *Inderpreet Singh Kahlon v. State of Punjab*, it grappled with the consequences of large-scale recruitment fraud for selectees and the State alike.²² These decisions recognise, in substance, that a compromised examination injures a constitutional interest; what they do not yet do is name that injury and attach to it a remedy in the candidate's favour.

The case for constitutional characterisation is strongest where failure is recurrent. A single leak may be an aberration; a pattern of leaks across successive examinations evidences a systemic incapacity to discharge a constitutional function, and it is the systemic dimension that converts administrative failure into constitutional violation. Recurrence denies equal opportunity not merely to the candidates of one examination but to a generation of aspirants who must compete within a process they cannot trust, and who bear the cost of the State's

²⁰*Tanvi Sarwal v. CBSE*, (2015) 6 SCC 573 (India) (cancellation and re-conduct of AIPMT 2015 on account of leakage).

²¹*Sachin Kumar v. Delhi Subordinate Servs. Selection Bd.*, (2021) 4 SCC 631 (India) (power to cancel a selection vitiated by systemic fraud).

²²*Inderpreet Singh Kahlon v. State of Punjab*, (2006) 11 SCC 356 (India) (consequences of large-scale recruitment fraud).

persistent default. Where the Court itself records that an agency has not learnt from earlier failures, the inference of systemic, rather than incidental, breach is difficult to resist.

The limits of the criminal-law response illuminate why constitutional characterisation matters. The criminal process is directed at the punishment of the wrongdoer, not at the restoration of the victim; the aggrieved candidate is, at most, a witness, with no standing to obtain redress for the destruction of her opportunity and no remedy for the years and resources she has lost. Even a perfectly enforced penal statute therefore leaves the constitutional position of the candidate untouched. To treat examination failure as a constitutional wrong is to shift the analytical focus from the culpability of the leaker to the entitlement of the candidate and the responsibility of the State, and thereby to open remedial avenues re-conduct, structural reform, and compensation that the criminal law cannot supply. This is not to displace criminal liability but to supplement it with a constitutional account adequate to the nature of the injury.

Two further dimensions of the wrong deserve separate notice. Result manipulation and the compromise of merit lists are, if anything, graver than the leakage of a question paper, because they corrupt the outcome directly and covertly, displacing deserving candidates by those who have purchased or engineered an advantage; the equal-opportunity guarantee of Article 16 is violated not at the threshold but at the very point of allocation. Delay and indefinite postponement constitute a related but distinct injury: a recruitment process that is announced and then stalled for years, or repeatedly re-scheduled after cancellation, defeats equal opportunity through attrition, and the Court has accordingly insisted on time-bound recruitment schedules as an incident of fair process.²³ In each case the constitutional vice is the same the substitution of arbitrariness for the rational, uniform, and timely standard that Articles 14 and 16 require and in each case the candidate bears a loss occasioned by the State's default rather than by any failing of her own.

V. The Human Cost of Recruitment Failure

Constitutional adjudication in this field cannot proceed as though candidates were interchangeable statistical units; the dignity dimension of Article 21 requires that the human

²³*Malik Mazhar Sultan (3) v. U.P. Pub. Serv. Comm'n*, (2008) 17 SCC 703 (India) (judicial insistence on time-bound recruitment schedules).

consequences of recruitment failure be taken seriously. Those consequences are economic, psychological, and social, and each bears on the gravity of the constitutional injury.

A. Economic Harm

Preparation for competitive examinations imposes substantial and often irrecoverable costs. Aspirants commonly incur coaching fees, hostel and living expenses in examination hubs far from home, repeated travel for successive attempts, and most significantly the opportunity cost of years withdrawn from the labour market during the most productive period of early adulthood. When an examination is leaked and cancelled, or a recruitment is annulled after appointment, these costs are sunk and the expected return is destroyed, frequently through no fault of the candidate. The economic harm is thus not speculative but concrete and quantifiable, a feature that matters when the question of compensation is reached.

These costs fall, moreover, with regressive force. The candidate from a modest background, who has borrowed to fund coaching and forgone earnings to prepare, has the least capacity to absorb the loss occasioned by a cancelled or compromised examination, and the greatest difficulty in funding a further attempt. The economic harm of recruitment failure is thus not distributed neutrally across aspirants but concentrated upon those for whom public employment represented the principal route out of disadvantage an inequality of impact that maps directly onto the equality concerns of Articles 14 and 16. Recognising the economic dimension of the injury is therefore not a sentimental indulgence but a necessary element of an honest constitutional accounting, since it identifies both the gravity of the harm and the class upon whom it predominantly falls.

