



# Defamation

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## Why in News?

A judge of the [Supreme Court of India](#) highlighted the need to **decriminalise defamation**, citing concerns over its increasing **misuse** by political leaders and private individuals to settle personal and political disputes.

## What is Defamation?

- **About:** Defamation is the act of **speaking, writing, publishing, or making signs against someone with the intention to harm their reputation.**
  - It can concern a **living person, a company, association, or group, or a deceased individual**, with harm to the deceased considered in terms of its impact on their family or close relatives.
- **Types of Defamation:**
  - **Libel:** Defamatory statements made in a **permanent form**, e.g., writing, images, published works.
  - **Slander:** Defamation through **spoken words or temporary expressions.**
  - Courts interpret defamation **subjectively**, based on proof and circumstances.
- **Regulation in India:**
  - **Indian Penal Code (IPC) Sections 499 & 500 (now Bharatiya Nyaya Sanhita, 2023):** Defines defamation and prescribes its punishments.
    - Defamation can be **criminal** or **civil**, depending on severity and evidence. Criminal cases require **strong proof** and the presence of **reasonable doubt**.
  - Criminal defamation serves as a **stronger deterrent than civil penalties**, upholds public interest in protecting reputation, and safeguards **vulnerable groups from discrimination or hate speech.**
- **Judicial Pronouncement:**
  - **Subramanian Swamy Vs. Union of India, 2016:** The upheld the constitutional validity of criminal defamation. It ruled that protecting reputation is part of the fundamental right to life under [Article 21](#).
    - Criminal defamation under IPC was held to be a “reasonable restriction” on free speech under [Article 19\(2\)](#).
    - Article 19(2) of the Indian Constitution permits the State to impose “reasonable restrictions” on the right to freedom of speech and expression.

## What is the Need to Decriminalise Defamation?

- **Prevent Misuse:** Criminal defamation is often used by individuals or political figures to **settle personal or political scores.**
- **Protect Freedom of Speech:** Criminal defamation threatens free speech and press freedom. Decriminalisation would **reduce the chilling effect on journalists, activists, and citizens** expressing opinions.
- **Civil Remedies are Sufficient:** Reputation can still be protected through **civil defamation**

**suits** without criminal penalties. Many democracies like the US treat **defamation as a civil matter** rather than a criminal offense.

- Reputational harm is a **civil injury**; imprisonment is excessive and violates the principle of proportionality.

▪ **Judicial Economy:** Criminal cases add to the already massive backlog in courts; civil remedies are **more efficient and less burdensome**.

## What Measures Can Strengthen Defamation Laws While Protecting Free Speech in India?

- **Decriminalise Private Defamation:** Restrict **criminal liability only to matters of public interest or national security**, shift private disputes to civil law.
- **Strengthen Civil Remedies:** Fast-track courts for defamation cases, clear compensation norms, and alternative dispute resolution for quicker justice.
- **Define Clear Standards:** Re-examine the **2016 judgment** in light of present misuse and provide judicial or legislative guidelines to distinguish **fair criticism, satire, and irony** from **malicious defamation**.
- **Safeguard Press Freedom:** Introduce protections for journalists, whistleblowers, and researchers acting in public interest.
- **Prevent SLAPP Suits:** Enact anti- [strategic lawsuit against public participation \(SLAPP\)](#) legislation to stop misuse of defamation cases by powerful individuals or corporations.
- **Awareness & Media Literacy:** Educate citizens on responsible speech and remedies available without resorting to criminal cases.

## Conclusion

Defamation remains a complex issue where **free speech and reputation often collide**. Any change must **weigh the risk of silencing criticism against the need to protect dignity**, demanding cautious, well-researched reforms.

### ***Drishti Mains Question:***

**Q.** Analyse the misuse of defamation laws and its impact on democratic discourse.

## UPSC Civil Services Examination, Previous Year Question (PYQ):

### **Mains**

**Q.** What do you understand by the concept of “freedom of speech and expression”? Does it cover hate speech also? Why do the films in India stand on a slightly different plane from other forms of expression? Discuss. **(2014)**