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STATES HAVE UNLIMITED RIGHT TO TAX MINERAL-RICH LANDS: SC

States have unlimited right to tax mineral-rich lands: SC

Constitution Bench, in an 8:1 verdict, holds that Parliament, through Mines and Minerals Act, cannot restrict States from taxation; any dilution will impact their ability to raise revenues

Krishnadas Rajagopal
NEW DELHI

A nine-judge Constitution Bench, headed by Chief Justice of India D.Y. Chandrachud, on Thursday held by an 8:1 majority that Parliament cannot limit the power of State legislatures to tax mineral-bearing lands and quarries. The judgment, freeing States from the restrictions imposed by the Centre, is in tune with the federalist principles of governance.

"Any dilution in the taxing powers of the State legislatures will necessarily impact their ability to raise revenues, which in turn will impede their ability to deliver welfare schemes and services to the people. The ability of the State governments to invest in



Fiscal federalism entails that the power of the States to levy taxes within the legislative domain carved out to them and subject to the limitations laid down by the Constitution must be secured from unconstitutional interference by Parliament
D.Y. CHANDRACHUD
Chief Justice of India

physical infrastructure, health, education, human capacity, and research and development is directly correlated to the raising of government revenues... Fiscal federalism entails that the power of the States to levy taxes within the legislative domain carved out to them and subject to the limitations laid down by the Constitution must be secured from unconsti-

tutional interference by Parliament," the Chief Justice said. The verdict noted how mineral-rich States such as Chhattisgarh, Jharkhand and Odisha continue to have per capita income below the national average. The judgment said Parliament, through the Mines and Minerals (Development and Regulation) Act of 1957, cannot restrict the

States from legislating on the taxation of mining lands and quarries.

'Royalty not a tax'
The court further held that royalty paid to the States by mining lease holders is not a tax. "Royalty is not a tax. Royalty is a contractual consideration paid by the mining lessee to the lessor for enjoyment of mineral rights," the Chief Justice said.

The judgment came in a batch of 86 appeals filed by different State governments, mining companies and public sector undertakings.

The case has its roots in a dispute between India Cements Ltd. and the Tamil Nadu government.

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- **Fiscal Federalism-** Fiscal federalism refers to the division of financial powers and responsibilities between the central government and state governments in India.
- **Constitutional Provisions-** The Indian Constitution defines the taxation and expenditure powers of the central and state governments through various provisions
 - (a) **Seventh Schedule-** The Constitution assigns specific tax bases to the central and state governments, listed in the Union List and State List respectively.



- (b) **Article 270-** Article 270 of the Indian Constitution provides for the distribution of net tax proceeds collected by the Union government between the Centre and the States.
- (c) **Article 280-** The Finance Commission which is a constitutional body under Article 280, recommends the sharing of tax revenues and grants-in-aid to the states.
- (d) **Article 275-** It provides for the grants-in-aid system which involves discretionary transfers from the Centre to states for specific purposes.

Examples of Cooperative Fiscal Federalism

- (a) **Introduction of GST-** The introduction of Goods and Services Tax (GST) through the 101st Constitutional Amendment is a historic example of cooperative fiscal federalism in India. The GST act has transformed India's indirect tax landscape, and fostered Centre-State cooperation.
- (b) **Passage of FRBM Act-** The Fiscal Responsibility and Budget Management (FRBM) Act 2003 aims to promote fiscal discipline at the central and state levels. 21 states enacted their own FRBM Acts, incentivized by debt and interest rate relief provided by the 12th Finance Commission. This is a historic example of centre-state cooperation in maintenance of Fiscal prudence.
- (c) **Introduction of performance based grants-** Performance-based grants are being used to incentivize states to achieve developmental targets. This has led to competitive and cooperative federalism between the Centre and States in the sphere of finances and public expenditure.

What are the Challenges to Fiscal Federalism in India?

