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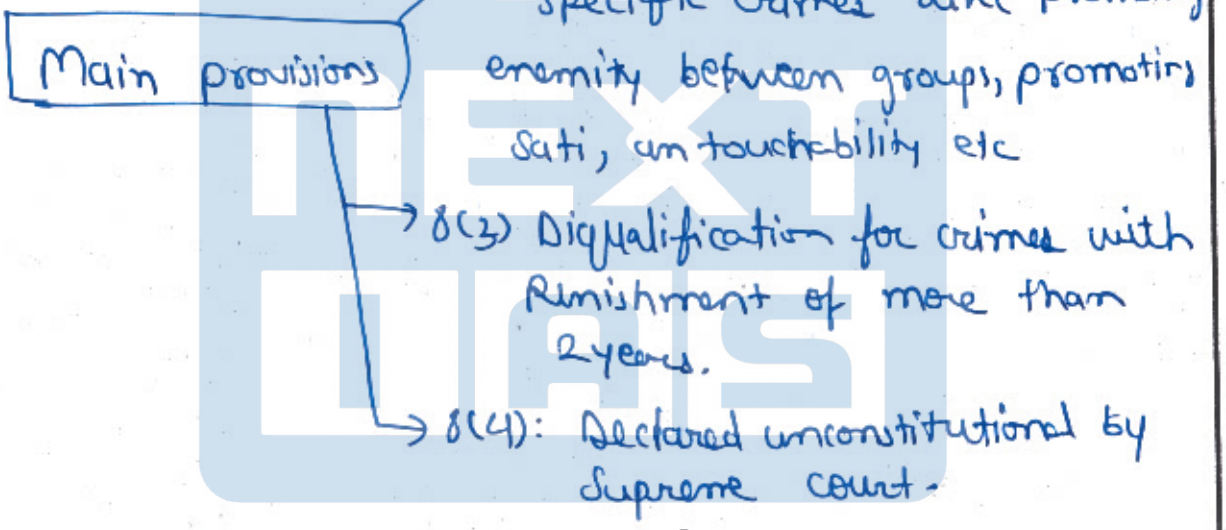
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NEXT
IAS

Jigyasu Agrawal

1.

Section 8 of the Representation of People Act 1951 (RPA) deals with disqualification criteria for candidates and elected MPs and MLAs.



It has following ambiguities

① The list of crimes under Section 8(1) isn't exhaustive and doesn't include modern day crimes like cyber crimes.

② Many crimes like filing false affidavits not included in 8(A) which deals with corrupt practises under section 123.

③ Ambiguity w.r.t election of undertrials and convicted candidate fighting election from prision.

④ Crimes like bribery, violation of MCC, electoral offences not included.

Reforms needed

① False affidavit ~~shall~~ be made a crime under section 123 and section 8 [law commission].

② Electoral expense clause needs to be updated to include expense on social media.

③ Procedural reforms like more powers to the election commission to bar a candidate.

④ Exhaustive list of crimes [cyber crimes].

⑤ Contempt power to the EC (Madras Highcourt case)

If the country needs to progress, those in power must be of clean character

— DR Rajendra Prasad.

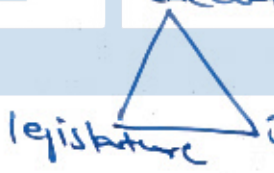
2.

While constitution is the supreme law of the land, constitutionalism implies existence of limited powers with different organs of the government.

Constitution provides framework

(1) Basic framework of governance of different levels of government {Division of powers in 3 lists (Article 246)}

(2) Separation of powers amongst 3 organs of the government



(3) Parliamentary form of government → Loksabha, Rajya sabha {Part of basic structure - Kesavnanda Bharti case}

(4) Independent and integrated judiciary. {Article 124}

(5) Responsible council of minister {Article 74} with President as nominal executive {Article 53}.

Constitutionalism is the soul

① Fundamental rights : {Part III} as claims of citizens and restrain on government actions.

② Doctrine of judicial review : under Article 13, 32 and 226 to protect rights.

③ Judiciary can't discuss Proceeding of legislature {Article 121}.

④ Judicial conduct can't be discussed in legislature {Article 122}.

⑤ Impeachment of Judges by legislature while appointment by President.

