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# தினம் ஒரு குறள்

குறள் எண் 234  
புகழ்

நிலவரை நீள்புகழ் ஆற்றின் புலவரைப்  
போற்றாது புத்தேள் உலகு.

தன்னில் வாழும்அறிஞரைப் போற்றாமல், இந்த நில  
உலகில்நெடும்புகழ் பெற்று வாழ்ந்தவரையே தேவர் உலகம்  
பேணும். — சாலமன் பாப்பையா



# TODAY'S ARTICLE

## Penalty in proportion

Criminal defamation is incompatible  
with democratic debate

**W**hen the Supreme Court of India upheld the validity of criminal defamation in *Subramanian Swamy* (2016), reasoning that reputation is part of the right to life, it may not have anticipated the difficulties of this position. On September 22, during criminal defamation proceedings against the Foundation for Independent Journalism, Justice M.M. Sundresh of the Court voiced his unease at the growing use of criminal defamation proceedings by private individuals and political actors as an insurance against criticism and as a means of retribution. His observation echoes a broader judicial anxiety expressed in recent proceedings against Rahul Gandhi, Shashi Tharoor and other public figures: that the law is being misused. Criminal defamation proposes imprisonment for speech that injures reputation, a remedy disproportionate to the harm caused. Unlike physical harm, reputational injury can be addressed adequately by monetary damages or injunctions. While protecting dignity may justify strong safeguards, protecting reputation seldom warrants criminal punishment. Since 2016, criminal defamation has become a tool of intimidation. Editors of *The Hindu* faced such cases under the Jayalithaa government, and Mr. Gandhi over remarks about political leaders, with trial courts issuing summons that required the Court's intervention. The tendency of the lower judiciary to issue summons without weighing the threshold of defamatory speech has aggravated the problem.

The law has also become an instrument of propaganda: criminal complainants have weaponised statements taken out of context or distorted in circulation, which the law has compounded by attaching the threat of jail time to contested interpretations. In this way, criminal defamation has fostered opportunistic litigation. For example, Subramanian Swamy versus Sonia Gandhi and Mr. Gandhi (2012-14) entangled rivals in a punishing process rather than seeking timely resolution, while suits filed by Nitin Gadkari and Arun Jaitley against Arvind Kejriwal and AAP leaders kept the Delhi government from performing its duties. For journalists in towns, criminal defamation complaints from local politicians or business interests create the risk of arrest and onerous travel to distant courts, fostering self-censorship. Instead, those genuinely aggrieved can approach civil courts for damages, injunctions or retractions, which address the harm of reputational injury and strike a balance between free expression and protecting reputation. Importantly, civil proceedings also reduce the scope for misuse by the powerful to silence criticism. Many countries, including the U.K., have abolished criminal defamation because such laws are incompatible with democratic debate. It is time for India to follow suit.

## Context

- The Supreme Court of India in *Subramanian Swamy v. Union of India* (2016) upheld the constitutional validity of criminal defamation, ruling that reputation is part of the right to life under Article 21.
- Recent cases have shown the misuse of this law, where criminal defamation is increasingly being used by political actors and private individuals as a tool of intimidation, propaganda, or retribution rather than genuine redressal.
- On September 22, Justice M.M. Sundresh expressed concern about this growing misuse during proceedings against the Foundation for Independent Journalism.

## Background

- **Defamation Law in India:**
  - *Criminal defamation* under Sections 499 and 500 of the IPC prescribes imprisonment up to two years, fine, or both.
  - *Civil defamation* provides for monetary damages or injunctions.
- **Judicial Position:** In *Subramanian Swamy* (2016), the SC upheld criminal defamation, stressing the importance of protecting reputation.
- **Pattern of Misuse:**
  - Politicians and powerful individuals often file criminal complaints against critics, journalists, or opposition leaders.
  - Editors of *The Hindu* faced such cases under Jayalalithaa's government.
  - Rahul Gandhi, Shashi Tharoor, and Arvind Kejriwal have all faced criminal defamation cases that disrupted political functioning.
- **Global Practice:** Many democracies (e.g., the U.K.) have abolished criminal defamation, recognizing it as inconsistent with free speech and democratic debate.