1. **Reduced Financial Transfers to the States-** The share of states in the gross tax revenue (total tax revenue collected, which includes cess and surcharges) has decreased from 35% in 2015-16 to 30% in 2023-24.
2. **Disproportionate Growth between Union Govt's & State Govt's Revenue-** From 2015-16 to 2023-24, while the Union government's tax revenue has increased by 2.3 times from ₹14.6 lakh crore to ₹33.6 lakh crore, the states' share in the tax revenue has only doubled from ₹5.1 lakh crore to ₹10.2 lakh crore. This indicates a disproportionate growth between Union Govt's and State Govt's Revenues.
3. **Decrease in Grants-in-Aid to the states-** Direct financial support to states, in the form of grants-in-aid, has declined from ₹1.95 lakh crore in 2015-16 to ₹1.65 lakh crore in 2023-24.
4. **Increase in the share of non-devolvable cess and surcharge-** The share of collected cess and surcharge (which are not shared with states) has increased from Rs. 85,638 in 2015-16 (5.9% of the Union government's tax revenue) to Rs. 3.63 lakh crore in 2023-24 (10.8% of the Union Govt's tax revenue).
5. **Centralisation of Public Expenditure-** Out of the combined allocation of ₹19.4 lakh crore for Centrally Sponsored Schemes (CSS) and Central Sector Schemes (C Sec Schemes) in 2023-24, only ₹4.25 lakh crore was devolved to States. These are tied grants and the states have no autonomy to plan their expenditure.
6. **Interstate Inequality in public Finances through CSS schemes-** The Union government compels the State to commit more or less an equivalent quantum of financial resources in the implementation of CSS schemes. Wealthy States can afford to commit equivalent finances and leverage Union finances inwards through the implementation of CSS.



However, less wealthy States will have to commit their borrowed finances in these CSS, thus increasing their own liabilities. It has created interstate inequality in public finances.

7. **Increase in Conditional Transfers-** Several grants to states are contingent on fulfilling certain conditions, including the insistence on specific labelling, which imposes Union government preferences over state priorities.
8. **Erosion of State Taxation Autonomy on account of implementation of GST-** The ability of states to set tax rates on their own revenue sources has been significantly diminished due to the implementation of GST. For ex- State VAT have been subsumed under GST.
9. **Issues with GST-** The compensation of revenue loss to states on account of GST implementation, have not been properly addressed. For ex- Discontinuation of GST compensation cess.



THE 'GEO-CALCULUS' OF THE MOSCOW VISIT-INDIA-RUSSIA RELATIONS

The 'geo-calculus' of the Moscow visit

Two weeks after Prime Minister Narendra Modi visit to Russia, his first bilateral trip in the third tenure of the government, the dust from the storm it kicked up in the United States and Europe is only just beginning to settle. The evident warmth between Mr. Modi and the Russian President, Vladimir Putin, drew sharp criticism from the Ukraine President, Volodymyr Zelenskyy, and also a series of statements from the U.S. State Department, the National Security Adviser and the U.S. Ambassador to India, expressing disappointment. New Delhi has asserted its "freedom of choice" but has moved to allay concerns that anything fundamental has changed in India's worldview as a result of the Russia visit. It would be a mistake, however, to assume that nothing has indeed changed, purely by examining formal outcomes. In many ways, Mr. Modi's visit was the message itself.

Assessment of the conflict in Ukraine

To begin with, the fact that the Prime Minister decided to travel to Russia two years after the war began, and not earlier, is significant. After the Russian invasion of Ukraine, he had decided not to go for an annual India-Russia summit in 2022 and 2023, and the only public messaging revolved around Mr. Modi's "this era is not of war" statement that he made to Mr. Putin at the Shanghai Cooperation Organisation (SCO) summit in Uzbekistan in September 2022. While the war in Ukraine continues, the nature of the conflict has changed, and Mr. Modi's Moscow visit must be read in the context of how New Delhi sees the progress of the conflict. The Russian army suffered a great toll in the first two years – there was a botched offensive on Kyiv; a gross miscalculation of the resilience of Mr. Zelenskyy and Ukrainian defences; the desperate attempt at a draft for Russian youth that led many Moscow elites to leave the country; massive military casualties, and questions over the efficacy of Russian military hardware against the new equipment Ukraine was being supplied by North Atlantic Treaty Organization (NATO) countries. However, today, Russia seems to be in a far better place for holding the status quo line over the area in Ukraine's east that it occupies, and has subsequently folded into its own territory with constitutional amendments.