Challenges to constitutionalism	Reforms needed
① Judicial overreach ② Ordinance repromulgation ③ Misuse of money bills	① Independent institutions ② Restraints be exercised by all organs ③ Free media and civil society.

3.

Electoral bonds are zero coupon anonymous bonds that can be purchased from ~~regist~~ designated public sector banks using aadhar cards and then anonymously donated to a political party's registered bank account.
(Brought by Finance Act, 2017).

stated objectives of Electoral bonds
- → Reduce use of black money in elections
- → Providing safe, anonymous alternative to donors and political parties
- → Promote transparency in electoral funding.

But they have further legitimized opacity in following manner

① Anonymity of donor: As they are anonymous in nature, reducing scope of knowing source of funds.

② Political parties don't need to disclose names of donors or sources in ITRs and Election commission.

③ Corporates don't need to take permission in Annual General meetings.

④ Removed limits on corporates for electoral donations.

⑤ Limits on cash donation: upto 2000 only increased scope for opacity.

Also other concerns w.r.t Political funding continue:

① Political parties are outside RTI and need to be brought in its regime.

② Need to file ITRs {very few parties do} Lok-Niti Report

③ Maximum funds going to ruling party {95% as per PRS}.
→ need to ensure diligence

Further reforms suggested by Dinesh Goswami committee, Indrajeet Gupta committee like State funding of elections, reduction on cash limit {law commission}, National electoral fund {2nd ARC} need to be followed.

4.

Article 44 of the constitution provide for a desired Uniform Civil Code, (a common set of civil laws across the country). Recently, there has been a debate to bring UCC to improve gender equality:

Gender equality as enshrined in Constitution

(1) Article 14 provide for right to equality.

(2) Article 15 and 16 prohibit discrimination based on gender.

(3) Part IV calls for → equal pay
→ maternity relief
→ protection of health and nutrition

(4) Part IV A: duty to respect dignity of women.
But it also provides for:

(5) Right to freedom of religion under Article 25.

Challenges in reconciling UCC with gender equality

① UCC reduces scope of diversity in personal laws as required by different tribes:

(ex) Article 371 protects customs of tribes like those which are matrilineal in nature.

② ~~Uto~~ Right to freedom of religion (Article 25) is in conflict with UCC as many practices of marriage, inheritance different for communities.

③ Freedom of speech and expression and principle of liberty in preamble may come in conflict with UCC.

In this scenario, the need is to reform personal laws (such as Triple Talaq, recent coparcener judgment) ~~to~~ until a consensus is generated over UCC. Uttarakhand's draft law can also be studied.

5.

Article 163 provides for the office of Governor, appointed by centre [Article 165] as lynchpin of federalism in centre-state relations.

Profound constitutional role
- → Governance
- → Reinforcing federalism

① Article 163 : Provides for Governor to act as per aid and advise of council of ministers unless, she feels it necessary to use her discretion.

→ Thus constitutional discretion is provided to the Governor.

② Article 356 : Provides for Governor to provide for report of failing of constitutional machinary and recommend [President's rule].

③ Article 201: Reserves bills for the assent of the President (if substantial provisions may violate constitution).
→ Maintains Constitutionalism

④ She summons and prorogues sessions of state legislature and calls for CM to provide info about working of government.

⑤ He administers areas under 5th & 6th schedule with special responsibility as representative of the Centre.

But in recent times, the role of Governor has been called in question:

① Acting against constitutionally elected governments (Case of Maharashtra Governor)

② Using pocket veto (TN governor on money bill)

③ Misuse of Article 356 (Uttarakhand and Arunachal Pradesh)

In this regard recommendation of Sarkaria, Punchi commission, SR Bommai and B.P Singhal Judgment needs to be followed.

6.

Social accountability law is one where the public servants and functionaries and their actions will be accountable to the community through tools like social audits. This was demanded recently in ~~Manipur~~ Rajasthan.

Can lead to good governance and participatory governance

① Enhance accountability of public functionaries through regular social audits.

ex As in MGNREGA, social audit of public works and wages.

② Enhance citizen engagement: As they will ~~felt~~ feel empowered to participate in both

process and outcome of projects.

③ Enhance Transparency : As functionaries will be bound to put up their work in Rublic domain.

