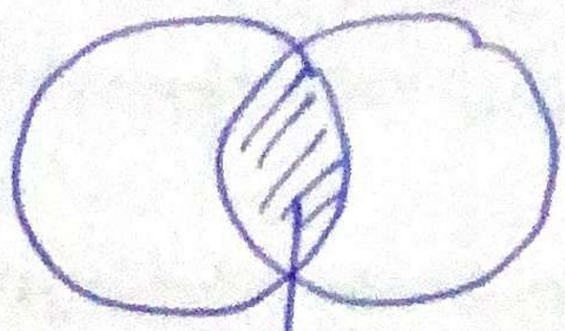
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प्रश्न संख्या (Question No.)

U.P.S.C.

(1) Judicial Review is defined as checking the constitutionality of legislative enactments and executive actions. While Rule of Law is defined as following law of land, limited government.



Inter dependent
- → Both envisions supremacy of constitution
- → Part of Basic Structure
- → Judicial Review acts on the basis of no arbitrary use of power (Rule of law)

Judicial Review - Important Aspect

(1) Indira Nehru Gandhi case: it was held that Judicial Review part of Basic

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Structure:

(2) Checks the tyranny of legislature

(Eg) 99th Amendment was termed unconstitutional (NJAC)

(3) Maintains federal Character

(Eg) 97th Amendment struck down as it didn't consult States on cooperatives.

(4) Checks and balance → enhance accountability

(Eg) During emergency — SC upheld wrongs.

However, other important aspects of Basic Structure

- Sovereignty, Secularism
- Federalism
- Welfare State
- Independence of Judiciary

Overall, Judicial Review act as the basis of Basic Structure adding strength to its character.

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(2) Article 239AA of Indian Constitution provides for legislative assembly for National Capital Territory of Delhi and Lt. Governor (LG) for the union territory

Power and Authority of LG	
LG. of Delhi	Governors of other States
(1) Appointed by President	(1) Appointed by
(2) No such constitutional discretion	(2) Constitutional Discretion to give tribal
(3) Role in ratification of bills.—	(3)

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Aid and Advice of council of ministers (COM)

(1) Governor must act on aid and advise of COM however, lieutenant governor is not under compulsion.

(2) In case of dispute, L.G refers the matter to President and follows the advise

(Governor - do not have to refer to President)

(3) In case of reconsideration of Bill, LG has the right to veto and under no compulsion to accept the bill.

"Hence, in an overall capacity, LG of Delhi has more power than other governor of state.

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इस भाग में कुछ न लिखें (Don't write anything in this part)

(3) Supreme Court recently allowed women to enter Sabarimala Temple to worship as 'Religion has no gender'

Role of Judiciary

(Right to Religion and constitutional Morality)

① Article 26 vs Gender Equality

↓ Right of Religious groups

→ Right of women to enter temples.

→ Constitutional Morality

Supreme Court navigated the way via 'Doctrine of essentiality' as envisioned in Shirur Matt case 1954

Analysing on ends of essential conditions of religion.

② Hijab case: where wearing hijab not an essential trait, thus not compulsory in educational institutions

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(3) Article 25 vs Article 26

Article 25 → Freedom of individual

Article 26 → religious group

Also evaluated in terms of tenets of constitutional morality (legitimacy or wrongness on the basis of constitutional principles)

However, these judgements are time and again challenged

1. Review Petitions
2. Social Morality not in line with constitutional morality

But nonetheless, judiciary has been a progressive institution by taking a open, unbiased and inclusive stance (guarantor and guardian of Indian Constitution)

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④ Montesquieu in his 'Separation of Power' talked about division of power and responsibility among legislature, executive and judiciary.

Indian System	US System
① Ramjawaya Kapoor Case: No Strict Separation of Power	① Strict Separation of Power
② Functional overlapping	② No functional Overlapping in US Separation of Power
(Eg) Judicial Function by Judiciary as well as Executive President Article 72: Pardoning function)	
(B) Personnel overlapping: Article 74, 75 Member of Parliament is minister of	③ Legislature and executive are separate from each other

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Parliament as well

Advantages of Checks & Balances

① Prevents Personal Dictatorship

(Eg) Article 75: Council of ministers responsible to Lok Sabha.

② Ensures accountability

(Eg) Appointment of judges by Portion President.

③ Prevents hasty decisions

(Eg) Judicial Review by Supreme Court, High Court.

Thus, Checks and balances ensure Smooth functioning of Parliament and enhancing democratic credentials.

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(5) Article 244A and Sixth Schedule is established for tribal areas, namely Assam, Tripura, Meghalaya and Mizoram.

