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EDITORIAL ANALYSIS

Kautilya Cut Off the Tongue. We Have Courts. Neither Solves the Dilemma.

 HINDUSTAN TIMES

30 August 2026 ·

POLITY

HISTORY & CULTURE

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ESSAY

CURATED & WRITTEN BY

**Bharat Choudhary**

UPSC Educator & Content Creator

 [linkedin.com/in/epicbharat](https://www.linkedin.com/in/epicbharat)

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ESSAY



INTERVIEW ANGLE

"Gopalkrishna Gandhi writes that political defamation cannot be checked without risking political score-settling. Should India decriminalise defamation and leave it to civil remedies, or does the criminal provision protect people civil damages cannot reach?"

Source: [Original editorial](#)

Hindustan Times

 Every fact web-verified against primary sources

THE LIFT LINE

WHY THIS EDITORIAL MATTERS FOR YOUR EXAM

Defamation is a standing GS2 topic through **Article 19(2)**, **Subramanian Swamy v. Union of India** and the decriminalisation debate. This column adds what most answers lack: the **Arthashastra** as a primary-source hook for GS1 and GS4, and an argument structure, the honest dilemma, that scores in essays. It also supplies a word every Interview panel enjoys: **tribune**, the Roman officer elected to protect the plebeians from the patricians.

BACKGROUND AND CONTEXT

The practice. Gandhi names it in its own register: **gaali-galauch**, hurled abuse, deployed down the centuries, with its cruellest form the insult that reaches for the target's **mother, sister or wife**. His unsparing observation: a nation engaged in reverencing the National Song's invocation of Mother India contains sons entirely comfortable insulting the mothers of fellow Indians.

The pattern. Insult, horror, demanded apology, denial or provocation-plea, magnification on social media, and the cry "what have we come to?", to which Gandhi's answer is that we have come to nowhere we were not already: the great languages have always carried an unprinted supplement of abuse, with a sub-supplement aimed at women's bodies. Prudishness should not deny it.

The ancient precedent. Kautilya's **Arthashastra**, roughly **2,400 years old**, read through **L. N. Rangarajan's Penguin Classics translation of 1992**, divides defamation into **simple and aggravated**. The aggravated class includes insulting, in order, **“one's mother, father, brother, teacher or an ascetic”**, and prescribes **cutting off the tongue**. The same penalty attached to **insulting the king, divulging State secrets, and spreading false rumours about the king**.

The modern law, for the exam. Criminal defamation, previously **Section 499 IPC**, now carried into the **Bharatiya Nyaya Sanhita, 2023**, with truth-for-public-good among its exceptions. **Subramanian Swamy v. Union of India (2016)** upheld its constitutionality, locating the **right to reputation within Article 21** and treating the offence as a reasonable restriction under **Article 19(2)**. Civil defamation runs in parallel as a tort.

THE ANALYSIS

Gandhi's dilemma, stated precisely. We need to curb the crime, and we need to be wary of the political dimension the curbing acquires. Both needs are genuine, and they pull against each other.

Why the law lands where politics is thickest. Ordinary victims of oral abuse do not litigate; the process intimidates. The famous do. So an offence written for everyone is in practice invoked mainly in political combat, which means its chilling effect and its harassment potential are both concentrated exactly where free speech matters most.

Why the State-as-plaintiff is the sharpest edge. When a political entity, or the State and its symbols, takes offence, the decision to prosecute is made by the offended power itself. Gandhi's formulation deserves quoting: seemingly right and good things are done with dubious intentions, and patently wrong and bad steps are taken **“wearing noiseless and soft footwear.”**

The Kautilyan mirror. One part of Gandhi applauds the Arthashastra's equation of mother and sovereign. The other part immediately objects: a penal code needs a common base in **mens rea** and a settled objective, retribution, prevention or reform. And the equation cuts both ways: a State that punishes insults to mothers with the same blade as insults to itself has fused private dignity with political power, which is precisely the fusion a constitutional order exists to separate.

The measurement problem. The **“disrespect-quotient”** of an utterance is for courts to determine, and the determination is onerous, subjective and itself appealable. The judicial route is therefore slowest exactly where the injury is fastest.

The missing institution. Gandhi's conclusion is civic, not legal. India once had **tribunes**: he names Presidents **Radhakrishnan, Venkataraman and Narayanan** as thought-partners of the people within office, and **Ambedkar, Rajagopalachari, Muthulakshmi Reddy, Jayaprakash Narayan, Kamaladevi Chattopadhyay, the Kripalanis and V. R. Krishna Iyer** as tribunes outside it, recalling the Roman office that protected **plebeians from patricians**. The judiciary, overburdened, can act only on matters before it. **Tribunes can choose their matters**. The matters are many; the tribunes few, if any.

DATA AND INSTITUTIONS VAULT

PRELIMS-GRADE FACTS:

The Arthashastra distinguishes simple from aggravated defamation; insulting one's mother fell in the aggravated class.

Kautilya prescribed cutting off the tongue for insulting a mother, and identically for insulting the king.