→ This can also spur Rublic to resort to tools like RTI.

④ Responsive administration : to the needs of common Rublic in a prompt manner.

Ultimately, this can promote probity in administration. But may face challenges like:

① lack of expertise with citizens.
② Untimely availability of data.
③ Bureaucratic apathy ④ Lack of political will.

Thus what is needed is sensitisation of officials along with capacity building of citizen wing NGOs, panchayats etc.

7.

~~Nutrition~~

According to NFHS-5, children in India suffer from both acute and chronic malnutrition
- Stanting: 36%.
- Wasting: 19%.
- Underweight: 32%.
- Anemic: 67%.

In this respect convergence becomes important



Nutrition specific intervention

① Involves providing sufficient nutrition in terms of micro and macro nutrients to children.

② Balanced diet in the form of mid-day meal schemes, Poshan Abhiyaan is aimed at this.
- Calories
- Vitamins
- Minerals
- Protein

③ Food fortification is one way this can be achieved (ex) Golden Rice (Vitamin A).

But simultaneously Nutrition sensitive indicators are also important:

① Sanitation: Reduces incidence of diseases, which reduce nutritional intake.
(ex) Dirrahea due to lack of hygiene.

② Water: Clean and potable water is needed along with food {Poor water intake, lack of piped water linked to poor health}.

③ Menstural hygine in girls important to control anaemia.

④ Literacy and incomes: to be aware and capable to afford balanced food.

Thus a mix of two through Swachh Bharat Abhiyaan, Poshan Abhiyaan, SABLA is needed to achive SDG 2 and SDG 3.

8.

MGNREGA is a rights based employment guarantee programme aimed at providing employment for 100 days to the rural poor. Recently, there has been a lot of criticism of government for reducing the budgetary allocation of the scheme.

Fiscal apathy: The allocation in recent budget has been slashed to ₹ 60,000 crores from earlier ₹80,000 crore.

→ This is 25% reduction in 2 consecutive budgets in the allocation.

→ This is in wake of times when country is facing agricultural distress and global slowdown.

But, this has been done with following intention:

① Utilization of funds in schemes like PM KISAN (₹ 6000 to farmers), providing MSP etc.

② Employment is being provided under schemes like PM Awas Yojana, Mid-day meal, PM Gram Sadak Yojana as complementary to MGNREGA.

③ Expenditure on social sector schemes like Samagra Shiksha, Ayushmann Bharat has been increased.

④ Since its rights based, if need be, further allocation can be provided.

Way forward: Employment guarantee is needed to provide social security net for landless rural poor. Convergence based approach should be taken using MGNREGA with PM AWAS to achieve goals of SDG 1.

9.

The global world order is presently facing several divergences and divisions in the form of Russia-Ukraine war, US-China tussle, BREXIT, North-South divide etc. India being few countries to be in good books of many can leverage and manage these divides to increase its stature:

How:

① One of the few countries keeping relations with both Russia and USA

② Keep utilizing strategic autonomy, ~~and~~ to maintain relations with both sides

ex ICET with US, while abstaining from voting against Russia at UN.

(2) Can suggest and mediate in various conflicts using its diplomatic acumen.

(ex) In Russia Ukraine conflict, PM Modi told Mr. Putin that 'This isn't an era of War'.

(3) Can provide favourable terms to attract companies shifting away from China. (China + 1 strategy)

(4) Use both QUAD and SCO to enhance its security in Central Asia as well as Indo-Pacific.

(5) Complete bilateral agreements with Britain and EU to enhance trade relations.

(6) Use South-south cooperation, non alignment, Neighborhood first etc.

Challenges
- Chinese hard power
- Tightrope balancing
- global conflicts & slowdown

Way forward
- Use G20 forum
- Use soft power to become VishwaGuru.

10.

EU is India's third largest trade partner and 2nd largest export destination and holds strategic importance for us. After Brexit, Germany has gained special prominence in EU.

Berlin as a Gateway to EU

① After Brexit Germany has become largest economy as well as political leader of the EU.

② Good relation with Germany can help with trade relations with EU.

(ex) Bilateral trade and investment agreement conclusion and dispute settlement mechanism finalisation.

(3) Germany being leader in renewable energy can Enhance EU-India cooperation in achieving Panchamrit Goals.