## **Main Focus Points**

### **Disproportionate Penalty**

- Criminal defamation prescribes imprisonment, which is excessive for reputational injury.
- Unlike physical harm, reputational harm can be adequately compensated by damages, retractions, or injunctions.

### **Tool of Misuse**

- Used as “insurance against criticism” or to suppress dissent.
- Opportunistic litigation: distorted statements weaponized for political mileage.
- Lower judiciary often issues summons without carefully examining whether speech truly crosses the threshold of defamation.

### **Chilling Effect on Free Speech**

- Journalists and critics face harassment, arrest risk, and burdensome court travel.
- Creates fear and fosters self-censorship, undermining democratic debate.

### **Civil Remedies as an Alternative**

- Civil courts can order damages, injunctions, or retractions.
- These remedies balance free expression with reputation without criminalizing speech.
- Reduces scope for misuse by powerful actors.

### **Need for Reform**

- Criminal defamation has become incompatible with a modern democracy.
- Other countries have abolished it, showing civil defamation is sufficient.
- India needs to reconsider its position and move towards decriminalization.

## Defamation – Meaning

Defamation refers to the **act of harming a person's reputation** by making false statements that lower them in the estimation of society or deter others from associating with them.

- It is essentially a conflict between **Right to Freedom of Speech & Expression (Article 19(1)(a))** and **Right to Reputation (part of Right to Life under Article 21)**.

## Types of Defamation

### Civil Defamation

- **Nature:** A private wrong (tort).
- **Remedy:** Compensation in the form of damages (monetary), injunction (stop further publication), or retraction.
- **Standard of Proof:** Balance of probabilities.
- **Proceedings:** Filed in civil court.
- **No imprisonment** is involved.
- Example: A newspaper publishes a false article against an individual, who then files a civil suit for damages.

### Criminal Defamation

- **Nature:** An offence against the state (public wrong).
- **Law:** Sections **499–500 of the Indian Penal Code (IPC), 1860**.
  - **Section 499 IPC:** Defines defamation as any spoken/written words, signs, or visible representation intended to harm the reputation of a person.
  - **Section 500 IPC:** Punishment – simple imprisonment up to **2 years**, fine, or both.
- **Standard of Proof:** Beyond reasonable doubt.
- **Proceedings:** Filed in criminal court.
- Involves summons, appearance in court, and potential imprisonment.

### **Arguments for Retaining Criminal Defamation**

- Protects individuals from malicious attacks and false propaganda.
- In a diverse, multi-religious society like India, false statements can escalate into social unrest.
- Acts as a deterrent against reckless speech.

### **Previous Year Questions**

#### **UPSC Mains 2014**

**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.**

# The mapping of the India-China border

During the Simla Conference, the delegate from the Republic of China categorically maintained that Tibet had no claim to the territories of the tribal belt (corresponding to present day Arunachal Pradesh) on the Assam side of the Himalayan divide, for they were not ethnically Tibetan and were self-governing

## WORLD INSIGHT

Sunil Khatri

In a three-part series on the India-China border issue that appeared in the columns of *The Hindu* from September 5-9, 2025, the author, Manoj Joshi, develops a narrative on the assertion that the India-China border was not properly defined. This article presents another view on the same.

### Official Manchu maps

During the 267-year Manchu rule (1644-1911), two major maps of the Empire, drawn to scale with coordinate lines, were prepared with the assistance of European Jesuits. The first is Emperor Kang-hsi's map (1721), depicting the territorial bequest of the Tibet-Assam segment to the then Republic of China (RoC). In the map, Tibet was never conceived as a trans-Himalayan state. Its southern boundary extended only upto the Himalayas, for Tibetans never resided on the southern side of the Himalayan divide. Consequently, non-Tibetan Tawang, south of the Himalayan divide, although Buddhist, was not depicted as Tibetan territory. Corroborative evidence in this regard comes from the RoC delegate's statement during the Simla Conference (1913-14), in which he categorically maintained that Tibet had no claim to the territories of the tribal belt (corresponding to present day Arunachal Pradesh) on the Assam side of the Himalayan divide, for they were not ethnically Tibetan and were self-governing.