Empowers tribal region with self rule

① Creation of Autonomous District Councils: with representations.
20 members — 15 tribals

② Propose legislations based on their customs and traditions

③ Non Tribal is not allowed to buy land in such areas

④ Right to govern practices like money lending and make rules

⑤ Access to tribal resources, forest, land.

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Foster Development

① No interference in cultural practices, customs in such areas

② Governor has special provision in both acts of State legislature would apply to such areas

③ Representation in legislative assemblies

④ Governor specifies the role of Regional Court with respect to such areas.

Thus, VI schedule is based on ideals of Nehruvian Panchsheel approach of developing own tribal creative Endeavours

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इस भाग में कुछ न लिखें (Don't write anything in this part)

(6) Civil society is a group of people which is non-government entity formed to meet common objectives

Partnership of civil society and Government

① Complement each other (in case of resources differences)

Eg Kerala Saksharta Parimad - Role in 100% literacy

② Watchdog of democracy

Eg India Against corruption campaign - Anna Hazare group.

③ Public Participation (Jan Bhagidari)

④ Fills the vacuum created by the government

Eg Social evils. - Child labour Bachpan Bachao Andolan

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(5) Holistic development

(Es) Sustainable Development
Centre for Science & Environment -
use of CNG Buses

(5) Emergency times Policies

(Es) COVID-19 Himalaya Aid -
food to people

(6) Policy formulation

(Es) MICSS - RTI Act

(7) Policy Implementation

(Es) ASER - ground reality
of education

(feedback mechanism)

Thus civil society is
an important pillar which
acts as mobiliser, manager
and mover of govt programs.

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इस भाग में कुछ न लिखें (Don't write anything in this part)

(7) Mission Karmayogi has Objective of capacity building from 'Rules based order' to 'Roles based order'

Culture of life-long learning :-

1. Technologically updated

(Eg) e-governance

2.

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(11) Article 280 of Indian constitution mentions about Finance Commission to guide devolution of grants and taxes both Vertically as well as horizontally.

Terms of reference of 16th Finance Commission Vis-a-vis previous

① Better devolution to states through data and evidence based indicators.

② Performance based grants or outcome based grants to local bodies. based on schemes implementation.

③ Demographic Performance: So as to encourage population control measures.

④ Ecology and Environment taken into consideration - forest cover.

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so as to cater to resource-rich but under-developed regions.

(5) Tax Efforts' would be rewarded as tax bureaucracy and reforms add to exchequer.

(6) 'Income Distance' so as to cater to equitable distribution between rich and poor states.

Increasingly progressive Devolution

(from 11th Finance Commission to 16th Finance commission)

42% States

1% reserved for newly formed union Territory Jammu and Kashmir Ladakh

Factors propelling economic disparity

(1) Historical factors:

Colonial times - developed Presidency towns - Bengal, Bombay, Madras

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(2) Social factors

↳ Most Populous Uttar Pradesh and less are Sikkim - (more propee to cater

(3) Technology :

(-) Banglore, Hyderabad, Gurugram are technological hubs but not available in other States.

(4) States' own tax generation capability

vary from Kerala to Bihar
(High) (low)

(5) Other Sources of income

(remittances from Abroad)

16th Finance Commission has tried to formulate an equitable distribution, but need is to consult multiple Stakeholders for micro-analysis and Reduce Inequalities

(SOQ 10)

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(12) Parliamentary Standing Committees, both permanent and adhoc maintains accountability over executive and ensures checks and balances.

Comparing Ethics Committee and Privileges Committee	
Ethics Committee	Priveleges Committee
① Composition: Both from Lok Sabha as well as Rajya Sabha Separate	① 15 members from Lok Sabha 7 members from Rajya Sabha
② Powers:	
A > Ensures ethical conduct in the houses	> Ensures privileges given to parliamentary members both individual as well as collective.

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(B) Takes action against concerned member like Suspension

Eg Recent case of MP Mahua Moitra

Working

(C) Responsible for maintaining the decorum of the house

(D) Checks unruly behaviour and comments of the members

> Take action on cognisance of breach of privilege in the House

> Maintains independent conduct of members

Eg free speech in the house

> No court can Interfere during Parliamentary proceedings, 40 days before and after.

Both Committees complement each other as

(1.) Ethics committee keeps a check on members of Parliament, while Privilege Committee keeps a check

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on conduct of any outside member.

(2) Both acts as a quasi-judicial body and internal locus of conduct (Ethics) as well as external locus.

(3) The role of both is necessary to get impartial conduct of members of Parliament.