As western countries now push for a "peace process", that began with the conference in Switzerland (June 2024), New Delhi seems to have concluded that a frozen conflict is the most likely outcome. Any change to that status quo could only come from a massive escalation by Ukraine, requiring major new commitments of men and also military ground and airpower from its western partners. New Delhi also wagered, even before U.S. President Joe Biden announced that he would bow out of the U.S. Presidential race, that there is going to be a change in Washington in November – with Mr. Biden's challenger, the former U.S. President Donald Trump, indicating a reduced commitment to Kyiv



Suhasini Haidar

in the war, and less antagonism towards Moscow.

If so, Mr. Modi's visit was an acknowledgement that Russia has already weathered the worst, and that it would be pointless for India to continue its rupture of the annual summit to the detriment of bilateral ties. The reference in the India-Russia joint statement, of the conflict "around Ukraine" as opposed to "in Ukraine", even seems to be a subtle acceptance of Russian claims. Another reference, showing "appreciation" for peace proposals "in accordance with international law and on the basis of the UN Charter", suggests common ground between the two countries.

India has refused to criticise Russia for the war so far, with more than 20 abstentions at the United Nations, including during the latest vote, on July 11 at the UN General Assembly, over a resolution calling on Russia to cease fire after deadly missile attacks that targeted a children's hospital among other buildings. Despite meetings with Mr. Zelenskyy and a visit to India by Ukraine Minister of Foreign Affairs, Dmytro Kuleba, in March this year, New Delhi has hesitated on other requests from Kyiv as well – such as allowing Indian companies to provide construction, medical devices and telecom infrastructure to the Ukrainian government, or move beyond its aid of humanitarian items, thereby indicating its unwillingness to invoke Russian ire.

Keeping Russia from China

The geopolitical signalling of the visit extends to other spheres: by going to Moscow, days after cancelling his visit to Astana, Kazakhstan, for the SCO Summit, Mr. Modi showed that he was willing to forego a joint appearance with Chinese President Xi Jinping, but not with Mr. Putin. This is the reverse of western messaging, that has been calling on China to reduce its support to Russia, rather than the other way around. India's concerns about keeping Russia on-side in the face of continuing tensions with China at the Line of Actual Control remain a priority, regardless of its partnerships with western countries in the Indo-Pacific. The U.S.'s actions in the past few years have also given many in New Delhi cause for pause – the Biden administration has forged AUKUS (Australia-U.K.-U.S.) for nuclear submarines, engaged "Quad Plus" -countries such as New Zealand, South Korea, Vietnam and the Philippines intensely, and during the NATO summit in Washington that was held at the same time as the Modi-Putin summit, the U.S. hosted the "AP-4" or leaders of Australia, New Zealand, South Korea and Japan. With its refusal to make the Quad (India, Japan, Australia, U.S.) a strategic concept, New Delhi stands in danger of limiting its utility to Indo-Pacific partners compared to these other groups. It remains to be seen whether the Modi government is able to convince them to infuse new energy into the Quad on other fronts, with a Quad Foreign Ministers' meeting around the corner, and plans for a possible Quad summit later this year in New Delhi. In that sense, the Russia visit was not just an assertion of India's strategic autonomy but also a reminder that India

still has other options.