(ex) Germany's and EU funding in International Solar Alliance.

(4) Germany has increased its defence ~~off~~ budget in wake of Russia Ukraine crisis. This may help bolster EU-India defence cooperation.

(5) Germany and India both favour UNSC reforms. EU's support may be won using Germany's political weight.

To do this Indian government needs proactive diplomacy with mechanisms like 2+2 dialogue; defence exercises; free trade, investment and labour mobility regime, state visits; utilizing G20 presidency. etc.

11.

52nd amendment Act introduced the 10th schedule in Constitution which provided for the Anti-defection laws.

Provisions

- Legislators can't be disqualified for anything said or vote given w/o party's permission.
- Independent legislators will be disqualified if they join a party
- Nominated ones will be disqualified if they join a party after 6 months of the nomination
- If 2/3rd legislators switch party, then they will be exempted
- Decision of speaker is final.

Impact on relationship b/w party and legislature

① Curbed ill of defection and improved stability of government.

② Promoted party loyalty and discipline to ward party's ideology

③ Increased trust of people on party's manifesto and candidates.

④ Enhanced reputation of 'whip' and speaker.

But there have been concerns that have been raised as unintended consequences on democracy:

① Turned legislators into dead wood and curbed their freedom of speech [Article 19]

② Discourage intra-party democracy.

③ Legislators can't raise issue against party lines related to their constituencies

(ex) In Rajasthan, MLAs were sacked for going against party line.

④ Permitted whole sale defection as seen in Goa, Arunachal Pradesh, Karnataka etc.

⑤ Unbridled power with speaker who may be partisan → No time limit
→ final decision.

(ex) As seen in Delhi legislature case.

In this respect, there needs to be a balance b/w stability and freedom:

① Dinesh Goswami committee: Give power to election commission.

② IR Koelho case: Speaker's decision under judicial review.

③ EC: Use whip only when stability of govt is in question.

12. D

Basic structure doctrine as propounded by the Supreme Court in Kesavnanda Bharti Case, provides that amending power of Parliament under Article 368 is limited and it can't amend the basic features of the constitution.

However critics argue that ambiguity in definition of basic structure leads to judicial overreach.

①Elastic nature of doctrine: No exhaustive definition / list of composition of basic structure → leads to ambiguity and evolution on case by case basis.

② Judicial over reach: In many cases like collegium system, striking down NJAC 99th CAA) etc have been criticised.

③ Judicial innovation and an invisible amendment, constitution makers did not intended for the same

④ Creates legal uncertainities leading to litigations and policy paralysis for the executive.

Ex Amending the Right to Property to implement land reforms was mired in litigations. (Article 300A).

But the doctrine has been hailed for many reasons:

① Constitutionalism: promoted check on arbitrary amendments.

② Saved democracy by protecting fundamental rights { Kesavananda Bharti Case, Minerva Mills case }.

③ Protected Constitutional Morality and ideals provided in preamble (ex) SR Bommai case said, secularism is part of basic structure.

④ Provided for Rule of law, Separation of power, independence of judiciary, free and fair elections which are bed-rock of democracy.

To preserve democracy, there is a need to strike a balance on hands:

① Judicial restraint: to only use it in sparing manner { was used after 35 years in NJAC case }

② Codification to increase certainity.

As Pt Nehru said, Judiciary is an integral part of ~~law~~ legal jurisprudence and its views must be respected by legislature.

13.

Fundamental rights (Part III of the constitution) are fundamental in nature because rather than state, they are provided by the constitution as restrictions on the state and claims of the citizen on the state.

They are also fundamental because they are required for wholesome development of an individual up to their full potential.

Simultaneously, as propounded by the court in Golakhnath and Kesavananda Bharti case, they form the bedrock of a constitutional democracy.

Yet, certain reasonable restrictions as provided in Article 19 on Right to freedom have been favoured due to following:

① Public morality: Freedom of speech and expression if unrestrained may lead to immoral acts such as violence against women.

② Relations with friendly states: As seen in Nupur Sharma case, unbridled expression led to protest by Gulf countries.

③ Public order: SC said 'right to protest' is not indefinite and it shouldn't impact public order and hurt rights of others. (ex) Shaheen Bagh and Farm laws case.

④ Defamation : is reasonable to not hurt rights of others.

