

Question 1: - Critically discuss the battle between "Right to reputation and Right to freedom of expression" in India today in the light of Supreme Court judgments. (12.5 Marks – UPSC Requirement - Each Question is worth 12.5 marks and maximum word limit is 200. But content of the answer is more important than its length.)

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Smart Answer Claimed by One Institute in Chennai

1006 WORDS as against 200 words which is approximately 5 times more than the requirement.

Answer Given by the X Institute

• Key points:

- Defamation refers to the act of publication of defamatory content that lowers the reputation of an individual or an entity when observed through the perspective of an ordinary man. If defamation occurs in spoken words or gestures (or other such transitory form) then it is termed as slander and the same if in written or printed form is libel. Defamation in India is **both a civil and a criminal offence**.
- **Section 499:** Whoever, by words either spoken or intended to be read, or by signs or by visible representations, makes or publishes any imputation concerning any person intending to harm, or knowing or having reason to believe that such imputation will harm, the reputation of such person, is said, except in the cases hereinafter expected, to defame that person.
- **Section 500:** Whoever defames another shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.
- The challenge to the validity of Section 499 and 500 of the IPC was undoubtedly the biggest free speech issue to have arisen in recent times.
- 'Defamation' is one of the reasonable restrictions to free speech envisaged in the Constitution, but this is not enough to justify retaining its criminal component.
- Present structure of law imposes arbitrary restrictions instead of reasonable restrictions and thus there will be regular arrests even for criticizing government. Acts can be misused to settle political scores and thwart others' freedom of speech. Structure of section 499/500 dates back to 1860 and thus the law is not in tune with the present trends of promoting free speech.
 - The court has sought to create an artificial balance between the fundamental right of free speech under Article 19(1) (a) and the right to reputation as part of one's right to life under Article 21.
- Such obfuscations prohibit the freedom of speech from performing one of its most essential functions: the pursuit of truth. This truth-seeking endeavour marks an important philosophical justification for any state to recognize free speech as an inalienable right of its citizenry.
- Sec 66A of IT Act was struck down because it violates freedom of expression. In this case the preference was not given to reputation of the person. These two judgements are contradictory in nature.
- Positive side of the judgement:
 - This judgement is a stern message to all those who consider freedom of speech as absolute and to think twice before defaming a person.
 - Apart from Article 19(2), the court also relied on the expanded meaning of the right to life under Article 21, which has been interpreted as the right to live with dignity. Defamation affects an individual's dignity and, therefore, for the protection of his/her dignity, an individual must have effective legal recourse. It is no answer to say that such legal recourse is available under the civil law, because the civil law is expensive to invoke and a defamed person in addition has to bear the burden of paying court fees on a civil suit.
 - The criminal defamation judgement is disappointing and reiterates the Supreme Court's lukewarm commitment to free speech in recent times. the court strikes down amendments by democratically elected Parliament but upholds a colonial law is highly regressive.
- The SC passed its judgement on a series of petition on Criminal defamation filed by famous politicians like A Kejriwal, Subramanian Swamy, and Rahul Gandhi. In its judgement Supreme Court upheld the Sec 499 and 500 of IPC which amounts to criminal defamation and ruled that right to freedom of speech and expression is not absolute. This judgement is viewed by some with positivity while others view this as an effective tool to silence dissent and free speech. This article deals with the issues associated with the supreme court ruling and its impact on free speech.
- The Supreme Court has categorically mentioned through its judgement that the right to freedom of expression cannot be used to malign the reputation of the person. This being the crux of the judgement has to be viewed with more prudence as it tries to strike a balance between Freedom of speech & expression and individual reputation.
- Through this judgement SC has given a right message to all the people who use defamation as per their whims and fancies. The motive to defame a person may be to gain undue advantage however there are instances where people have used this draconian section of 499 & 500 to malign the reputation of a person which is accumulated over years with much hard work and perseverance. This judgement is a stern message to all those who consider freedom of speech as absolute and to think twice before defaming a person.
- However on the other side of the discourse they are sections arguing that it curtails any form of criticism. Media which expresses the above concern has a view that people with deep pockets can go on and on by dragging the person to court considering all forms of criticism as defaming.
 - Finally with this judgement the court has cautioned indirectly to not to take judiciary for granted in solving issues like defamation which are of not that important. This judgement has come at a time when the judiciary is overburdened with crores of pending cases.
- Politics in a democracy should be fought by having constructive criticism of each other and not by maligning a person in a public domain. Politicians need to play politics in a more sensible and mature way to develop the country and not to set personal scores or with power motive. India is a country with still millions of people deeply engrained in poverty; our entire discourse should focus on how to get these people out of poverty than settling insults in courts. With the new judgement media needs to be more diligent and prudent while reporting issues that have serious implications. The Supreme Court in its wisdom has given its judgement in true sense at a time when we need to focus on development and not on defamation.