(4) It balances both duty of member (Ethics) and gives responsibility (Parliamentary Privileges) as well

Way Forward → NCRWC: Codification of Privileges

→ II ARC: mandatory scrutiny by Committees

Thus Parliamentary Standing Committees are an effective means to enhance democratic credentials through discussion, debate and deliberations

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(13) Judicial Activism is defined as pro-active role played by Judiciary to ensure rights of people in case of legislative vacuum.

Legislative Dysfunction
- → 1. Politically motivated decisions (Eg) Sectarian, identity basis
- → 2. Tyranny of Parliament (Eg) NJAC
- → 3. Haphazard Bills without scrutiny (Eg) Farm Bills.

Evolving role of Judicial Activism

I Shaping Public Policy:

(1) Judiciary giving guidelines and framework for law making

(Eg) Vishaka guidelines led to POSH Act 2013

(2) Environmental legislation basis

(Eg) MC Mehta case led to Absolute liability principle → Environmental Protection Act 1986

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③ Policy Procedures

(Eg) Maneka Gandhi case - Procedure established by law → due process of law

II Governance

④ Environmental Governance

(Eg) Ban on firecrackers during Diwali - Arjunkumar case

⑤ Inclusive Governance

(Eg) NALSA case - Recognition as third gender

⑥ New terminologies

(Eg) Right to be forgotten part of Article 21

⑦ Electoral Reforms

(Eg) Subramaniam Balaji case on freebies threatens democracy

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Effectiveness of Judicial Interventions

Governance Issues:

(1) Women Rights

(2) Reservation:

(a) to Supreme Court validated EWS judgement.

However, it leads to Judicial overreach

(10) Liquor ban in highways

(2) National Anthem Singing before movies

Safeguarding Rights of Citizens

(1) Right to Livelihood

(a) Olga Tellis

(2) Right to internet access

(a) Anuradha Bhasin

Thus judiciary need to walk a tight rope in balancing activism so that it does not lead to overreach

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(14) Political parties are Representatives of people based on different Ideologies which nominates candidates who contest elections.

While it ensures democracy outside, but internal democracy's level impact functioning :