⑤ Restriction on movement and residence is needed to protect tribal culture.

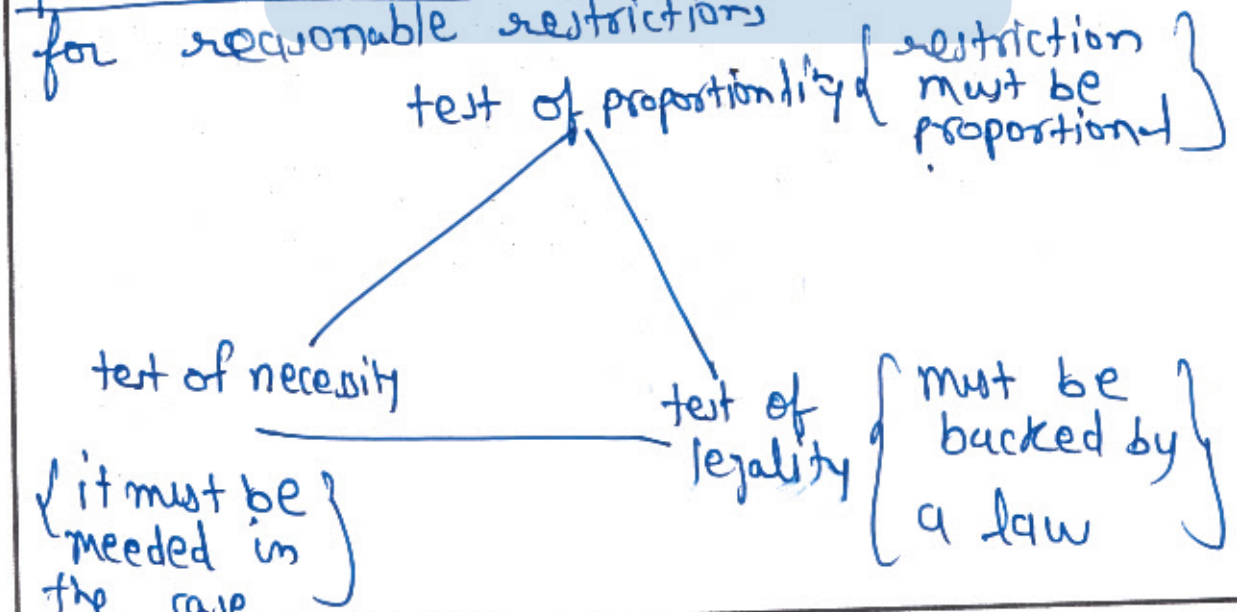
But restrictions must be reasonable and shouldn't be misused such as in

① Misuse of sedition : section 124 A

② Misuse of UAPA : very low conviction rates.

③ Restriction during Covid-19, to protect public health.

In this case, SC Judgment in **Puttaswamy case** provides a **triple test** for reasonable restrictions



19.

SR Bommai case (last decade of 20th century) is a landmark case which provided direction to many aspects of centre-state relations.

Background of the case:

(1) Frequent imposition of President rule using Article 356 was rampant.

(2) State governments of opposition parties were dimissed w/o floor tests.

(3) Grounds of imposition were not clear.

(4) Communalism was poisoning the society.

~~Signifi~~ **Judgment & its significance**

(1) Federalism is the basic feature of the constitution.

(2) Provided restrictions on manner in which Article 356 was to be used.

(3) Judicial review became a norm for imposition of President rule.

(4) Judiciary could look into the reports of Governor and check wheter its reasonable or not.

(5) State government's could only be dismissed after floor test and assemblies only dissolved after Parliamentary approval.

(6) Provided grounds for which Article 356 couldn't be used like maladministration, corruption etc.

Significance and impact

① Safeguarded opposition ruled states and promoted federalism.

② Constitutionalism became a reality → limits on Governor's powers.

→ ~~Has been~~ Article 356 has been used very sparingly since then.

③ Clarity and certainty in use of emergency provisions

④ Democratic credentials preferred as Assembly reflects will of common people.

Overall the judgment cemented federalism increased faith in democracy and judiciary, imposed limits on discretion of the Governor and improved stability of state Governments.

15.

73rd and 74th amendments provided for grass root democracy by bringing in a structure for local governance in India.