Geo-economics thrust

Finally, Mr. Modi's Russian journey must be considered in its 'geo-economic' rather than just its 'geopolitical' context. Regardless of the outcomes on the battlefield in Ukraine, it is clear that western sanctions against Russia will remain, and, consequently, so will India's supply of discounted Russian oil as well. These imports have meant that India-Russia trade ties, that have hovered in the \$5 billion-\$10 billion range for decades, grew by 66% to a whopping \$65 billion last year; this has grown a further 20% in the first quarter of 2024. The spurt is unsustainable unless India develops payment mechanisms for the oil imports. The Modi-Putin summit took many steps to address that issue, listing action-items in nine specific areas in a Joint Vision statement on trade by 2030 that appeared to make circumventing western sanctions a priority.

In addition, the joint statement on furthering cooperation in Russia's Far East focuses on increasing energy (oil and LNG) supplies from Russia, as well as much-needed commodities exports from India, using the yet-to-be-operationalised Chennai-Vladivostok maritime corridor. While these will help rationalise the trade imbalance, both sides will also seek mutual investments, of the kind seen when Rosneft acquired a controlling stake in the Gujarat-based Vadinar refinery (Nayara Energy), the largest foreign direct investment of its kind in India, at more than \$23 billion, according to Mr. Putin. In turn, Indian public sector units have bought stakes in Russian oil fields to the tune of \$15 billion. Despite the financial implications, the U.S. and Europe have steered clear of sanctioning any of these transactions, as they accept Vadinar-processed Russian oil products as "Indian-products", and New Delhi is surmising that more such deals could be a safe proposition in the future as well. Russian access to the North Sea trade route around the Arctic region is invaluable as India seeks new connectivity possibilities to its east – a Trump administration is likely to double down on strictures against Iran-led connectivity routes such as the International North-South Transport Corridor (INSTC) and the Chabahar project to India's west. At a time when military hardware imports, that have been the mainstay of India-Russia ties, are being reduced due to India's decade-long diversification and Russia's preoccupation with the Ukraine war, such geo-economic strategies give New Delhi new levers in the bilateral relationship.

While all such calculations could still go awry, depending on how the Ukraine war proceeds, the Russian economy struggles with sanctions, and the U.S. sets a new course post-elections, the enduring message from the Moscow visit is the solid bet the Modi government has placed on India-Russia ties.

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There was one clear message – of the sure bet the Narendra Modi government has placed on India-Russia ties

Why the Relationship Between India and Russia is Strategically Significant?

• Time-Tested Partners :

- **Collaboration since Cold War:** During the Cold War, the Soviet Union, as a superpower, held a key position in the partnership, while India, part of the "developing" nations and a leader in the Non-Aligned Movement, collaborated closely.
- **The Indo-Soviet Friendship Treaty of 1971:** In the wake of the Indo-Pak war (1971) Russia supported India while the US and China supported Pakistan