Our Answer -
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WORDS

The recent judgement of the SC raises reputation to the level of "shared value of the collective" and elevates it to the status of a fundamental right. It holds that :-

- Right to reputation to be an **integral part** of Articles 21 and 19(2) of the Constitution.
- Right to freedom of speech and expression is **not absolute** & is subject to imposition of reasonable restrictions. The theory of **balancing of rights** dictates that along with the right to freedom of speech and expression, there is a correlative duty on citizens not to interfere with the liberty of others, as everyone is entitled to the dignity of person and of reputation.
- As there is interplay of defamation and free speech rights, there will be "no chilling" effect on the latter because of criminal sanctions in **Sections 499 and 500** of IPC. It **serves the social interest**.
- It has become more important now (in an era of IT) than ever that reckless or wild allegations made by any section of the society, be it an individual or sections of media, be **held accountable**.
- **Dissent is required** for democracy, but it does not grant an unfettered right to damage a reputation.

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Question 2 - Land pooling is an alternative to the land acquisition. Comment.**Answer Given by the X - Institute- 1117 WORDS****Amaravati:**

- After bifurcation of the erstwhile state of Andhra Pradesh, both the new states of Telangana and Andhra Pradesh are sharing the Hyderabad as capital for 10 years.
- Meanwhile the new state of Andhra Pradesh has to build its new capital.
- The Sivaramakrishnan Committee has suggested for development of several cities in the state as industrial, investment and technological hubs instead of developing one super-city as capital.
- Meanwhile, Chief Minister of Andhra Pradesh has announced that a single capital Amaravati will be built near Guntur and Vijayawada on the banks of River Krishna.
- Amaravati will be the India's first planned capital to build up from scratch in the recent decades.
- The core of Amaravati will be built on 33,000 acres of land owned by individual farmers between Vijayawada and Thullur along the banks of the Krishna River.
- The Andhra Pradesh government has followed the land pooling strategy to collect the land as an alternative to land acquisition.
- So far more than 30,000 acres of land is collected under the pooling system.
- Though it is not the first time the land pooling is tried in India, it is an ambitious experiment which could become a model for India's Smart Cities.

What is land pooling?

- Under the land pooling concept, small parcels of land are pooled from the various large owners in a region with their voluntary irrevocable consent and these assembled lands are developed by a special agency or government body with all modern facilities like roads, sewerage lines, electricity etc.
- After the completion of the development in few years, a small portion of the developed land will be returned back to the original owner.
- The returning portion is not fixed; it depends on the agreement signed between the land owner and the agency pooling the land.
- The AP Capital Region Development Authority Act, 2014 helped to create the Amaravati land bank with all the government land being transferred to it.
- The act also helps in land pooling schemes in the capital region.
- The government has proposed to complete the development in ten years and return 30% of the developed land to the original land owner.
- It also proposed an annual compensation in the range of Rs. 30,000 to Rs. 50,000 depending on land quality with a 10% increment every year for a period of ten years. Land owners have also been exempted from capital gains tax and stamp duty on the first sale.
- The AP government also offered loan waiver and government jobs to the local youth.
- It is also paying annuity to the tenant farmers and landless workers.