Moreover, the RoC delegate did not claim this non-Tibetan tribal-belt on behalf of his country, leaving it to the Indian delegate to include it in Assam as it had already been under its sphere of influence for centuries. The resultant Indo-Tibetan boundary agreement in March 1914, also called the 1914 alignment, was in keeping with Kang-hsi's



**Clear boundaries:** Indian Army and ITBP personnel, along with villagers and students, participate in a 'Tiranga Rally' at the forward areas of Chuna in Tawang district, Arunachal Pradesh on August 14. PTI

map.

The second Manchu map that depicts its territorial bequest to the RoC in the eastern Turkistan-Kashmir segment is Emperor Ch'ien-lung's map (1763), which shows that Eastern Turkistan (a region in the northwestern part of the now People's Republic of China) was never conceived as a trans-Kunlun territory (mountain range abutting eastern Turkistan). Consequently, the Manchu never claimed the stretch of desolate area south of the Kunlun mountain extending all the way upto the Hindu Kush-Karakoram mountains, lying further south. A proposal was submitted to the Manchu Foreign Office in 1899 suggesting the division of this area on the watershed principle, resulting in the Kashmir-Sinkiang boundary line, which became the 1899 alignment (related to the Aksai Chin region).

### Territorial claims to the contrary

Apart from the official Manchu maps cited above, there is no subsequent official Manchu map. In 1943, when World War II was at its peak, a tottering RoC felt emboldened enough to set aside the Manchu's territorial bequest (1721 & 1761 maps), resulting in the emergence of a claim to large tracts of Indian territory. On being questioned on the new map, the RoC's response was, "The map was but an unprecise draft, to be corrected later on." A similar map was repeated by the RoC in December 1947, at a vulnerable moment, when a newly independent India's energies were directed on its military conflict with Pakistan.

China retained the same map-making pattern set by its predecessor regime. In a rare moment of candour in Peking in October 1954, Chou En-lai, the then Chinese Premier acknowledged in the

presence of the Indian Prime Minister Jawaharlal Nehru, "...it is a historical question and we have been mostly printing old maps...At least we do not have any deliberate intentions of changing boundaries as KMT (RoC) had. The whole thing is ridiculous...."

It has been shown that during his talks with Jawaharlal Nehru on the boundary question in New Delhi in April 1960, Chou En-lai had, more or less, conjured up a narrative in support of the Chinese position. He did so by attempting to pick holes in the evidence in support of India's claim through a clever play of words and assertions, not backed by facts. However, he was cautious in making a reference to evidence of Chinese origin, for he knew that here he could be skating on thin ice.

He slowly revealed his tactic to resolve the boundary question: that instead of focusing on maps and documents alone, both sides should agree to the use of a set of principles, enunciated by him, for a resolution. This was a trap, as reasoned by former Foreign Secretary Vijay Gokhale in his book, *The Long Game*.

There appears to be no evidence in the public domain to suggest that Chou En-lai had proposed a territorial swap – where India would concede to the Chinese position in the Aksai Chin region in exchange for Chinese acceptance of India's claim over Arunachal Pradesh.

Instead, the way forward, as agreed to by both parties, was through a package deal that would aim at resolving not only the entire length of the boundary, but also address other pending geopolitical and trade-related matters. To break the impasse, both sides would need to work towards a "...solution which brings no defeat to any side and that it should be reasonable, equitable and friendly...and which is...consistent with dignity and self-respect of both countries." The broad contours of such a solution could possibly lead to the acceptance of the 1899 and 1914 alignments respectively, with a provision for a territorial swap to meet each other's security concerns.

*The author is a former civil servant.*

## THE GIST

During the 267-year Manchu rule, two major maps of the Empire were prepared. The first is Emperor Kang-hsi's map (1721), depicting the territorial bequest of the Tibet-Assam segment to the then Republic of China (RoC).

The second Manchu map that depicts its territorial bequest to the RoC in the eastern Turkistan-Kashmir segment is Emperor Ch'ien-lung's map (1761).

In 1943, when World War II was at its peak, a tottering RoC felt emboldened enough to set aside the Manchu's territorial bequest.



## Context

- The article challenges the Chinese narrative that the border was **never defined**.
- Shows **historical continuity**:
  - Manchu maps (1721, 1761)
  - Simla Convention (1914)
- Demonstrates that **China's aggressive post-1940s cartographic claims were opportunistic**, not rooted in historical evidence.
- Provides diplomatic lessons: past flexibility (package deals, principle-based negotiations) versus present **hardline positions**.