- **Declaration on the India-Russia Strategic Partnership:** In October 2000, India-Russia ties acquired a qualitatively new character with enhanced levels of cooperation in almost all areas of the bilateral relationship
- **Special and Privileged Strategic Partnership:** During the visit of the Russian President to India in December 2010, the Strategic Partnership was elevated to the level of a “Special and Privileged Strategic Partnership”.
- **Energy Security :**
 - Russia possesses one of the globe's largest reserves of natural gas. And, India has initiated a transition towards increased reliance on natural gas.
 - India is actively engaged in importing hydrocarbons from the Russian Far East.
 - Russia is an important partner for India in the area of peaceful use of nuclear energy.
 - The Kudankulam Nuclear Power Plant (KKNPP) is being built in Tamil Nadu with the technical assistance of Russia.
- **Economic Convergence:**
 - Russia is India’s seventh-biggest trading partner.
 - The bilateral trade has reached USD 45 billion already surpassing the target of bilateral trade of USD 30 billion by 2025
 - The two countries intend to increase bilateral investment to USD 50 billion by 2025.
- **Balancing Geopolitics :**
 - **Counterbalancing Chinese Aggression:** The Chinese aggression in the border areas of eastern Ladakh, brought India-China relations to an inflection point but also demonstrated that Russia can contribute to defusing tensions with China.
 - **Champions of multipolarism:** Both Russia and India support the concept of a multi-polar world. It suits a rising Russia which aspires to recover the ‘great power status’ and a rising India which aspires to a permanent seat at the UNSC and enhanced status in the global arena.
 - Moscow has long supported India's desire to expand the circle of permanent members of the Security Council and to enter into the Nuclear Suppliers Group - which Beijing is blocking.
- **Enduring Defence Ties :**
 - It is guided by the Agreement on the Programme for Military Technical Cooperation signed between the two countries. Russia currently commands around 47 percent of total arms imports by India.
 - However, historically it accounted for 65% of arms imported by India.
 - The overwhelming majority of India’s armored force consists of Russian tanks—the T-72 and T-90S—and so does its fleet of groundattack aircraft—variants of MiG-21, Su-30, and MiG-29.
 - The BrahMos missile of India has been developed jointly with Russia.
 - In October 2018, India signed a 5.43 billion USD deal with Russia for the S-400 Triumf missile.
 - Over half of India’s conventional submarines are of Soviet design.



What are the Key Issues in India-Russia Relationship?

- **Strategic Crossroads for Russia :**
 - ☛ **Russia's Closer Ties with China :**
 - For Russia, with its long border with China and adversarial relations with the West, avoiding a two-front confrontation is a key imperative.
 - As Russia and China enhance their military cooperation, engage in joint economic initiatives, and align on various diplomatic fronts, it introduces a geopolitical dynamic that may impact India's traditional strategic considerations.
 - ☛ **Increasing Proximity with Pakistan :**
 - In recent years, Russia has tried to improve its relationship with Pakistan. It might be a response to the US-India relationship.
- **Diplomatic Dilemma for India :**
 - ☛ **Security Engagement with the United States :**
 - India has now signed all four foundational agreements with the USA. India has bought USD 20 billion worth of arms over the last two decades
 - India's great power calculations create the dilemma to choose between "comprehensive global strategic partnership" with the US on one hand, and its "special and privileged partnership" with Russia on the other .
 - ☛ **Ukraine Crisis :**
 - The invasion of Ukraine by Russia has resulted in a global imposition of sanctions as Russia's actions are widely perceived as a violation of the territorial integrity of a sovereign nation and a breach of international law.
 - However, India faced significant criticism in the West for refraining from condemning the Russian invasion of Ukraine and for its continued expansion of energy and economic cooperation with Moscow.
- **Declining Economic Engagement :**
 - ☛ **Declining Defense Imports:** There has been a gradual decline in the orders of India from Russia because of its desire to diversify its defense imports and therefore a heightened competition for Russia with other suppliers.
 - ☛ **Poor Post-Sale Services:** Dissatisfaction in India with post-sales services and maintenance being offered by Russia.



The Karnataka Bill is a symptom of a larger problem

The Karnataka Reservation Bill has been panned almost universally and also generated so much controversy that the State government was forced to pause it and issue assurances. The Karnataka State Employment of Local Candidates in the Industries, Factories and Other Establishments Bill, 2024, as it is called, mandates 50% and 70% reservation in management categories and non-management categories, respectively.

The Bill, as currently drafted, may be too heavy-handed and some provisions may need a rethink. However, a deeper conversation about the underlying issues – namely, India's exploding jobs crisis and regional socio-economic disparities – is required before knee-jerk dismissal.

The downside of inequitable growth

India has the distinction of being the fastest growing large economy in the world and also has the largest youth population. This would be a happy circumstance if its growth model created large numbers of jobs to productively employ its youth. Instead, the high-end services-led growth model has delinked growth and employment. This situation is long in the making: globalisation, financialisation, and technological advances have allowed capital and a small set of highly-skilled individuals to reap extraordinary benefits, while the working class, globally, has seen an erosion in their ability to earn.

