



# EVALUATION INDICATORS

1. Contextual Competence
2. Content Competence
3. Language Competence
4. Introduction Competence
5. Structure - Presentation Competence
6. Conclusion Competence

Overall Macro Comments / feedback / suggestions on Answer Booklet:

1.

2.

3.

4.

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Health as a fundamental right  
in India → Prospects & Challenges

“Arogyam Paramam Bhagyam  
Swasthyam Sarvaarth Saadhanam”

(Health is the ultimate ~~best~~ blessing.  
It can help us achieve anything).  
— Vedas.

Muzaffarpur in Bihar was in  
news again. More than 150  
children died here due to acute  
encephalitis syndrome (AES). The  
malnourished children were already  
~~not~~ vulnerable to diseases; <sup>however,</sup> poorly  
managed & incapable public health  
care turned the disease into a

tragic epidemic !!!

The incident here lays bare the horrific truth of how state pays <sup>the</sup> least value to human health in India. Therefore, there is an immediate need to make the state responsible by including <sup>right to</sup> health ~~as~~ <sup>as a</sup> ~~among~~ the fundamental right in India.

In this essay, we will discuss what do we ~~mean~~ <sup>mean</sup> by right to health. Then we will see ~~as~~ as to why it needs to be made a fundamental right. Then we will look at the myriad of challenges in the way. Finally we'll ~~see~~ <sup>analyse</sup> the prospects of this

idea and the path to achieve it. Let us begin.

Right To Health → A holistic right

When we ~~say~~ talk about health, it does not just connote absence of diseases. Health as a right encompasses physical, mental, social & emotional well being of an individual. This can also be seen in ancient Indian texts of Charaka Samhita & Sushruta Samhita where health ~~is~~ denotes overall wellness of an individual.

This right has indeed been envisaged by our constitution ~~but~~ <sup>only</sup> ~~in~~ ~~as a~~ ~~non-~~

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~~enforceable right~~ under Directive Principles of State Policy. Art 47 says that the state ~~to~~ shall strive to raise the level of nutrition & public health.

However, <sup>is</sup> making health merely a non-enforceable right is enough? A big NO. The problem here is that it does not make the state accountable for its failure to deliver health services making it ~~lax~~ into attitude.

But, what difference will it make if ~~right~~ health is made a fundamental right? The answer is → it will make all the difference!

A fundamental right ~~is~~ <sup>will</sup> constitutional obligation on the part of the state to guarantee health services to all the citizens.

In case of denial, the citizens can directly approach the high court or supreme court of India.

~~This~~ Thus, ~~it~~ ~~will~~ by making it more accountable, it will force it to deliver ~~the~~ results on ground.

Further, health has been recognised as a basic human right in the "Universal Declaration of

Human rights". Making it a part of fundamental rights will ~~best~~

reinforce India's commitment to ensure <sup>universal</sup> ~~quality~~ healthcare ~~to all~~.

However, it's easier said than done. There are bound to be a variety of challenges that we ~~we~~ will face. ~~in actually delivering this right to the people.~~ Let us ~~we~~ discuss some of them.

A difficult feat to achieve ...

Firstly, it will require a constitutional amendment with a  $2/3^{\text{rd}}$  majority in both the houses of the parliament. But, this is ~~also~~ also a relatively easier task ~~to~~. The real challenge will lie ~~a~~ in actually delivering this right on ground to all.

Our existing public health infrastructure is in shambles. ~~It is~~ ~~we~~ We have only 1.3 hospital beds per 1000 population! out of

these, 73% are in urban areas whereas 69% population resides in the villages.

Further, India spends only 1.15 - 1.5% of GDP on healthcare which is shockingly low. With less than 1 doctor per 1000 people, most of our rural & tribal population doesn't even have access to basic healthcare.

Coming further, we have 38.4% stunting & 20% wasting. Poor sanitation & open defecation leads to faster spread of diseases in <sup>our</sup> slums & rural areas. Poor access to vaccination, exploitation by private sector & costly medicines further add to the enormous challenge.