## Key Themes in the Article

### The Simla Conference (1913–14) & McMahon Line

- Tibet was considered sovereign enough to negotiate with British India.
- The **Chinese delegate (Republic of China – RoC)** explicitly admitted:
  - Tibet had no claim over the **tribal belt south of the Himalayas (present-day Arunachal Pradesh)**.
  - The people there were **not ethnically Tibetan** and largely **self-governing**.
- As a result, the Indo-Tibetan boundary agreement (March 1914) fixed the alignment along the **Himalayan divide** → known as the **1914 alignment / McMahon Line**.

### Official Manchu Maps as Evidence

- **1721 (Kang-hsi's map)**: Tibet's boundary stopped at the Himalayas.
  - **Tawang (south of Himalayas)** was **not Tibetan territory**, even though Buddhist.
- **1761 (Ch'ien-lung's map)**: Eastern Turkestan's southern boundary was at the Kunlun mountains.
  - No claim was made southward to the desolate Aksai Chin region.

- In 1899, the British proposed a **watershed division (1899 alignment)** with China, forming the **Kashmir–Sinkiang boundary**.

### Shift in Chinese Claims

- **1943 onward (WWII period):** RoC started publishing maps ignoring earlier Manchu evidence, claiming large tracts of Indian land.
- **1947:** Repeated maps when India was distracted by Partition and war with Pakistan.
- **Post-1949 PRC:** Continued the **same cartographic pattern** of the RoC.

### Statements by Chinese Leaders

- **Chou En-lai (1954, Peking):**
  - Admitted China had been “printing old maps” without deliberate boundary changes.
  - Called the whole situation “ridiculous.”
- **Talks with Nehru (1960):**
  - Chou argued cleverly against India’s evidence but avoided citing **Chinese-origin documents** (weak ground).
  - Proposed shifting from “maps/documents” → to **principles for resolution**.
  - This was seen as a **trap** (per Vijay Gokhale in *The Long Game*).
  - No clear evidence that he offered a **territorial swap (Aksai Chin vs Arunachal Pradesh)**, though the idea of a **package deal** was floated.

### **Timeline: Mapping of the India–China Border**

#### **1721 – Kang-hsi’s Map (Manchu Empire)**

- Tibet’s boundary extended **only up to the Himalayas**.
- **Tawang (south of Himalayas)** not depicted as Tibetan territory.
- Confirms Tibet was **not trans-Himalayan**.

#### **1761 – Ch’ien-lung’s Map (Manchu Empire)**

- Eastern Turkestan’s southern boundary fixed at **Kunlun mountains**.
- **Aksai Chin region** south of Kunlun not claimed.
- Confirms Manchu did **not claim desolate trans-Kunlun territories**.

#### **1899 – British Proposal (Watershed Principle)**

- Proposal to divide **Kashmir–Sinkiang boundary** on watershed lines.
- Resulted in the **1899 alignment** (relevant to Aksai Chin).

#### **1913–14 – Simla Conference**

- **RoC delegate:**
  - Tibet had **no claim** over tribal belt south of Himalayas (present-day Arunachal Pradesh).
  - People there were **non-Tibetan & self-governing**.
- Indo-Tibetan agreement → **1914 alignment / McMahon Line** drawn.
- Tribal belt included under **Assam (India’s sphere of influence)**.

#### **1943 – World War II Period**

- Republic of China (RoC) published new maps ignoring Manchu evidence.
- Claimed large tracts of Indian territory.
- Called maps “**drafts, to be corrected later.**”

### **1947 – Post-Independence Vulnerability**

- RoC repeated expansionist maps.
- India was distracted by **Partition & war with Pakistan**.

### **1949 – People's Republic of China**

- PRC adopted RoC's **cartographic claims**.
- Shift from historical evidence → **map-based expansionism**.

### **1960 – Chou En-lai–Nehru Talks (New Delhi)**

- Chou tried to **discredit Indian evidence**.
- Avoided citing **Chinese-origin maps** (weak ground).
- Proposed **principles-based resolution** instead of maps.
- No clear proof of **territorial swap offer (Aksai Chin ↔ Arunachal Pradesh)**.
- Discussed **package deal approach** for the full boundary + trade/geopolitical ties.