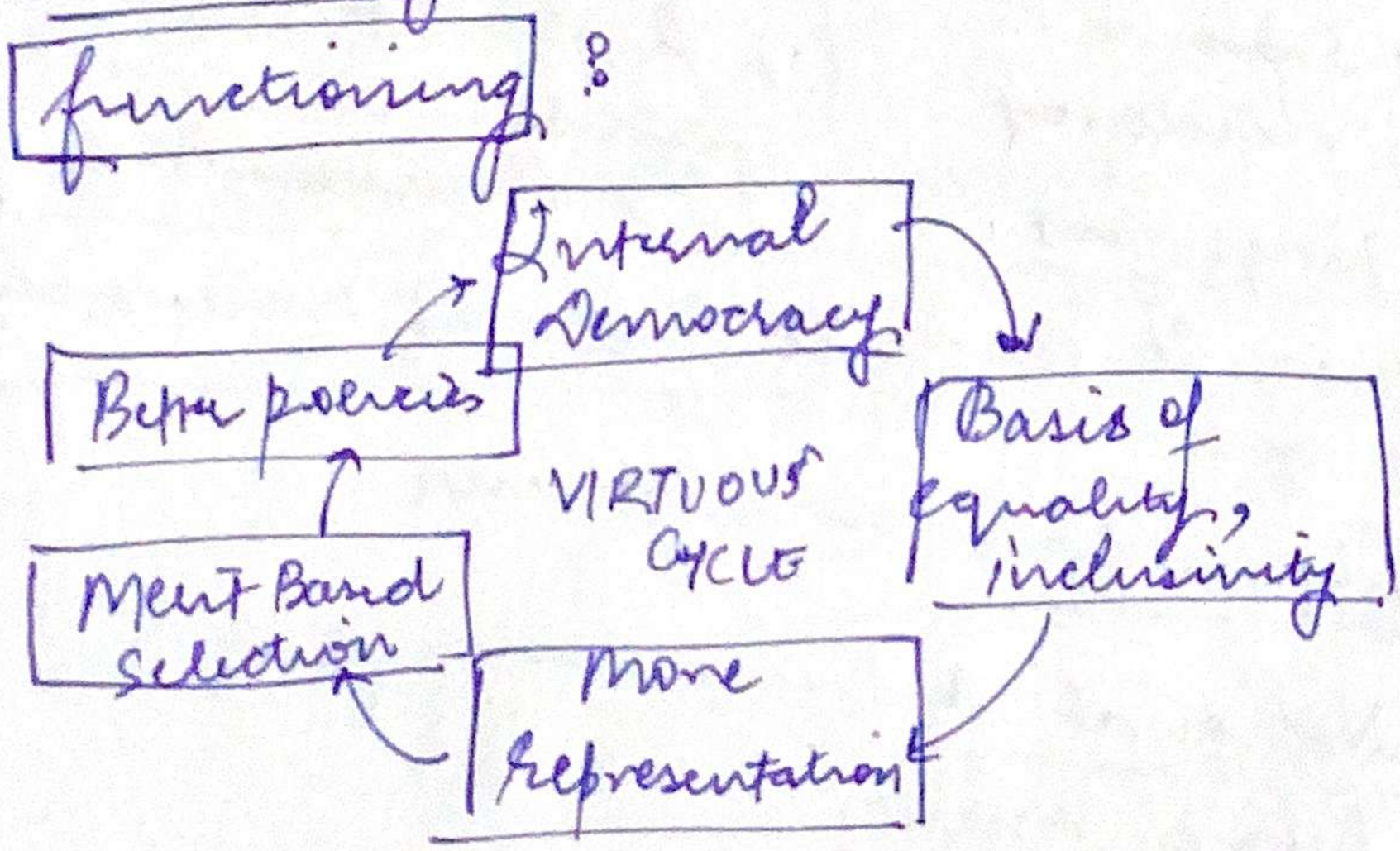


Fig: Better functioning in model: Internal Democracy

(1) More women Representation

(Eg) 14% Representation in 17th LS

(2) Decreasing role of 'Money and Muscle' Power

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(Eg) during distribution of party tickets

(3) Top level leadership through proper elections

(4) Smooth functioning of political party by effective conflict resolution

Legitimacy of party system

(5) Enhanced credibility to party members

(gains voter trust → entrance democracy)

(6) Dilutes Criminalisation of politics

(Eg) ADR Report: 43% of member of Parliament have criminal records

(7) Discussions and debates, open to criticism while forming manifestoes

(8) Ensures free and fair elections in the long run

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Reforms to address inadequate intraparty democracy

① II ARC suggest elections within the political party for representation.

② Formulating mechanism and Standards of Procedures in case of disputes,

③ Reservations of seats for vulnerable Sections

(Eg) SC, ST, women, minorities

④ Transparency and Accountability

↳ Publishing Criminal Records of any party member.

⑤ intra-party system of democracy, external democracy is also required,

Thus PM Modi in Democracy Summit talked about Democracy 'Within the people', among the people' intra-party democracy is must for this.

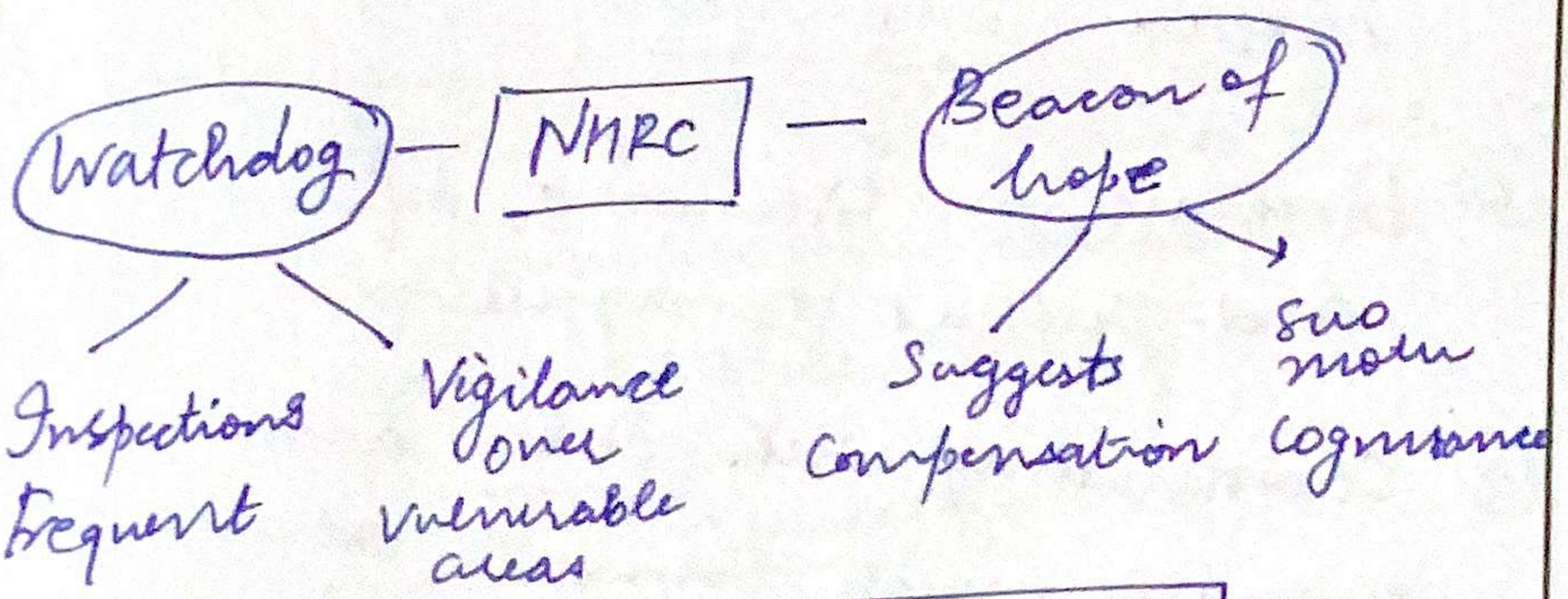
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इस भाग में कुछ न लिखें (Don't write anything in this part)