Coming even further, deep rooted ~~para~~ patriarchy, casteism,

and commercialism snatch away the dignity of an individual. This poorly affects her "social health".

lastly, changing lifestyles, lack of physical exercise & rising stress levels take away the "emotional health" of an individual.

Clearly, we lack the capability at the moment to deliver this ~~right~~ fundamental right. So, shall we ~~stop~~ not try at all? ~~Is it~~ Are there ways to make it possible? Let us discuss.

## THE PROSPECTS :-

We need to make it happen

Yes, it's possible. The prospects of delivering health as a fundamental right & will become brighter if certain steps are taken

Firstly, the level of health expenditure needs to be raised to 2.5% of GDP as envisaged in the National Health Policy 2017. A bulk of it shall be spent on ~~up~~ developing primary health infrastructure. ~~An example here~~ <sup>we can follow</sup> ~~can be~~ <sup>the model of</sup> the Mohalla Clinics of Delhi which provide free doctor, vaccination & medicine services to all.

Secondly, an all India Health Services should be created on lines of IAS & IPS. <sup>This will</sup> ~~to~~ ensure specialised & qualitative efficient health administration.

Thirdly, capacity building & technological ~~adva~~ upgradation of ASHA & ANGANWADI workers shall be undertaken. This will lead to better delivery of mother & child

Care, immunisation as well as nutrition.

Fourthly, behavioural change to improved social health of the marginalised sections is also a critical requirement. Campaigns like Beti Bachao Beti Padhao, and promotion of intercaste & inter-religious marriages can help here. <sup>strict action against mob lynchings</sup>

Fifthly, promotion of AYUSH services & meditation to improve emotional health can also be taken up.

Lastly, ~~since~~ a mechanism to enforce this right must be developed through a detailed policy.

The actions ~~as to~~ that the courts ~~or~~ can take in case of failure on the part of state should be listed out. This may involve <sup>compensation</sup> ~~compensation~~



of "Sarve Santu Sukhinaḥ, Sarve Santu  
Niramayah" is actually materialised.

The end of law is NOT to abolish or restrain but to preserve & enlarge freedom

~~There is~~

There is a lot of debate going around the proposed triple talaq law. Critics claim that it is abolitionary in nature & restricts freedom of minorities. However, they fail to understand that abolition of triple talaq is just a means. The real end is to preserve & enlarge the freedom of Muslim women. It is liberate them from <sup>the</sup> clutches of a highly restrictive & <sup>violent</sup> patriarchal setup which condemns them to a

to a status of 2nd class citizen ...  
Hence, the ultimate aim of law  
is ~~to liberate~~ & not to restrain,  
but to liberate.

When great philosophers  
like Rousseau & Hobbes studied  
~~the historical~~ as to how the law  
concept of law itself was created  
by man, they were surprised.  
In the pre-historic times, ~~before~~ <sup>when</sup>  
there were no laws, man was  
not at all free. Why so? Because  
he was in constant fear of  
being attacked by another man  
& thus was in hiding !!

Thus, man who was  
selfish yet rational entered into a

social contract with others. Hence. This way a ~~law~~ system of law & state were created. They did restrict some activities of humans like ~~attacking~~ <sup>violence</sup> others. But, they succeeded in creating a society where man was free - free from fear, free to pursue his objectives & to grow & develop.

The same principle holds true in the contemporary times also. Let us examine it in detail.

The constitutional law in India guarantees ~~some~~ tremendous freedom to the people. Fundamental rights in

Part III of our constitution restrain the authority of the state. ~~The~~ By doing so, they enlarge the freedom of citizens. From freedom of speech in Art 19 to freedom of religion in Art 25, this fundamental law of our land is a masterpiece of liberty.

Similarly, if we look at ~~various~~ economic laws like Goods & Services Tax, ~~labour~~ laws, etc; <sup>it</sup> they ~~do~~ impose certain restrictions on businesses. But ~~their~~ its ultimate aim to promote economic freedom ~~to~~ through free & easy trade &

Don't write anything this margin  
(इस मार्ग में कुछ ना लिखें)

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Don't write anything this margin  
(इस मार्ग में कुछ ना लिखें)

country wide market access.