### **1962 War**

- India attempted to assert control in Aksai Chin → clashes escalated.
- **War broke out (October–November 1962):**
  - China retained Aksai Chin (Ladakh).
  - In the east, China withdrew north of the McMahon Line after advances.
- Result: Long-term mistrust; India felt “betrayed” and became cautious in negotiations.

### **Post-War Period (1962–1979)**

- Border remained quiet, little engagement.
- **China Study Group (1975)** set up by India → used satellite mapping, established patrol points.
- **Sikkim (1975)** incorporated into India → China protested.
- Minor clashes: **Nathu La & Cho La (1967)** but India stood firm.



### **Diplomatic Resets (1979–1988)**

- **1979 Vajpayee's Visit to Beijing:** First high-level contact since 1962, attempted normalisation.
- **1980 Deng Xiaoping revived Zhou proposal:** Recognition of McMahon Line in exchange for acceptance of status quo in the west. India rejected.
- **1983–85:** China proposed **LAC Plus** (India to concede 1962 gains in Ladakh). India again rejected.

### **1988 – Rajiv Gandhi's visit to Beijing**

- Restarted high-level talks after decades of freeze post-1962 war.
- Creation of **Joint Working Group (JWG)** on boundary question.

### **Early 1990s – Domestic priorities in India**

- Political instability (1989–91) delayed negotiations.
- P.V. Narasimha Rao's govt (1991) pushed forward talks once India overcame the economic crisis.

### **1992–93 Developments**

- Six JWG meetings (1988–1993).
- Military commanders started border-level meetings (Bum La, Chushul).
- Border trade & consulates reopened.
- Led to the **1993 Border Peace and Tranquillity Agreement (BPTA)**.

### **1996 Agreement**

- Expanded CBMs: restrictions on military build-up near LAC, limits on heavy weaponry, and prior notification of exercises.
- Both sides agreed to exchange maps of LAC — but process collapsed by 2002 due to maximalist claims.

## Previous Year Questions

### UPSC Mains 2018

The China-Pakistan Economic Corridor (CPEC) is viewed as a cardinal subset of China's larger 'One Belt One Road' initiative. Give a brief description of CPEC and enumerate the reasons why India has distanced itself from the same.

### UPSC Mains 2017

China is using its economic relations and positive trade surplus as tools to develop potential military power status in Asia', In the light of this statement, discuss its impact on India as her neighbour.

### UPSC Mains 2014

With respect to the South China sea, maritime territorial disputes and rising tension affirm the need for safeguarding maritime security to ensure freedom of navigation and over flight throughout the region. In this context, discuss the bilateral issues between India and China.

### UPSC Mains 2014

China and Pakistan have entered into an agreement for development of an economic corridor. What threat does it dispose for India's security? Critically examine.

# How is the jewellery sector coping with U.S. tariffs?

What are the short-term measures sought by India's diamond and jewellery sector from the government?

**Vinaya Deshpande Pandit**

## The story so far:

India's diamond and jewellery sector has been hit due to the U.S. tariffs. While the U.S. has imposed a 50% import duty on India's cut and polished diamonds, it has imposed a 50-57% duty on studded and non-studded jewellery, upsetting decades of well-set trade. At such a time, the sector wants government intervention which could absorb the shock caused by U.S. tariffs.

## Why government intervention?

The U.S. is the largest importer of diamonds from India. In 2024-25, India exported diamonds worth ₹46,000 crore and studded gold jewellery worth ₹23,000 crore. Moreover, India's cut and polished diamond industry employs 8.2 lakh skilled workers. The U.S. tariffs are likely to affect the jobs of 1.7 lakh skilled workers, as per the Gems and Jewellery

Export Promotion Council's prediction. Of India's exporters, 85% are Medium and Small Scale Enterprises (MSMEs) which will not be able to bear the shock of the loss of the U.S. market in the short term. The industry has therefore sought short-term measures in terms of policy reliefs, aid for workers, and monetary and marketing benefits for three to six months, to help the manufacturers absorb the shock. Gujarat, Rajasthan and Maharashtra are the worst-hit States.