It has promoted political decentralization in the following manner:

(1) Grassroot democracy: Every adult member of Gram sabha votes to elect panchayats.

(2) Representation to weaker section: SCs, STs and women (33%) have been provided fix representation.

(3) ~~IX~~ XI & XII schedule list the subjects on which local bodies can function.

④ Provided for State election commission (243K) for regular elections.

But the same has been criticized by 2nd ARC and others for not being accompanied by financial and functional decentralization.

Impediments: Financial

① State Finance commission (243I) is delayed in constitution and its recommendations are not adhered to.

② Lack of taxation powers to increase own source revenue (Economic survey: Local bodies source only 3% of their funds).

③ Not given power to utilize capital markets (few ULBs have released bonds).

④ Tied nature of funds: restrict their independence. (ex) Grants under Art 280 (3) (bb) RUT.

Impediments : Functional

(1) Article 243 G : States haven't devolved authorities to local bodies.

(2) Strict control on appointment, removal of human resources.

(3) Creation of parallel bodies restrict their functions.

(4) Bureaucratic control by BDOs, Commissioners etc stifle them.

In this respect following reforms are needed:

(1) Constitute SFC and timely, synced by FC under [Article 280] and action taken reports mandatory.

(2) Amend Article 243G from 'may' to 'shall devolve powers' [2nd ARC].

(3) National commission on local bodies to look into their challenges [2nd ARC].

16.

NITI aayog recently favoured 'localizing of SDGs' to accelerate their achievement in India considering our diversity. This will also require 'Sabka Sath and Sabka Prayas' (multi stakeholder) approach.

Significance of effective partnerships

① Private sector's expertise : to mobilize funds, bring in technological know-how etc.

(ex) to create liveable smart cities.

② Civil society organizations

→ can help mobilize people and bring in participation

(ex) NGO Pratham to achieve SDGs on education.

(3) **Government functionaries**: to provide strategic direction, planning & funding and execution

(ex) MGNREGA to reduce poverty.

(4) **Charities, philanthropists and trusts**

(ex) PM Cares received funds from Tata Trust

(5) **International collaboration and diaspora**

(ex) expertise of world banks, roping experts of Indian origin to help with planning, funding etc.

Similarly, localizing implementation is significant for the same:

(1) **Participative approach**: Jan andolans have always been more successful than **top-down approach**

(ex) Bearhatty Panchayat, Indore's Municipality cleaned themselves {SDG on sanitation}.

(2) Transparency and Accountability in implementation through social audits.

(3) Inclusivity as representation is provided in Panchayats and ULBs to vulnerable section.

(ex) Beneficiary led development : Women empowerment

(4) Sustainable development : through protection of forest by tribals through Forest Rights Act.

To utilize these networks, the need is to build capacity of local bodies, enhance coordination with NGOs {S. Vijay Kumar committee}, use PPP models {healthcare by NITI aayog}.

17.

POSH Act 2013, was brought on the lines of guidelines issued by the Supreme court in Vishakha case.

It provides for following:

(1) Formation of internal complaints committee in all organization with more than 10 workers.

(2) Providing forums / boxes for women to raise complaints.

(3) Sensitization training of all employees against ~~sexual~~ sexual harrassment.

Yet it has seen limited success in raising awareness about sexual harrassment as recently seen in 'Me too movement',

sexual harrassment of wrestlers etc.

Poor implementation → limited success

① **Non constitution of ICCs** in workplace especially unorganized sector.

② **No charted / display information** to workers about provisions of the act.

③ **Cases dimised / rejected / compromised by** ICCs and not submitting reports of the cases.

④ **Illetracy, lack of opportunities** etc has **stifled voices** of women especially in unorganized sector.

⑤ **Patriarchal attitudes** prevalent in many areas has also complicated the issue.

⑥ Unorganized sector is **outside formal ambit of rules** and still **employs 45%.**

of the workforce. This enhances vulnerab-ilities of women working here.

Strategies to bridge gap & comprehensive protection to women in unorganised sector

(1) Survey of units to assess the number of women working there.

(2) Identifying regional / temporal / sectoral patterns of harassment.

(3) Creation of helplines, nodal offices to regularly audit such workplaces.

(4) Compliance standards, with awareness programmes for employers.