(15) Protection of civil Rights Act 1955 Constitute NHRC as a Statutory body to Safeguard and ensure human Rights of vulnerable Sections.



Role and mandate of NHRC

(1) To ensure protection of human rights in India in line with international Covenants
   (a) UNHRC - Human Rights Convention

(2) Safeguards fundamental rights and protection to Vulnerable Sections — SC, ST, women,

(3) Inspection to jails, homes and

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Vulnerable areas.

④ Suggest compensation in case of violation of Rights

⑤ Pro-active efforts in taking matters suo-motu (Refugees, Transgenders)

⑥ Forbearer in extending Reforms and support to aggrieved.

⑦ Coordinating with SHRC and Human Rights Council at an institutional level.

Composition

Chairman:
Retired Judge of Supreme Court or any Supreme Court judge

Members
1. High Court judge
2. Knowledge in Human Rights affairs
3. 1 Women

Ex-officio members
Representation from National Commission of Women, Child rights, Disabilities, Backward class etc

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ANALYSIS

Functioning affecting independence and effectiveness

⇒ ① Only Advisory Power: not binding in nature

⇒ ② Toothless Tiger: as lack funds poor budgetary allocation

⇒ ③ Effectiveness compromised due to coordination issues. with wide membership

⇒ ④ Not so representative: lacks Transgender council members

⇒ ⑤ Report to Parliament: not been regular by NHRC.