B. Psychological Harm

The psychological toll is equally real. The uncertainty generated by leaks, cancellations, and indefinite delays produces anxiety, depression, and a corrosive loss of confidence, compounded by the high stakes and narrow margins of competitive selection. The official acknowledgement that student distress, including suicide, has accompanied the high-pressure examination ecosystem underscores that these are not incidental inconveniences but serious harms to mental health and well-being.²⁴ A constitutional account attentive to dignity must register these harms

²⁴Ministry of Education, Gov't of India, Guidelines for Regulation of Coaching Centres (Jan. 2024) (prohibiting enrolment below the age of 16, misleading promises, and guarantees of rank or marks; framed in part in response to reported student distress and suicides).

rather than abstract them away.

C. Social Harm

The social consequences ramify outward from the individual. Repeated failure of the recruitment process delays the onset of careers and financial independence, prolongs dependence on families already stretched by the costs of preparation, and in a society where employment and marriageability remain closely linked imposes social costs that fall with particular severity on candidates from disadvantaged backgrounds, for whom public employment is the principal avenue of mobility. The cumulative effect is to convert a defect in administration into a setback in the life-course of a generation. A constitutional jurisprudence that purports to protect equality and dignity must reckon with these consequences, for they are the concrete content of the rights at stake, and it is precisely the candidate's lived experience of the failure not an abstract administrative metric that measures the seriousness of the breach.

VI. The Coaching Industry, Systemic Inequality, and Regulatory Failure

The expansion of competitive examinations has been accompanied by the rapid growth and commercialisation of a private coaching industry that now mediates access to public recruitment to a remarkable degree. Preparation has become, for many, impossible without recourse to coaching, and the industry's scale, cost, and marketing practices have outpaced the regulatory framework. The Ministry of Education's 2024 guidelines prohibiting the enrolment of very young students, misleading promises, and guarantees of rank or marks represent an official recognition of the problem, but they are administrative guidelines rather than binding legislation, and their enforcement depends on State adoption.

The constitutional concern is that an unregulated coaching ecosystem aggravates the very inequality that Articles 14 and 16 are meant to prevent. Where success in public recruitment depends substantially on access to expensive private preparation, the formal equality of the examination conceals a substantive inequality of opportunity, advantaging those who can pay and disadvantaging those who cannot. Misleading advertising and the exploitation of aspirants' anxieties compound the harm and raise consumer-protection concerns that existing law addresses only obliquely.²⁵ The deeper point is that the State, having made the competitive examination the gateway to public employment, cannot be indifferent to the private ecosystem

²⁵Consumer Protection Act, No. 35 of 2019 (India); cf. *Lucknow Dev. Auth. v. M.K. Gupta*, (1994) 1 SCC 243 (India) (deficiency in service and exemplary damages against public authorities).

that has grown up around that gateway: if access to the State's own recruitment process is effectively conditioned on private expenditure that the State neither regulates nor offsets, the equal-opportunity guarantee is hollowed from within. The absence of effective regulation is therefore not a neutral gap but a constitutional omission with distributive consequences.

The regulatory response has begun to take shape but remains incomplete. Beyond the Ministry's guidelines, the consumer-protection regulator has issued directions against misleading advertising in the coaching sector, addressing guarantees of success and the concealment of material terms.²⁶ These are welcome but partial measures: guidelines and sectoral directions lack the force and reach of a comprehensive statutory regime, and they address the symptoms of commercialisation rather than the structural dependence of public recruitment upon private preparation. The constitutional difficulty is not merely that some coaching is misleading, but that the State has permitted access to its own recruitment process to become conditioned, in practice, upon private expenditure it neither regulates nor offsets. Until that dependence is addressed whether through regulation, the strengthening of public preparatory provision, or both the formal equality of the examination will continue to mask a substantive inequality that Articles 14 and 16 are meant to prevent.

VII. Towards a Constitutional Right to Competent Governance

The most ambitious argument of this paper is that citizens possess a constitutional interest in reasonably competent administration of public recruitment an interest that, while not yet named as a freestanding right, is implicit in the rights and doctrines already recognised. The doctrine of legitimate expectation supplies one foundation: where the State holds out a fair and timely recruitment process, candidates who order their lives in reliance on that representation acquire an expectation that the law protects against arbitrary defeat.²⁷ The Court has cautioned that legitimate expectation does not guarantee a substantive outcome and yields to overriding public interest,²⁸ but it does require that the process be conducted fairly and not be frustrated by avoidable default.