## What are the sought policy reliefs?

Some of the key policy reliefs sought by the industry are: to extend the export obligation period for exports made to the U.S. from 90 days to 270 days; allow reverse job work in DTAs (Domestic Tariff Areas) by jewellery manufacturing Special Economic Zones (SEZs); and allow SEZs to sell in the domestic market on payment of duty foregone. In simple terms, if a jewellery manufacturer imports gold for

the export of jewellery, such export of ready-made jewellery has to take place within a period of 90 days. If not, an import duty of 6% and GST of 3% is levied. But with the orders from the U.S. suddenly drying up, many exporters are unable to ship their jewellery. That is why, the industry now wants the export obligation period to be increased.

The industry also wants the government to allow the SEZs to sell their goods in the domestic market with import duty foregone. Currently, the exporters are allowed to sell in the domestic market, but with a duty of 20% on the finished product. This makes them less competitive as compared to domestic manufacturers. Reverse job order refers to SEZs being allowed to manufacture for domestic buyers so that idle machinery and capability can be utilised; skilled workers can stay gainfully employed; and that factories set up after years of hard work can keep running.

## What are the incentives demanded?

Some of the demands by the industry are – monetary incentives like interest subvention offered during the COVID period; temporary subsidisation of exports to the U.S.; worker-related benefits like restructuring of personal loans and inclusion under healthcare schemes; and marketing benefits such as giving exporters funding to explore newer markets. Other demands include banking incentives, liquidity packages, and finance extensions, among others.

## Why the urgency?

The tariffs are disrupting businesses which were set for almost five decades. These tariffs will disproportionately affect MSMEs which have invested for years to build up their businesses. While large exporters will be able to navigate through this change, the bottom-line will be wiped out unless the government intervenes and provides short-term relief for three to six months, says the industry. The total bailout package in the form of various incentives is likely to be to the tune of ₹500 crore as per rough industry estimates. "The U.S. forms 30% of India's gem and jewellery export. Most of this demand is fulfilled by MSMEs, which form the backbone of the sector, and which are now struggling to survive. We need urgent government help," said Kirit Bhansali, chairperson of Gem and Jewellery Export Promotion Council.

## THE GIST

While the U.S. has imposed a 50% import duty on India's cut and polished diamonds, it has imposed a 50-57% duty on studded and non-studded jewellery, upsetting decades of well-set trade.

The industry also wants the government to allow the SEZs to sell their goods in the domestic market with import duty foregone. Currently, the exporters are allowed to sell in the domestic market, but with a duty of 20% on the finished product.

The tariffs are disrupting businesses which were set for almost five decades. These tariffs will disproportionately affect MSMEs which have invested for years to build up their businesses.

## Context

- The U.S. has imposed **50% import duty on cut and polished diamonds and 50–57% duty on studded and non-studded jewellery** imported from India.
- This disrupts a **decades-long stable trade relationship** and directly impacts India's gem and jewellery exports worth ₹46,000 crore (diamonds) and ₹23,000 crore (studded gold jewellery) in 2024–25.
- The industry employs **8.2 lakh skilled workers**, with potential job losses for **1.7 lakh workers** if the crisis continues.
- Since **85% of exporters are MSMEs**, they are most vulnerable and unable to withstand sudden market shocks.
- The sector is demanding **urgent short-term government support** to cushion the blow and sustain businesses until they adapt.

## Main Focus Points

### Economic Impact

- U.S. is India's largest export market for diamonds and jewellery (~30% share).
- Tariffs disrupt nearly **five decades of steady trade ties**.
- MSMEs are disproportionately affected, risking closures and job losses.

### Policy Reliefs Sought

- Extend **export obligation period** from 90 to 270 days (to avoid import duty + GST penalties when orders are delayed).
- Allow **reverse job work** in DTAs by SEZ units to keep capacity and workers engaged.
- Permit **SEZ sales in the domestic market** on duty-foregone basis (currently 20% duty makes them uncompetitive).

### Monetary & Worker Incentives Demanded

- **Interest subvention** (like COVID-era support).
- **Export subsidies** to U.S. temporarily.
- Worker welfare: restructuring of personal loans, inclusion in **healthcare schemes**, and job security benefits.