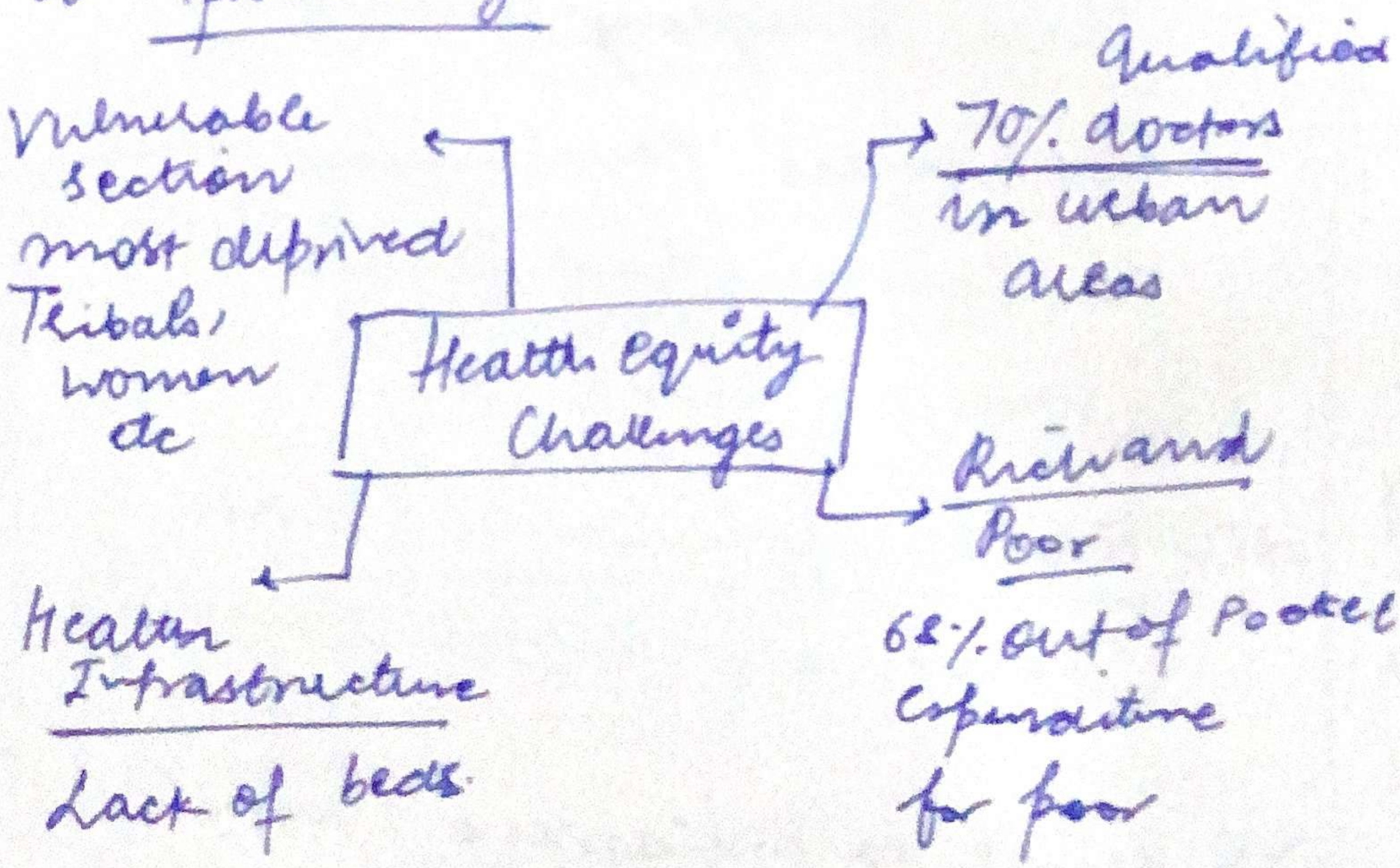
However, NHRC as an institution usher an era of human rights, protection and hope for marginalised

Way ahead
- Constitutional Status
- Enhanced funding
- Some Binding mandate

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(16) WHO aims for universal health coverage in terms of availability, accessibility, affordability and equity with spirit of Health as a 'public good'



Role of Public Sector:

1. Shift to generic medicines as per new NMC guidelines for public hospitals.
2. Awareness generation especially in rural areas for vaccination.
3. Focus on primary healthcare so

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as to prevent escalation. Eg Mohalla Clinics

④ Refrain from escaping responsibility
Eg Referral practices.

⑤ Maintain proper infrastructure i.e Sanitation conditions.

⑥ Catering to remote locations
Eg mobile Health vans. Initiative.

Role of Private Sector :-

① Accessibility : not charging exhorbitantly high charges from patients.

② Refrain from 'Test culture'
Eg Nexus with private laboratories

③ Insurance Penetration : Providing affordable insurance policies for 'missing middle class'

④ Coordinate and complement the public hospitals in case of

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tertiary healthcare

(5) Social responsibility towards women, elderly, children.

Way forward towards Universal Health Coverage

(1) Immunization :- Indradhanush-scheme
Universal Immunization scheme - by both public and private sector.

(2) Ayushmaan Bharat yojana
Empanelled Private hospital.

(3) PM Jan Aushadi Kendras for generic medicine (Affordability)

(4) Increase public health expenditure

(Eg) National Health Policy 2017 talks for 2.5% of GDP by 2025

Yours 'health is the real wealth', both public as well as private sector should collaborate for SDG 3 (Good health and well being)

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(17) Sustainable Development goals are visionary global goals (17) to be fulfilled by 2030 to ensure 'development that meet the needs of present without compromising the needs of future generation'.

Role of Panchayats in SDGs

I Catalyst for grassroot development :-

① Poverty Eradication (SDG1)
   (Eg) Skill generation in NRLM

② Good Health and Wellbeing (SDG3)
   (Eg) Role of ASHA, Anganwadi in institutional deliveries, distributing contraceptives in rural areas.

③ Educational Attainments : With Panchayats - developing Schools, motivating girls to attend it.

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④ Gender Equality (SDG 5)

Eg Beti Bachao Beti Padhao
Watchwords of Panchayat,
felicitation of Progat Sisters
in Haryana.

⑤ Clean Energy

Eg Kerala Panchayat -
Solar roof tops in
Panchayat Buildings.