²⁶Central Consumer Protection Authority, Gov't of India, Guidelines for Prevention of Misleading Advertisement in the Coaching Sector, 2024 (India).

²⁷*Food Corp. of India v. Kamdhenu Cattle Feed Indus.*, (1993) 1 SCC 71 (India) (doctrine of legitimate expectation and the duty to act fairly).

²⁸*Union of India v. Hindustan Dev. Corp.*, (1993) 3 SCC 499 (India) (legitimate expectation does not guarantee a substantive outcome and yields to public interest).

Administrative accountability and good governance furnish a second foundation. The Court's invocation of constitutional morality and good governance, and the sustained attention of administrative-reform bodies to competence and integrity in public administration, reflect an emerging understanding that the Constitution presupposes a State capable of discharging its functions with reasonable competence.²⁹ The non-arbitrariness principle of Article 14 contains within it not only a prohibition on capricious action but, properly understood, a positive expectation of minimally competent administration, since a process so poorly designed and secured that it is repeatedly compromised is arbitrary in effect even where no malice is shown.

Comparative experience lends support. The German Basic Law guarantees every citizen equal access to public office according to aptitude, qualification, and achievement, a guarantee the German courts treat as judicially enforceable and as imposing real constraints on the selection process.³⁰ The right to competent governance proposed here is more modest: it does not guarantee a particular result, nor does it convert every administrative error into a constitutional violation. It asserts only that the State, having assumed the function of allocating public employment through competitive examination, owes those who participate a duty to administer that function with reasonable competence and integrity, and that egregious and repeated breach of that duty is a constitutional wrong. So framed, the right is a natural extension of the equality, dignity, and rule-of-law principles already established, not a departure from them.

It is important to distinguish the proposed right from a guarantee of administrative perfection, which would be both unattainable and undesirable. The duty to act fairly that the courts have imposed on administrative bodies already contains the seed of the idea: fairness is not satisfied by good intentions but requires the maintenance of processes adequate to the decision at hand. The right to competent governance generalises this insight to the systemic level. It is engaged not by isolated error but by a demonstrated, persistent incapacity to perform a constitutional function an incapacity that, when it recurs across examinations and resists correction even after judicial notice, ceases to be misfortune and becomes default. The threshold is deliberately high, and the remedy primarily structural and compensatory rather

²⁹See Second Administrative Reforms Commission, Gov't of India, Reports on Ethics in Governance and Refurbishing of Personnel Administration (2007-2008) (canvassing competence and integrity in public administration).

³⁰Grundgesetz [GG] art. 33(2) (Ger.) (equal eligibility for public office according to aptitude, qualifications, and professional achievement; the principle of *Bestenauslese*).

than a judicial assumption of administrative tasks, so that the doctrine respects the separation of powers while insisting that constitutional functions be discharged with constitutional seriousness. Far from inviting judicial micromanagement, the right channels judicial intervention toward the systemic conditions of failure, leaving the design and conduct of examinations to the competent authorities while holding them answerable for sustained default.

VIII. Examination Leaks as Constitutional Torts

If repeated recruitment failure is a constitutional wrong, the question of remedy follows. Indian constitutional law has developed a robust jurisprudence of public-law compensation for State violations of fundamental rights, and it is to this jurisprudence that the present argument appeals. In *Rudul Sah v. State of Bihar*, the Court awarded compensation under Article 32 for unlawful detention, recognising that the power to enforce fundamental rights includes the power to award monetary relief. In *Nilabati Behera v. State of Orissa*, it held such compensation to be a public-law remedy distinct from private tort and unaffected by sovereign immunity,³¹ and in *D.K. Basu v. State of West Bengal*, it consolidated the principle in the context of custodial violations.³² The same Court had earlier, in the *Oleum Gas* matter, signalled its willingness to evolve new remedies to meet the demands of a developing constitutional order.³³

This lineage is not confined to custodial death or detention. The Court has narrowed the old doctrine of sovereign immunity, holding the State liable for the negligent exercise of its functions,³⁴ and has affirmed that there is no sovereign-immunity defence to a claim for violation of fundamental rights.³⁵ It has also awarded exemplary damages against public authorities for the capricious and negligent exercise of power that causes harm to citizens, treating maladministration as a wrong sounding in compensation.³⁶ There is no principled reason why systemic recruitment failure negligent administration that destroys the equal

³¹*Nilabati Behera v. State of Orissa*, (1993) 2 SCC 746 (India) (public-law compensation as a remedy distinct from private tort, unaffected by sovereign immunity).