(5) Installation of CCTVs to enhance security.

(6) Building confidence in women through anonymous portal, using NGOs etc.

We must respect our fundamental duty to protect the dignity of women at all cost.

18.

Liberalization and globalization has transformed the role of state from that of a provider of services to largely a facilit-tor for service delivery.

This has transformed institutions and civil services in following manner

① From provider to facilitator of services

ex PPP model in healthcare

② From commanding heights of economy to private sector led growth

ex Privatisation of PSUs

③ From Rule base to role based civil servants.

ex Mission Karmayogi

④ ~~Limited~~

This has put forth the following challenges in service delivery

① Limitation of funds : As private sector is doing most of economic activity,

② lack of expertise : New age of welfare requires new services (ex) Govt not ~~so~~ well equipped to instl such services.

③ Generalist nature of bureaucracy which lacks moder technocratic skills.

④ Rising cost of services : Since pvt sector is profit driven while state doesn't have capacity to deliver.

⑤ Lack of proper infrastructure to deliver services to huge population.

In this context following reforms are needed:

① Lateral entry into civil services from experts of pvt sector {NITI Aayog}

② Periodic training to civil servants and performance evaluation {Montek Singh Ahluwalia}.

③ Use of e-governance to deliver services

(ex) e-Rupi vouchers, DBT etc.

④ PPP led models ~~for~~ ~~othr~~ education, health etc : (ex) PM Jan Aarogya yojana.

⑤ Sevottam model of 2nd ARC to enhance standards of service delivery

In new India, the role of state is to facilitate the achievment of {Viksit Bharat} and we should take a multi-stake holder approach for the same.

19.

It has been argued that the vision of an Asian century is different for India and China. While India believes in 'Panchsheel', China has viewed us as an Asian Rival due to:

(1) Our vast geography counters theirs.

(2) Our natural resource base is better than theirs {(ex) more fertile land}

(3) Our civilizations is older than theirs and historically have influenced them in many ways {(ex) Kungfu from Kalari payattu}.

④ Our **diverging values** in terms of democracy vs dictatorship, liberty vs control, cooperation vs coercion etc.

This has led to difficulties in relations

① **Wars and conflicts**
   ex 1962 war

① **Border disputes** ex Galwan valley, McMohan line.

③ **Geopolitical conflict** ex Blocking entry into NSG.

④ Using UNSC against India by china.

⑤ India **banning many chinese companies** under IT act.

⑥ Conflict in **vision of Indo-Pacific**
   ex QUAD vs GST of China

⑦ **BRI** violating our soveeignity.

Yet there are convergance b/w the two:

① Cultural: Buddhism as religion and philosophy.

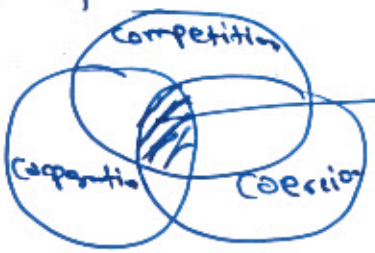
② Economic: Trade {bilateral} and complementary nature {their manufacturing with our services}

③ Geopolitical: → WTO reforms, global governance reforms
→ Stability of Afghanistan.

④ Security: both member of SCO, against terrorism in Central Asia.