⑥ Formulating 'bottom-up plans' based on demands rather than 'top down approach'

However, Scale of Panchayats is contested on following grounds :-

① Funds:
- → Very low own tax Revenue (<1%)
- → Low or no devolution of funds from States
- → Outcome based grants

② Functions - lack effective powers

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to exercise 29 functions (243-G) as States are reluctant.

③ Functionaries & parallel bodies formed by State government which work

Eg Secretaries of Panchayat.

④ Logistical issues

Eg Sarpanch frequent visit to BDOs even for basic documents.

Way Forward

→ SDG-Index at Panchayat level to keep a track

→ Funds to Panchayats by States as per finance Commission (Art 243-I)

→ Effective democratic decentralisation by de-regulation de-bureaucratisation (II ARC)

Thus, locally contextual based fulfilment of SDGs are possible by way of empowering the panchayati Raj (Article 40: Self governance)

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(18) POCSO Act is a watershed act which is responsible for protection of children from sexual offences.

NCRB data reveals 93% of such cases happen by near family Relatives.

Implications of POCSO Act:

I Rights of children:

(1) Right to ~~livelihood~~ life and livelihood (Article 21) - Fundamental Right

(2) Article 38 of DPSP (Directive Principles) healthy development of children

(3) It hampers educational attainment of the child due to mental trauma

POCSO acts as a way to mainstream Child.

(4) Human Rights protection

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II Welfare of children

(5.) Justice to child : punishment to perpetrator.

(6.) Gender Neutrality : both male and female child below age of 18 years.

(7.) Child sensitive interrogation by female member

Transforming legal framework for Child Protection.

① Nature of offence : cognizable and non-bailable

② Harsh Punishment :

(Eg) death penalty in case of sexual offence <12 years of child

③ Definitions of various sexual offences to remove ambiguity

(Eg) Sexual assault, Penetrative sexual offence, Aggravated offence etc.

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④ Institutional pro-activeness

(E.g.) NCPCR (National Commission)

⑤ Fast and Speedy justice through fast track courts.

⑥ Reporting of cases:

as non reporting of pornographic material with respect to Child is an offence

Further, some concerns

- Conviction rate is poor
- Psychological harm to child not effectively dealt.
- Pendency of Cases
  - resistance in complaint against family relatives

Despite above challenges, POCSO has brought a legal transformation leading to Safeguarding rights of children & good touch and bad touch' and awareness regarding

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इस भाग में कुछ न लिखें (Don't write anything in this part)

(19) India and USA. are converging partners Rooted on common vision of Indo Pacific, Rules based global order and countering China.

Diplomatic Relation

I Influence of human Rights issues.

A:) Russia - Ukraine Conflict
(UNHCR: loss of 10,000 lives)

Though India condemned loss of lives and atrocities by Russia, but dodging ~~Rost~~ USA economic Sanctions by India antagonised USA.

B:) Diplomatic Balancing between India's national Interest and

USA's Sanctions.

Eg Earlier India took S-400 from Russia. India got removed from

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प्रश्न संख्या (Question No.)

Generalised System of Preferences

I Democratic Values

(1) Recently India attended the democracy summit hosted by USA which boosted Eco diplomatic ties.

(2) Strong Believe in democratic values
- Equality
- Inclusivity
- Rule of law

led to enhance Relations Security
1. Indo Pacific Vision - free, Open and inclusive
2. iCET (Initiative on critical and emerging technology)
3. Minerals Security Partnership (Security aspect)
4. General Electric - jet engines deal

Concerns affecting Bilateral Relations in a negative way:

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प्रश्न संख्या (Question No.)

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1. Trade declining

2. Trust deficit among nations.

Way to mitigate tensions

1. Energetic Diplomacy: through ways of diplomatic balancing

2. Strategic Clarity by India

3. Minilateral groupings

- Quad: Diamond Democracy
- I2U2
- Friend Shoring / developing supply chains

Thus, India and USA are steering towards inclusive, rules based partnership.

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प्रश्न संख्या (Question No.)

इस भाग में कुछ न लिखें (Don't write anything in this part)

(20) According to Foreign Policy analyst C Rajamohan - 'India is facing a paradox of globally rising power as well as regionally declining power'.