The political repercussions of this trend are reverberating around the world. In developed countries, it manifests, *inter alia*, as a backlash against immigration; in India, it is showing up in part as regionalism and a reaction against inter-State migration. While an argument for immigration has been made in the developed world by liberal parties, it has largely been in utilitarian terms for the host country – in addressing labour shortage for unpleasant jobs, and offsetting aging populations.

While these global trends are significant, the



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The strong reactions to the Bill must induce a serious conversation on the underlying issues – India's exploding jobs crisis and regional socio-economic disparities

situation in India is different and more complicated. The Constitution guarantees freedom of movement and the right to work anywhere in India; domicile requirements of this nature seem to evoke parochialism and militate against national unity.

At the same time, the impetus for local reservations is an attempt by the State political leadership to be responsive to its own electorate. This tension between local aspirations and national unity is, increasingly, a recurring theme in Indian politics, visible in questions of devolution of funds, delimitation, and State domicile requirements.

Issue of accountability

At the crux of this debate is the question of federalism and political accountability. The politics of such initiatives come not from reservation for high-skill positions, but, instead, mass unskilled jobs. It is notable that all local reservation initiatives adopt a graded scale, with near universal reservation for unskilled jobs and at lower levels for higher skill tiers. This raises two critical questions: what impels large-scale migration for unskilled jobs that could easily be done locally? And why is not industry opposition to local reservation limited to high-skill jobs, indicating a preference for migrant workers for unskilled jobs even when locals are willing and able? The answer to the first question is evident: large-scale unskilled migration is not migration by choice but distress migration, resulting from the inability of some State governments to adequately develop their regions. We can, and should, apply a national unity and constitutional lens to citizen migration but it would be intellectually dishonest if it is done to sidestep the question of political accountability for a chronic lack of development.

The response to the second is equally revealing. Industries often prefer migrant workers for unskilled jobs because they are less likely to form unions and thus more easily exploited. This dynamic not only takes away jobs

from local workers but also depresses local wages.

In perspective

There is no question that all States benefit economically and culturally from being part of the larger Indian Union and thus have a responsibility to the entirety of the country and its people. However, the issue at hand is too serious for simplistic rhetoric, political expediency or mere outrage. Instead, the way forward requires a more expansive exercise.

First, there must be a real national debate involving our political class, corporate sector, civil society on urgently addressing India's job crisis. The long-term response cannot be data chicanery, unemployment allowances, or knee-jerk regionalism. Nationally, it is evident that the current skilling and production linked incentive interventions are inadequate to meet the challenge at hand. Similarly, at the State level, the fact that political responsiveness shows up in domicile quotas is indicative of an anxiety about adequately growing the employment pie. Second, we must foreground political accountability for large-scale distress migration and the endemic lack of development in some States. This political accountability must extend to both the State and national leadership. Third, questions of federalism and national unity need both an institutional response and greater political maturity. At a minimum, the atrophied National Development Council needs to be resurrected. Finally, the corporate sector must be held to account for the working standards for unskilled labour instead of allowing it to arbitrage worker precarity for its own profit.

The Karnataka Reservation Bill is a symptom of a much larger problem. While the Bill can be kept in abeyance or rewritten, the underlying issues need to be at the forefront of our discourse and politics. Our response to this challenge will shape the future of India's economic growth, social cohesion, and political stability.



IS THERE A RIGHT WAY TO PORTRAY SEXUAL VIOLENCE ON-SCREEN?



A still from *Maharaja*. SPECIAL ARRANGEMENT

Is there a right way to portray sexual violence on-screen?