³²*D.K. Basu v. State of West Bengal*, (1997) 1 SCC 416 (India).

³³*M.C. Mehta v. Union of India*, (1987) 1 SCC 395 (India) (*Oleum Gas*) (power of the constitutional court to evolve new remedies and award compensation under art. 32).

³⁴*N. Nagendra Rao & Co. v. State of A.P.*, (1994) 6 SCC 205 (India) (narrowing the doctrine of sovereign immunity for negligent State action).

³⁵*Vidya Devi v. State of H.P.*, (2020) 2 SCC 569 (India) (no sovereign-immunity defence to violation of fundamental rights).

³⁶*Lucknow Dev. Auth. v. M.K. Gupta*, (1994) 1 SCC 243 (India) (exemplary damages for capricious and negligent exercise of public power).

opportunity and dignity of identifiable candidates should be excluded from this remedial framework.

The objection that compensation should be reserved for the gravest violations, such as deprivation of life and liberty, has force and must be met with discipline rather than rejected.³⁷ The threshold proposed here is correspondingly demanding: compensation should attach not to every administrative lapse but to failures that are systemic, attributable to State or agency default rather than to the candidate, and productive of demonstrable harm. So confined, public-law compensation for recruitment failure is a measured extension of settled doctrine, calibrated to the seriousness of the constitutional injury and payable by the State rather than by individual officers, consistent with the established model of constitutional liability.

A workable standard of compensation can be articulated without inviting indeterminate liability. The quantum should reflect the demonstrable economic loss occasioned by the failure wasted, State-mandated expenditure and the opportunity cost of avoidable delay together with a measured component for the dignitary harm, consistent with the calibrated approach the Court has taken in awarding public-law damages. Liability should rest on the State or the defaulting agency rather than on individual officers, both because the failure is systemic and because institutional liability better serves the deterrent function: a State that must compensate for systemic failure has a continuing financial incentive to invest in the integrity of the process. So conceived, public-law compensation is not a windfall to candidates but a mechanism of accountability that internalises the cost of administrative default and aligns the incentives of the recruiting State with the constitutional interests of those it tests.

IX. Comparative Perspectives

A. United Kingdom

The United Kingdom places civil-service recruitment on a statutory footing of selection on merit through fair and open competition, supervised by an independent Civil Service Commission under the Constitutional Reform and Governance Act 2010, and entrusts the regulation of public examinations and qualifications to an independent regulator, Ofqual. The British model illustrates the value of independent oversight of both recruitment and

³⁷*Sube Singh v. State of Haryana*, (2006) 3 SCC 178 (India) (public-law compensation is discretionary and reserved for established, serious violations).

examination integrity, though public-law damages for maladministration remain comparatively constrained, typically channelled through judicial review and the ombudsman rather than constitutional compensation.

B. Canada

Canada's Public Service Employment Act vests recruitment in an independent Public Service Commission and entrenches the merit principle, with structured recourse for candidates aggrieved by process failures. The Canadian system demonstrates that an independent staffing authority combined with accessible internal remedies can secure both merit and accountability without resort, in the ordinary case, to constitutional litigation.

C. Germany

Germany offers the closest analogue to the argument advanced here. Article 33(2) of the Basic Law guarantees equal access to public office according to aptitude, qualification, and professional achievement, a guarantee the courts enforce as a genuine constraint on selection. Crucially, German law couples this with a developed regime of State liability: under Article 34 of the Basic Law read with the Civil Code, the State answers in damages for the breach of official duties by its servants.³⁸ The German pairing of an enforceable right of equal access with State liability for official default is the comparative model most directly supportive of recognising both a right to fair recruitment and compensation for its breach.

D. Singapore

Singapore, though differently situated constitutionally, entrusts public appointments to a constitutionally established Public Service Commission and is widely associated with a meritocratic and tightly administered recruitment system.³⁹ Its experience suggests that administrative competence and examination integrity are substantially a function of institutional design and rigorous management, reinforcing the case for an independent and adequately resourced recruitment-integrity authority in India.

³⁸Grundgesetz [GG] art. 34 (Ger.) read with Bürgerliches Gesetzbuch [BGB] § 839 (Ger.) (State liability for breach of official duty by public officers).

³⁹Constitution of the Republic of Singapore, arts. 105-107 (establishing the Public Service Commission).

The comparative survey yields convergent lessons: independent oversight of recruitment and examinations, an enforceable principle of merit-based equal access, accessible remedies for candidates, and most pertinently in the German case State liability for official default. None can be transplanted wholesale, but each isolates a safeguard that the Indian system presently lacks or under-enforces.