### Marketing & Financial Support

- Funding for exploring **new export markets** beyond the U.S.
- **Liquidity packages, banking incentives, and extended financing** for MSMEs.

### Urgency of Intervention

- The industry estimates a **₹500 crore bailout package** may be needed for survival.
- Large exporters may withstand the shock, but **MSMEs—the backbone of the sector—risk collapse**.
- Without intervention, the **supply chain, employment, and global competitiveness** of India's jewellery sector could weaken.



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# How Trump's H-1B fee threatens India's IT firms and Big Tech business models

If U.S. companies cannot economically hire foreign workers for onshore roles, they may shift entire operations overseas. This could reduce employment opportunities for U.S. workers rather than increasing them

John Xavier

**T**he Trump administration has deployed a \$1,00,000 annual fee on H-1B visas, a move designed to obliterate the business models of India's IT giants and Big Tech's wage arbitrage schemes while leaving the U.S.'s universities and startups standing. Whether this crude instrument will achieve its intended effect without inflicting collateral damage on the U.S.'s innovation ecosystem remains an open question.

The policy addresses a genuine issue as H-1B workers now account for 65% of America's IT workforce, up from 32% in 2003. This surge did not just occur because of a shortage of U.S. talent. The administration notes that computer science graduates face unemployment rates of 6.1%, while their peers in computer engineering struggle with 7.5% joblessness. Meanwhile, some technology firms filed over 10,000 H-1B applications in the 2024 fiscal alone, often in the same years they conducted mass layoffs of U.S. workers.

## The outsourcing reckoning

After a back and forth over the weekend, the Trump administration has confirmed that the fee will apply only to new visa applications. Still, this will devastate India's IT services industry. Companies like Tata Consultancy Services, Infosys and Wipro have built empires on a simple arbitrage: import Indian engineers willing to work for substantially less than their American counterparts. Their business model depended on H-1B visas costing a few thousand dollars in filing fees, making it economical to flood the system with applications and cherry-pick the most

cost-effective workers.

At \$1,00,000 per visa, this lottery system becomes prohibitively expensive. Indian IT firms face a stark choice: raise prices dramatically or retreat to offshore delivery models. Either option undermines their competitive position against U.S. rivals, though the latter may paradoxically accelerate job losses as entire functions may migrate overseas rather than remaining onshore with H-1B workers.

American technology companies will face their own reckoning. The minimal cost of H-1B applications previously allowed HR departments to treat visa petitions like lottery tickets. Now each hire becomes a significant capital allocation requiring executive approval. This should naturally filter applications toward genuinely exceptional candidates with irreplaceable skills, which was the programme's original purpose.

## An innovation exodus

Yet the policy's collateral damage may prove severe. International students contribute over \$40 billion annually to America's economy, with more than half pursuing STEM fields. These represent the world's intellectual elite, individuals who have already demonstrated commitment to U.S. institutions through years of study and substantial financial investment.

The \$1,00,000 fee signals a considerable dimming of these individuals' prospects in the U.S. post-graduation. Countries like Canada, Australia and the United Kingdom have crafted sophisticated strategies to attract precisely these individuals. As the U.S. raises barriers, competitors lower them, potentially capturing the talent that will

drive the next decade's technological breakthroughs.

The timing seems particularly unfortunate. China's growing technological prowess and geopolitical tensions have intensified competition for global talent. Pushing the world's brightest minds toward rival nations does not eliminate security risks, but merely transfers competitive advantages to America's competitors.

## A blunt instrument

The policy's design reflects a preference for simplicity over sophistication. Rather than treating all H-1B applications equally, a more nuanced approach might have created fees based on salary levels, exempted graduates from elite American universities, or established lower rates for workers in cutting-edge research fields. Such refinements could have maintained the policy's effectiveness against labour arbitrage while preserving the U.S.'s ability to attract exceptional talent. The current approach resembles using a sledgehammer where a scalpel might suffice. The broader implications extend beyond immigration policy. America's post-war dominance in science and technology rested partly on its ability to attract and retain global talent. The H-1B programme, whatever its flaws, served as one mechanism for this attraction. By making the programme prohibitively expensive for most employers, the administration risks severing connections between American institutions and international talent pools.