The portrayal of violence in films, including extreme depictions such as rape, raises questions about its impact and necessity; while some films use violence to drive their plots, studies show that such depictions can contribute to real-life aggression and desensitisation among viewers

Ramya Kannan

There is no doubt today, with a war and a horrific occupation in place, it is clear that we, as a race, are essentially ensconced in violence. Aggression over pacifism and bloodthirst over compassion seem to be the guiding forces of our times. As the world loses patience and continues to aggress, art that imitates life, or speculates on it, naturally needs to reflect a part of that. Is it okay to show violence on screen then, to show rape that is probably the most brutal of violations, physical and emotional, on-screen? The debate has raged and crude and cruder forms of the depiction of violence have dominated screen time and mind space since man figured out how to shoot films and run them on a spool for public viewing. The question always is how much is too much? And, a little more philosophically, does this portrayal have to make a point?

‘Casual approach to violence’

More recently, Vijay Sethupathy's flick *Maharaja* set the cash registers ringing with a rather contrived revenge drama, gimmicky and replete with non-linear time zones. While redeemed much by the **13 of 24** ne essay of a broken father, nce in the film prompts a visceral physical flinch many a time.

The blood, gore, and casual approach to violence makes one wonder if an assault is actually a living, bile-belching character in the movie. Not to spoil the story for you, but if you shrivel at the portrayal of physical violence on screen, then be warned that there is also more than one rape in the movie, not even as a revenge play, but just as mentioned before, nearly casual, flick of the wrist; we-can-do-this, therefore-we-will level of numbing.

As a cinematic ploy, it is meant to drive the plot in this film, and as such, stressed upon in entropic flashbacks, suggestive and lascivious facial expressions, post-coital adjustment of clothes, struggles, partial nudity, screams and violence. There is one particularly brutal scene, in another flashback, where the abuser spits on the child victim with such violence, it is definitely a bilious moment in the film. Of course, it further deteriorates into a spiral of more violence, bloodshed and a climatic ending that by then the audience is hoping for, has predicted, or has whispered as a prayer to let the movie end as a relief.

Big influence

It has been adequately established with studies that violent behaviour on screen further spurs violence, particularly among kids. Psychologist Albert Bandura established this way back in the sixties,

showing that the more aggressive a film is, the more aggressive children watching it behave.

Other studies have also shown that violence has another way of allowing the practice of it in society, by desensitising the viewer. Desensitisation ensures that response to violence in real life is dulled or dead, allowing it to continue, or worse still, aggrandising it. Violence on-screen has seldom been the agent of change that filmmakers are sometimes deluded into thinking it is.

That very emperor of violence on screen, Quentin Tarantino, packs in a comical element and works in an element of theatrical distance between the screen and the audience in his movies. In a press conference in 1994, he said: "Violence is just one of many things you can do in movies. People ask me, 'Where does all this violence come from in your movies?' I say, 'Where does all this dancing come from in Stanley Doren movies?' If you ask me how I feel about violence in real life, well, I have a lot of feelings about it. It's one of the worst aspects of America. In movies, violence is cool. I like it."

While violence as an aspect of life has an undeniable place on screen, we don't want to watch just romcoms on the big screen or small. It is violence sans stylisation in movies, without the opportunity for redemption, that is problematic. One of the finest scenes of

rape on screen is from the Netflix series *Sandman*, in the episode Calliope.

In the season finale episode, an out-of-inspiration author on a deadline is bequeathed a mythical Muse, by another author, and he pleads with her to inspire him. She has been imprisoned for decades against her will, and his pleas turn insistent and into demands. In one scene we realise, as he is furiously typing away on his manuscript, a small bleeding scratch on his face, that he has had his way with her. Unusual for a rape scene, and with none of its usual trappings, but powerful nonetheless and conveys the message forcefully.

In another recent streaming series, *I May Destroy You*, there are multiple ways, subtle and gross, in which sexual violation is portrayed, and the response to it by the system, putting out the message that consent is key in any sexual relationship, and that it may be withdrawn at any time.