L. N. Rangarajan's English translation of the Arthashastra was published in the Penguin Classics in 1992.

Criminal defamation, formerly Section 499 IPC, is carried into the Bharatiya Nyaya Sanhita, 2023.

Subramanian Swamy v Union of India (2016) upheld criminal defamation as constitutional.

That judgment located the right to reputation within Article 21 of the Constitution.

Defamation is among the specified grounds for reasonable restrictions on speech under Article 19(2).

In ancient Rome a tribune was an elected official protecting the plebeians from the patricians.

Gandhi names Presidents Radhakrishnan, Venkataraman and Narayanan as models of counselling heads of state.

The UK abolished criminal defamation in 2010; India retains both criminal and civil routes.

*Do not write that the Arthashastra "had a defamation law like ours". Kautilya's code protected **hierarchy**: mother, teacher, ascetic, king. Modern defamation law protects **reputation as an individual right** irrespective of station. The continuity is the impulse to punish insult; the discontinuity, which is the examinable point, is who the law thinks the victim is.*

THE DEBATE

Curb harder. Maternity-directed abuse is not discourse; it is violence in language, it silences women in public life disproportionately, and a State that shrugs at it licenses it. A swift, civilised, appealable penalty, Gandhi's own half-wish, is overdue.

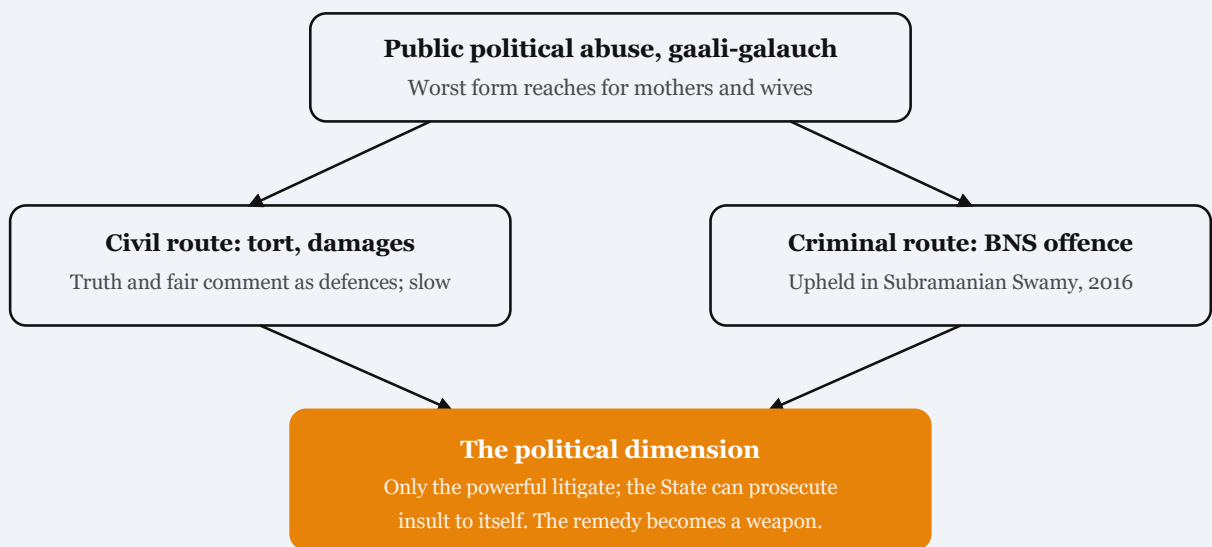
Curb with suspicion. Every strengthening of the defamation instrument strengthens its strongest users, who are governments and the powerful. The record of criminal defamation in India is substantially a record of harassment filings against journalists, opposition figures and critics. **Decriminalise**, confine remedies to civil damages with truth as a defence, and bar the State from suing for its own dignity.

The uncomfortable synthesis. Both sides are right about different cases, and the law cannot easily tell the cases apart in advance. That is why Gandhi calls it a dilemma and offers ruminations rather than solutions, an honesty an essay-writer should imitate rather than resolve by fiat.

HOW TO THINK ABOUT THIS

Separate the **conduct**, the **remedy** and the **plaintiff**. The conduct, maternity-directed political abuse, is condemnable without reservation. The remedy question, criminal versus civil, is a genuine design choice with respectable arguments both ways. The plaintiff question is the one with a clean answer: **the State prosecuting insult to itself is categorically more dangerous than a person suing for their reputation**, because it fuses the offended party with the prosecuting power. An answer that keeps these three levels distinct will outscore one that argues “for” or “against” defamation law as a lump.

DIAGRAM-IN-WORDS



Both remedy routes drain into the same orange box. That box, not the conduct above, is where Gandhi locates the dilemma.

TAKEAWAY BOX

Dignity and power protected by one blade: that was Kautilya's code, and the risk in ours.