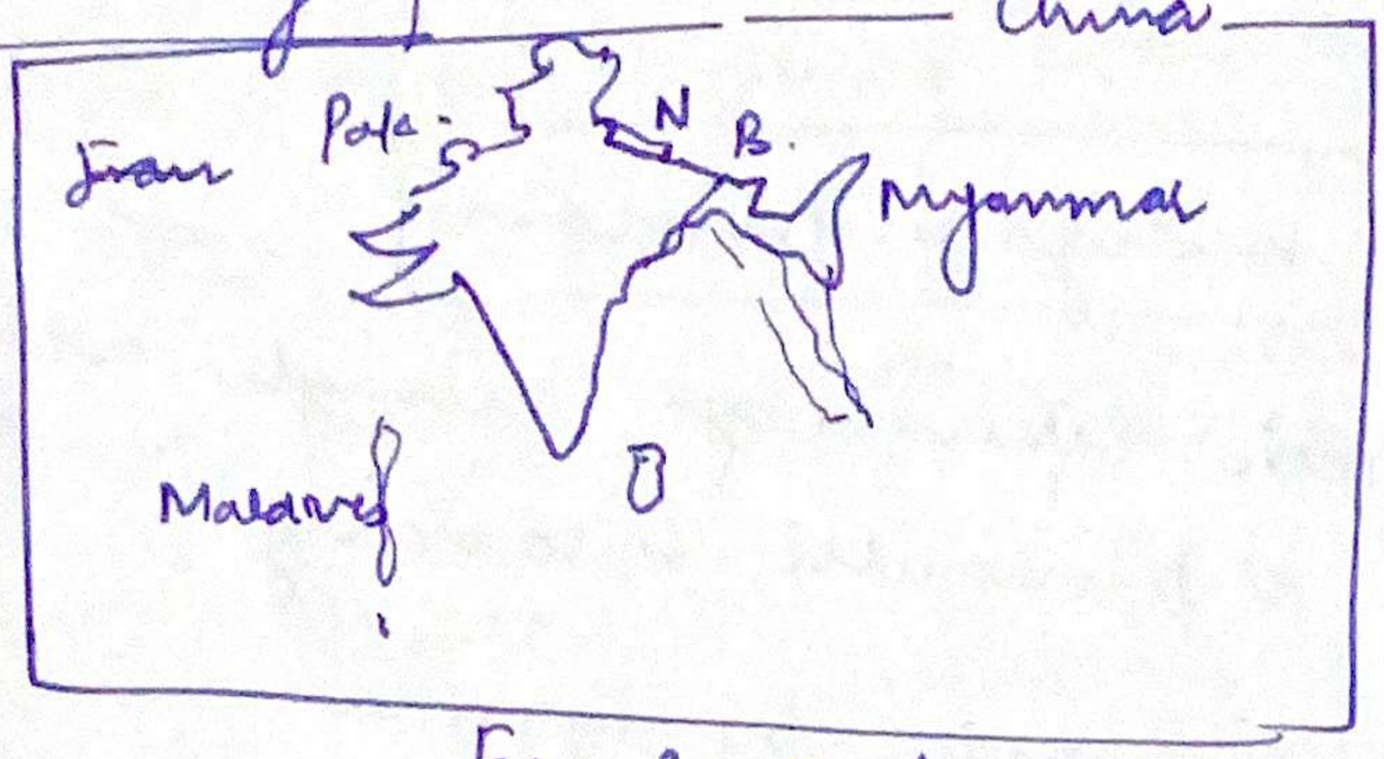


Fig: South Asia

Geopolitical Challenges (in South Asia)

despite globally rise
- 5th largest economy
- Voice of global South
- Institutional Builder (ES) ISA
- Joint declaration during G-20 Summit.

Challenges remain:—

① Chinese influence in South Asia

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U.P.S.C.

प्रश्न संख्या (Question No.)

Bhutan:

news of exchanging Concluve

China Rise

→ Sri Lanka (Hambantota Port - Debt Trap Diplomacy)

↓ China Myanmar Economic Corridor

↳ Belt and Road Initiative passing through POK

② Economic trade - quite low

(Es) India has only 5% regional trade with South Asia (World Bank)

③ Role of Pakistan : terrorism causing hinderance in institutions like SAARC

④ India is alleged as showing Big Brother attitude by countries like Nepal, Bhutan.

⑤ External Challenges impacting India

(E) Recent elections in Maldives - (Pro-China Party)

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(Question No.)

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Navigating these challenges :-

① Neighbourhood First Policy :

- Political & diplomatic Priority to region
- Connectivity
  - (Eg) IMT corridors, Kaladan Project
- Transit Diplomacy

② Countering china —

(Eg) India's gujral doctrine — non reciprocity

③ Reviving regional institutions

(Eg) BIMSTEC (without Pakistan)

④ diplomacy and Dialogue

(Eg) Maldives invited in recent swearing in ceremony

⑤ Boosting economic ties (Eg) Bangladesh Largest

Hon'ble Foreign minister Jaishankar, former Thus S says,

managing the divergences and forging the convergences to resolve challenges