Note:

- The state had acquired 31,000 acres from about 18,000 farmers by committing an annuity of Rs 50,000 per acre for 10 years and simultaneously giving back 1,250 sq yards of residential plot and 200 sq yard of commercial plot in the new city for every acre. The land holdings of farmers vary from 40-50 acres to less than an acre. "While 50 per cent of the entire land acquired will be utilised for development of trunk infrastructure and social infrastructure, 25 per cent will be given back to original land owners and the balance 25 per cent will remain with the government for other uses.

Advantages of the land pooling system

- As the land owners contribute their land voluntarily, the whole land pooling process will be very smooth.
- The land owners will be made stakeholders in the process of the development.
- Inclusion of land owners in the project development creates a win-win situation for the government as well as people living there.
- Under the land acquisition, land is acquired forcibly and it disrupts the inhabitants.
- The pooling process does not disrupt the current inhabitants.
- In land pooling the medium of exchange is land only as against the money in land acquisition process.
- The compensation offered under land acquisition is based on revenue rate and not on market rate. So the compensation will be very less.
- In land pooling, though the returned developed land is less than the original land, its value will be more than the original land.
- Under the land acquisition act, several safeguard measures are to be followed including a social impact assessment by an expert committee and a detailed plan for rehabilitating the original owners.
- This makes it a tedious process.
- But the land pooling is an easy way of collecting land for development.

Note:

- To stave off criticism of the scheme only benefitting landowners, the state government has proposed setting up a Capital Region Social Security Fund for the estimated 12,000 displaced families of agricultural labourers and tenant farmers. Each family will receive Rs 2,500 per month for 10 years or Rs 30,000 annually, "which is roughly what they would make from cultivating 3 acres,

Concerns

- Though the land pooling is followed as an alternative to the land acquisition, there are arguments about its legality.
- It is argued that the compensation under the land pooling is not fair.
- In land acquisition, compensation will be given immediately whereas in land pooling, the land owners have to wait for years to get full compensation.
- Many farmers are also opposing the land pooling as their lands are fertile agriculture lands giving two to three crops per year.
- Land pooling also does not discuss how to create an adequate safety net for the people that will soon be

Our Answer -**CrackingIAS.com - 223****WORDS**

Under land pooling systems, landowners voluntarily sign ownership rights over to a single agency or government body. This agency develops the land by building roads and laying sewage lines and electricity connections. Once this is done, it returns a smaller portion of the land to the original owners.

Pooling certainly scores over acquisition.

- It is fairer to the original land owner who does not lose all his land unlike in many acquisitions.
- The value of the land he retains increases way beyond that of his original holding and he also gets access to substantially better infrastructure.
- It may help check the perpetual rise in property prices in cities and provide land for economically weaker section and lower income housing.
- It fosters more planned development and avoids unplanned development characterised by mixed land use.
- Pooling is typically supported and sometimes even initiated by the landowners since they would make considerable profit on their returned land.
- It also makes it easier for the developing authority to recover costs incurred setting up the infrastructure – by levying tax on the redeveloped parcels.

However Land Pooling policy requires incorporating features such as allowing higher Floor Space Index (FSI) and promoting mixed land use, for which integration with various authorities such as water and electricity boards, municipal corporations and such like assumes significance.

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- displaced.
- The government is accused of luring the farmers for short-term benefits and converting the large tracts of fertile agricultural lands with urban landscapes.
 - If the development process is delayed due to various reasons like change in the government, the farmers will be left in the lurch.
 - No legal remedies are proposed in the act.
 - Tenant farmers and agricultural workers are facing uncertain future as they have to struggle for alternate employment.
 - Their monthly compensation is a meager amount.
 - The land pooling scheme attempts to sidestep the provisions of a far stricter central land law.
 - The Land Act, 2013 says government acquisition of land requires the consent of 70 to 80% farmers.
 - Since it is voluntary, the Andhra Pradesh Government's land pooling scheme has no such provisions.
- Conclusion**
- The success of AP land pooling model could be studied by the other states to implement it in green field projects.
 - At the same time, concerns about the land owners and other workers depending on the land should be taken care with better compensation packages, alternative employment opportunities and adequate legal remedies for their problems.

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