Arthashastra's aggravated defamation covered insult to mother, father, brother, teacher or ascetic, punished like insulting the king by tongue-cutting; Rangarajan's Penguin translation, 1992; Section 499 IPC carried into the BNS 2023; Subramanian Swamy (2016) upheld criminal defamation, reputation under Article 21, restriction under Article 19(2); Roman tribunes protected plebeians from patricians.

Separate conduct, remedy and plaintiff. The conduct is condemnable; the remedy choice is debatable; the State as wounded plaintiff is the categorical danger. Gandhi's contribution is refusing a false solution and naming the missing institution: tribunes of standing who chasten society and check the State without needing a case before them.

"The vocabulary of abuse is older than the law that punishes it." Or Gandhi's image: wrong steps taken wearing noiseless and soft footwear.

Source: Kautilya Cut Off the Tongue. We Have Courts. Neither Solves the Dilemma. — Ujyari.com | Free UPSC & State PCS Editorial Analysis

• KEY ARGUMENTS AT A GLANCE

Writing in the Hindustan Times, Gopalkrishna Gandhi argues that India faces a genuine dilemma rather than a solvable problem: public abuse, especially the maternity-directed insult traded between political persons, degrades public life and deserves curbing, yet the instruments of curbing, courts moved by powerful plaintiffs and a State that can take offence on its own behalf, acquire a political dimension that can turn the remedy into a weapon.



SUPPORTING

- The practice is old and the vocabulary older: gaali-galauch is a timeless weapon of belligerence, and the Arthashastra of roughly 2,400 years ago already distinguished simple from aggravated defamation, placing insult to one's mother in the gravest category alongside insulting the king, punished identically by cutting off the tongue.
- Ordinary oral abuse rarely reaches courts because the process intimidates; it is when the parties are famous and the insult public that litigation follows, which means the law of defamation is in practice applied most where politics is thickest.
- The determination a court must make, the disrespect-quotient of an utterance, is inherently onerous and subjective, and a judgment on it can itself be appealed and re-litigated, which makes the judicial route slow precisely where the injury is swift.



COUNTER

The counter-position is that the dilemma is overstated: civilised jurisdictions manage defamation through civil damages with truth and fair comment as defences, and the political-weaponisation risk attaches mainly to criminal defamation and to State plaintiffs, both of which can be narrowed by law without leaving victims of maternity-directed abuse remediless.



WAY FORWARD

Gandhi's own way forward is not legal but civic: the country lacks tribunes, persons of standing outside office who can chasten society and check the State, as Rajagopalachari, Jayaprakash Narayan or Kamaladevi Chattopadhyay once did, and while nostalgia cures nothing, recognising the vacancy is the beginning of filling it.


MAINS ANSWER FRAMEWORK
QUESTION

The offence of defamation sits at the junction of the right to reputation and the freedom of speech, and prosecution choices give it a political dimension. Critically examine, with reference to the law as it stands and the debate on decriminalisation. (250 words)

INTRODUCTION

Gopalkrishna Gandhi, writing in the Hindustan Times, examines a problem he declines to pretend is solvable: the coarsening of political speech into maternity-directed abuse, and the difficulty that every instrument for curbing it can itself be politically used. The column's honesty about this circularity is its contribution.

BODY

The law as it stands treats defamation as both tort and crime. The criminal offence, now carried into the Bharatiya Nyaya Sanhita from Section 499 of the IPC, was upheld in *Subramanian Swamy v. Union of India* (2016), where the Supreme Court held the right to reputation to be part of Article 21 and criminal defamation a reasonable restriction under Article 19(2).

The dilemma Gandhi identifies operates downstream of that holding. First, selection: gaali-type abuse rarely reaches a court unless the target is famous, so the law is invoked disproportionately in political contests, and the offence's compoundable, complainant-driven design makes it available as a instrument of harassment through multiple filings across jurisdictions.

Second, the State as plaintiff: when the offended party is a political entity or the State itself, prosecution decisions are made by the very interests the speech attacked, which is why sedition-adjacent and symbol-protection prosecutions acquire a political colour that private suits do not. Third, the measurement problem: a court must quantify disrespect, weigh intent, and do so years after the words, by which time the political injury or advantage has long been realised.

Gandhi reaches back to the Arthashastra to show both the antiquity of the impulse and the danger of indulging it: Kautilya classed insulting one's mother with insulting the king and prescribed tongue-cutting for both, a symmetry that flatters the mother but also reveals what happens when the sovereign's dignity and private dignity are protected by the same blade. A civilised, appealable equivalent for maternity-directed insult, which Gandhi half-wishes for, would still face the same selection and plaintiff problems.

CONCLUSION

The balanced conclusion is that legal design can shrink the dilemma without dissolving it: decriminalising defamation or confining the criminal offence to natural persons, barring the State and its instrumentalities from wounded-dignity prosecutions, and fast-tracking civil remedies would remove the sharpest political edges. What law cannot supply is what Gandhi calls tribunes: figures of standing who impose costs on

abusers through esteem rather than process.

A society that outsources civility entirely to courts has already lost most of it.

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CURATED & WRITTEN BY

Bharat Choudhary

UPSC Educator & Content Creator

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