## Unintended consequences

The policy may also accelerate trends it ostensibly seeks to reverse. If American companies cannot economically hire

foreign workers for onshore roles, they may shift entire operations overseas. This could reduce employment opportunities for U.S. workers rather than increasing them.

Similarly, the fee structure may inadvertently benefit the largest technology companies at smaller firms' expense. Google or Microsoft can absorb \$1,00,000 fees more easily than startups or mid-sized companies, potentially concentrating talent among established players rather than distributing it throughout the innovation ecosystem.

The administration's approach reflects a broader philosophical shift from balancing corporate needs with talent attraction toward prioritising domestic workers. This addresses legitimate concerns about wage suppression and worker displacement. However, immigration policy operates in a global context where other nations compete aggressively for the same talent the U.S. now seems increasingly reluctant to welcome.

The irony is stark: having spent decades building the world's most attractive higher education system and innovation ecosystem, the U.S. now risks gifting its carefully cultivated advantages to competitors through self-imposed barriers. Whether the benefits of reduced labour arbitrage will outweigh the costs of diminished talent attraction remains unclear. What seems certain is that other nations stand ready to welcome the exceptional individuals America may no longer want.

For global Big Tech and Indian IT firms, the \$100K will clearly make them put their house in order and re-evaluate how they plan to hire and deploy human resources in the coming months.

## Context

- The Trump administration has imposed a **\$100,000 annual fee on H-1B visas**, targeting wage arbitrage models used by Indian IT giants (TCS, Infosys, Wipro) and Big Tech companies.
- H-1B workers make up **65% of America's IT workforce** (up from 32% in 2003), raising concerns over wage suppression and domestic job losses.
- The fee aims to deter bulk applications and make companies focus on hiring only exceptional talent.
- However, the move risks **undermining India's IT industry, disrupting U.S. tech hiring models**, and **driving global talent to competing nations**.

## Background

- **H-1B Programme:** Designed to allow U.S. firms to hire highly skilled foreign workers in specialised fields. Historically, filing costs were only a few thousand dollars.
- **India's IT firms' model:** Relied on importing Indian engineers at lower costs, using H-1B visas in bulk. This arbitrage underpinned their U.S. business.
- **Big Tech's approach:** Treated H-1B filings like "lottery tickets" due to low filing costs, often during years of U.S. layoffs.
- **Concerns:** U.S. graduates face unemployment rates of 6–7% in tech, feeding arguments that H-1Bs displace local workers.
- **Global competition:** Countries like Canada, Australia, and the UK actively attract international STEM talent, while the U.S. risks driving talent away.

## Main Focus Points

### Impact on Indian IT Firms

- \$100K fee makes bulk visa filings **prohibitively expensive**.
- Forces a shift toward **offshore delivery models** or raising service prices.
- Risk of **job losses in India and reduced competitiveness** against U.S. rivals.

### Impact on U.S. Tech Ecosystem

- Hiring foreign workers becomes a **major capital decision** needing top-level approval.
- Only **exceptional candidates** may get visas (original spirit of H-1B).
- Startups and mid-sized firms struggle, while **Big Tech can absorb costs**.
- Could lead to **talent concentration in large corporations**.

### Risks for U.S. Innovation

- International STEM students (contributing **\$40B annually**) may look elsewhere due to uncertain post-graduation prospects.
- Potential **talent exodus** to Canada, UK, Australia.
- Weakens U.S.'s long-standing **innovation advantage** built on global talent.

### Geopolitical & Strategic Concerns

- At a time of **U.S.–China tech rivalry**, losing global talent may **aid competitors**.
- Undermines U.S.'s capacity to lead in **AI, semiconductors, cybersecurity**.

### Policy Design Critique

- Seen as a **blunt instrument**: one-size-fits-all fee structure.
- Missed opportunity for **nuanced reforms**, e.g.
  - fee based on salary levels,
  - exemptions for U.S.-trained graduates,
  - lower fees for research & frontier tech.

### **Possible Unintended Consequences**

- Companies may **offshore entire operations** rather than hiring foreign workers onshore.
- May **reduce U.S. job opportunities** instead of creating them.
- Concentrates power with Big Tech, hurting **startups and diversity of innovation**.