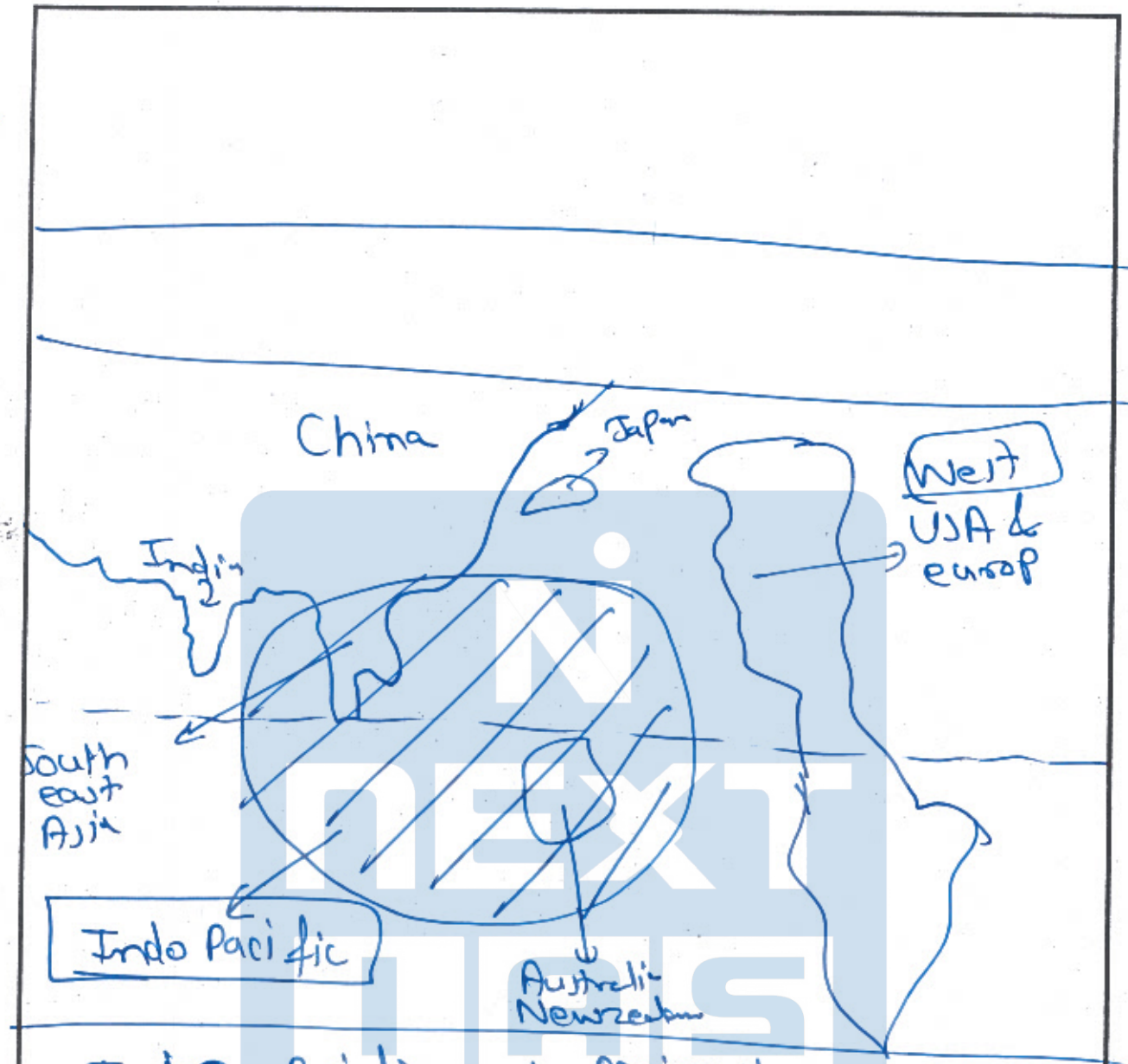
⑤ Climate Change: Both part of BASIC group, converge on CBDR principle {Climate Justice}.

India's Strategy with China should focus on Part:



→ Golden Mean.

20.



Indo-Pacific and Major players

Diverging interest

(1) Freedom of navigation vs Restrictions
   (ex) South China sea

(2) Conflict of sovereignity
   (ex) 9-dash line (Vietnam vs China)

③ Security architecture : China focussing on GSI against QUAD.

④ Use of natural resources

→ China claiming exclusive rights on resources of south China sea.

⑤ Conflict are EEZ under UNCLOS.

But some convergence as well

① Protection of biodiversity

② Enhancing trade {RCEP and IPEC}

③ Piracy control {Somalian Pirates}

④ Climate change and disaster preparedness

Global security initiative

→ An initiative based on indivisible security by China.

→ Aimed to counter QUAD which is a closed grouping of 4 members {Japan, India, US and Australia}.

Its strengths over QUAD

① Chinese led: open to members of Asia. Has Russian support as well

② Indivisible security: broad concept, may align with south east Asia

But it won't supersede QUAD

① QUAD is more broad based and not directed against any country.

② QUAD is security, trade, technology partnership rather than just security.

③ Its more democratic & pitches for free, open and inclusive Indo Pacific.

More cooperation is needed to achieve peace.