X. Reform Proposals

The reforms proposed below follow from the constitutional analysis and are assessed for legal basis, constitutional justification, feasibility, and foreseeable objection.

First, a statutory right to fair recruitment, enacted under the legislative power over conditions of service and grounded in Articles 14 and 16, would convert the implicit constitutional guarantee into an enforceable entitlement to a fair, timely, and secure process. Its principal challenge is enforcement, which the succeeding proposals address. Second, a National Recruitment Integrity Authority an independent body to set and audit examination-security standards across agencies finds its justification in the demonstrated inadequacy of fragmented, agency-specific oversight, and is feasible given existing regulatory analogues; the objection of bureaucratic proliferation is met by consolidating, rather than adding to, existing functions. Third, independent examination-security audits, conducted before and after major examinations, would operationalise the integrity standard and supply the evidentiary basis for accountability.

Fourth, a candidate-compensation framework would give effect to the constitutional-tort analysis, providing structured, calibrated compensation for candidates harmed by systemic, State-attributable failure, on the model of existing public-law compensation. Fifth, mandatory age relaxation following cancelled examinations would prevent candidates from losing eligibility through no fault of their own, a minimal and manifestly fair corrective grounded in the equal-opportunity guarantee. Sixth, a coaching-centre regulatory authority would place the 2024 guidelines on a binding statutory footing, addressing misleading advertising, fees, and exploitation, and mitigating the distributive inequality the coaching ecosystem generates.

Seventh, a recruitment-accountability commission would provide a standing mechanism for investigating systemic failures and fixing institutional responsibility. Eighth, robust criminal liability for examination leaks is already substantially provided by the 2024 Act,

whose effective enforcement, rather than further criminalisation, is the priority. Ninth, digital transparency systems secure question-paper transmission, encryption, audit trails, and real-time monitoring of the kind recommended by the expert committee constituted after the 2024 controversy would reduce the opportunity for leakage and manipulation.⁴⁰ Tenth, and most ambitiously, the constitutional recognition of fair-recruitment principles whether by authoritative judicial articulation or, in time, by amendment would anchor the guarantee against legislative dilution; the objection that this reduces flexibility is outweighed by the demonstrated fragility of purely administrative safeguards. Across these proposals, the constitutional justification is constant: the State, having assumed the function of allocating public employment, owes those who participate a fair, competent, and accountable process. The proposals are, moreover, mutually reinforcing: an enforceable right without an institution to vindicate it, or an institution without a remedy to deploy, would each fall short, whereas together they translate the constitutional guarantees of equality, opportunity, and dignity into an operational architecture of prevention, accountability, and redress.

XI. Conclusion

The central question of this paper is whether repeated examination leaks and recruitment failures can be treated as constitutional wrongs rather than mere administrative irregularities. The analysis advanced here supports an affirmative, if carefully bounded, answer. Fair public recruitment is implicit in the equality and equal-opportunity guarantees of Articles 14 and 16 and in the dignity protected by Article 21; examination leaks and manipulation attributable to State or agency default deny equal opportunity and offend dignity; and recurrence transforms what might otherwise be incidental administrative failure into systemic constitutional violation.

On that basis, India should recognise three connected propositions. First, a constitutional right to fair public recruitment, derived from Articles 14, 16, and 21, entitling candidates to a process that is fair, secure, and timely. Second, a constitutional interest in reasonably competent administration of that process a right to competent governance, modest in content but real in effect, that treats egregious and repeated incompetence as a constitutional wrong rather than a misfortune to be borne by its victims. Third, public-law compensation for systemic, State-attributable recruitment failures, on the disciplined model already developed for other

⁴⁰High-Level Committee of Experts (Chair, Dr. K. Radhakrishnan), Report on Reform of the National Testing Agency and Examination Conduct (2024) (recommending encryption, secure transmission, digital tracking, and enhanced surveillance).

constitutional violations, reserved for failures that are systemic, attributable to the State, and productive of demonstrable harm.

These conclusions do not promise a flawless recruitment system, which no State can guarantee, nor do they convert every administrative error into a constitutional claim. They insist on something narrower and firmer: that where the State repeatedly fails, through its own default, to administer with integrity the examinations on which the equal opportunity of millions depends, the resulting injury is constitutional in character and merits a constitutional response. To treat such failures as mere irregularities is to leave the constitutional guarantees of equality, opportunity, and dignity without effective content at precisely the point where, for India's young aspirants, they matter most.

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