Further, <sup>there are</sup> several laws meant for good governance like <sup>PESA Act,</sup> RTI Act 2005 or social audit law in Manipur. Such laws also have tremendously enlarged the scope of freedom by providing the "freedom to access information" as well as freedom to govern themselves.

Going further ahead, there are also various social laws which are passed by the state. In India, the laws abolish Sati, Dowry, child marriage, and untouchability. Such an <sup>abolition</sup> ~~abolition~~ has given ~~rather~~ social freedom

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(एन सीईई में  
कटुत जा किरें)

of the people at the bottom of the pyramid. women & backward classes ~~are now free~~ therefore, have gained freedom from discrimination & condemnation & while having access to free & fair opportunity.

Looking at it from a global perspective, laws like General Data Protection Regulation in Europe <sup>(GDPR)</sup> significantly restrain information collection & sharing by online companies & websites. But the end result is a phillip to citizen's privacy. This prevents creation of a ~~surveillance~~ <sup>surveillance</sup> ~~surveillance~~ state where the state is like a "big brother which is always watching you." Thus, it ~~is~~ boosts freedom

of ~~the~~ citizens & broadens liberty  
as highlighted by Supreme Court in  
Puttaswamy Judgement.

Till now, we have  
talked only about the man-made  
laws. But there is a greater law  
~~the~~ which is ~~above~~ universal & much  
higher than ~~the~~ any human laws.  
It is the NATURAL LAW or our  
MORAL LAW. It says that ~~at~~ <sup>every</sup> human  
being has right to freedom,  
fairness, equity & Justice. Thus,  
freedom is ~~a~~ inherent in the  
divine law also.

~~From~~  
This reminds us of the  
time when Gandhi was arrested  
by British during his Champaran

Campaign in 1917. He denied to apply for bail in the court. He ~~was~~ argued that though man-made law restricted his visit in Champaran, # but the higher moral law i.e. the law of his conscience ~~provides~~ <sup>made</sup> it his duty to help the poor. Thus, it sanctioned him with all the freedom to be compassionate towards others... ~~That is~~ ~~is~~ Freedom to in law is thus, like water in a river.

Therefore, we must understand that laws do put restrictions on us. But these are meant to provide us more liberty by restricting our right to infringe on anyone else's liberty. This is because "the liberty to swing my

“fist ends where your nose begins?”

But, is it always the case? ~~Are~~ <sup>Can</sup> laws be misused ~~to~~ or be meant to abolish or restrain? Yes. ~~Let us~~ Let us discuss.

In several dictatorships or monarchies like North Korea, law is used as ~~a~~ a tool to instill fear & kill dissent among people. In India too, the end goal of certain laws like Sec 124 IPC, Sec 66A of IT Act (now repealed), ~~etc~~ ~~is~~ ~~to~~ porn ban, liquor ban, etc ~~is~~ is just to abolish or restrain citizen's freedom.

But again, these are only a few exceptions to the wider system of law & state. The end

goal of law was & is & will remain  
to enlarge the freedom of all.  
and laws will have to use restrictions  
only as a means to a good end.

For us to ~~remain a~~ <sup>become a</sup>  
more liberal society, we will  
have to ensure that <sup>the</sup> rule of  
law is firmly established, ~~arbitrary~~  
arbitrary powers are abolished, and  
our institutions work independently  
& strongly. ~~and~~ <sup>For this</sup> we as citizens  
will have to play an active  
role - ~~we have to~~ as the watchdog  
of law making process & <sup>forbearance</sup> ~~active~~  
of dissent. Then, we will be  
able to realise "Gurudev Rabindranath  
Tagore's" ideal society where

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Don't write  
anything this  
margin  
(इस स्थान में  
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"Where the mind is without  
fear and the head is held  
high."