Educate, not glorify

Show violence on screen, since we must, to keep our movies real and earthy, but adding mindless violence under the garb of advancing the plot, serves no purpose, even eroding plausibility. You could always adapt a more sensitive, rights approach, and stylise the portrayal in a way that will not glorify violence, but rather serve to enlighten and educate the audience.



Question:

Q. What do you understand by the concept “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. (12.5 marks, 200 words)

- In the Introduction, try to define freedom of expression and how this is guaranteed in Indian Constitution.

In Body :

- Write the concept of Freedom of speech and expression and mention hate speech.
- Discuss how the films in India stand on a slightly different plane from other forms of expression.
- In Conclusion, try to write about the overall importance of Freedom of speech and expression.

Answer :

- Freedom of speech and expression is the right to express one’s own opinion and to communicate ideas, thoughts, and emotions without fear of censorship or retaliation. The right to freedom of speech and expression is guaranteed to all citizens of India by the Constitution of India under Article 19(1)(a). This right is given to citizens of India so that they can freely express their opinion, views, beliefs, and thoughts without fear of government or any other form of censorship.
- The Concept of Freedom of Speech and Expression:
 - Right to propagate one’s own view and views of others.
 - Freedom of the press.
 - Freedom of commercial advertisements.
 - Right against tapping of telephonic conversation.
 - Right to telecast (the government has no monopoly on electronic media).
 - Right against bandh called by a political party or organization.
 - Right to know about government activities.
 - Freedom of silence.
 - Right against the imposition of pre-censorship on a newspaper.
 - Right to demonstration or picketing but no right to strike.
- Article 19 (2) in the Indian constitution gives us the freedom of speech and expression with some reasonable restrictions under as follows: It should not affect the security of the State, friendly relations with foreign States, public order, decency or morality, or in relation to contempt of court, defamation or incitement to an offense.
- Hate speech: It generally refers to words whose intent is to create hatred towards a particular group; that group may be a religion, community, or race. This speech may or may not have meaning but is likely to result in violence.
- 267th Report of the Law Commission of India, defined hate speech as an incitement to hatred primarily against a group of persons defined in terms of race, gender, ethnicity, sexual orientation, religious belief and the like.
- The films in India stand on a slightly different plane from other forms of expression: Films in India stand on a slightly different plane from other forms of expression because they have the potential to influence a large number of people. Because of this, the Government of India has imposed certain



restrictions on the content of films to ensure that they do not promote violence, hatred, or any other illegal activities. Additionally, films are also subject to censorship to ensure that they adhere to the standards of morality and decency. Generally, films are banned for six reasons:

- Movies which supposedly depict the country in a bad light. BBC's documentary India's Daughter (2015), which contains interviews with the alleged rapists of the 2012 Delhi gang-rape victim, was banned in India because it records certain views of the rapists, which show the country in a poor light.
- Movies that portray the life of Indian political leaders, but in an unfavorable manner, such as Aandhi (1975) and Kissa Kursi Ka (1977).
- Movies like Parzania that depict communal violence are likely to be banned. Such movies are deemed to arouse the passion of the people that can lead to problems of public order.
- Movies which 'hurt' the religious sentiments of the people such as The Da Vinci Code (2006), which was banned in five States in India as it 'hurt' the sentiments of the Christian community.
- Movies are censored on the ground of obscenity. Mira Nair's Kama Sutra: A Tale of Love (1996) dealt with a story of four lovers in 16th century India. The Censor Board found the movie "too explicit", "unethical" and "immoral".
- Films which deal with tabooed subjects like lesbianism, and transsexuality, i.e., Fire (1996) and Gulabi Aaina.
- The freedom of speech and expression, is an important fundamental right, scope of which has been widened to include freedom of press, right to information including commercial information, right to silence, and right to criticize. However, subjective to reasonable restrictions on the ground of public order or obscenity, at times, might be justified. But extra-constitutional bans restrict the free flow of thoughts, imagination, and creativity. Such bans are thus against the constitutional philosophy, against the rule of law, against democracy, and against our national interest.