Drishti IAS

Mains
MARATHON
Important Q & A for Mains
2024

Social Justice

1. **Who are entitled to receive free legal aid? Assess the role of the National Legal Services Authority (NALSA) in rendering free legal aid in India. (150 Words) (GS-II, Mains 2023)**

Approach:

➤ Start by briefly introducing the concept of free legal aid in India and mention that it is Directive Principle provided by the constitution under Article 39A.

➤ Discuss who is entitled to receive free legal aid in India and explain the role and significance of NALSA in the context of providing free legal aid.

➤ You can conclude with a forward-looking statement or call to action.

Introduction

Free legal aid is the provision of legal services to the weaker sections of the society without any charge or at a nominal cost. Article 39A imposes an obligation on the State to provide free legal aid to ensure access to justice for all citizens. Free legal aid ensures that every citizen has equal access to justice and fair trial, irrespective of their economic or social status.

Body

The sections of the society as enlisted under Section 12 of the Legal Services Authorities Act are entitled for free legal services, they are:

➤ A member of a Scheduled Caste or Scheduled Tribe;

➤ A victim of trafficking in human beings or begar as referred to in Article 23 of the Constitution;

➤ A woman or a child;

➤ A mentally ill or otherwise disabled person;

➤ A victim of a mass disaster, ethnic violence, caste atrocity, flood, drought, earthquake or industrial disaster; or

➤ An industrial workman; or

➤ A Person in custody, including those in protective homes under the Immoral Traffic (Prevention) Act, juvenile homes under the Juvenile Justice Act, and psychiatric hospitals or nursing homes under the Mental Health Act; or

➤ A person with an annual income below a certain amount is eligible for free legal services depending on the type of court their case is being heard in.

Role of the National Legal Services Authority (NALSA) in rendering free legal aid in India: The National Legal Services Authority (NALSA) has been constituted under the Legal Services Authorities Act, 1987 to provide free legal services to the eligible persons and to organize Lok Adalats for amicable settlement of disputes.

➤ **Some of the roles and functions of NALSA are:**

○ To lay down policies and principles for making legal services available under the Act.

○ To frame effective and economical schemes for legal services.

○ To monitor and evaluate the implementation of legal services under the Act.

○ To conduct legal awareness programmes and promote legal literacy among the people.

○ To encourage settlement of disputes by way of negotiations, arbitration, conciliation and mediation.

○ To coordinate and cooperate with other governmental and non-governmental agencies engaged in providing legal services.

➤ **NALSA has played a significant role in rendering free legal aid in India by:**

○ Providing legal assistance to millions of beneficiaries through its panel lawyers and para-legal volunteers across the country.

○ Organizing thousands of Lok Adalats at various levels and disposing off lakhs of cases amicably.

○ Launching various schemes and initiatives such as:

• NALSA (Free and Competent Legal Services) Regulations, 2010;

• NALSA (Legal Aid Clinics) Regulations, 2011;

• NALSA (Protection and Enforcement of Tribal Rights) Scheme, 2015;

• NALSA (Child Friendly Legal Services to Children and their Protection) Scheme, 2015;

• NALSA (Victims of Trafficking and Commercial Sexual Exploitation) Scheme, 2015; etc.

○ Conducting nationwide campaigns and programmes on various themes such as Access to Justice for All; Connecting to Serve; My Nation with Equality; etc.

○ Collaborating with various stakeholders such as judiciary, bar associations, law schools, civil society organizations, media, etc. for enhancing the outreach and quality of legal services.

Note:

Conclusion

Free legal aid is a constitutional right and a social obligation of the state to ensure equal access to justice and fair trial for all citizens, especially the weaker sections of the society. NALSA has been playing a vital role in rendering free legal aid in India by providing legal assistance, organizing Lok Adalats, conducting legal awareness programmes, launching various schemes and initiatives, etc. However, there are also some challenges and limitations faced by NALSA in rendering free legal aid in India, which need to be addressed and overcome by enhancing the resources, quality, coordination, uniformity and monitoring of legal services.

2. **Critically examine the arguments for and against legalising same sex marriage in India. What are the constitutional and social implications of such a move? (250 words)**

Approach:
- Begin with a brief introduction to the topic, providing a context.
- Discuss Arguments in favor and arguments against legalization of Same-Sex Marriage. Also, discuss the constitutional and social implications.
- You can conclude with a way forward approach.

Introduction:

Legalisation of same sex marriage in India is a log pending demand of LGBTQ+ community. Recently, in a verdict, the Supreme court refused to pass a judgment that legalizes the homosexual marriages, it passed on the baton to the parliament and state legislatures to formulate the law for the same.

Body:

Arguments for legalizing same-sex marriage in India:

- **Equality and Human Rights:** The Constitution of India guarantees equal protection before the law to all citizens. The Supreme Court has also recognised that the right to life and dignity under Article 21 of the Constitution includes the right to sexual orientation and identity.
- **Personal Autonomy and Choice:** The Supreme Court in Hadiya case and Lata singh cases has ruled that Right to choose light partener is a Fundamental Right.

Therefore, same-sex couples should have the freedom to choose their partners and form their own families without being subjected to legal or social sanctions.

- **Social Justice and Inclusion:** Legalizing same-sex marriage would grant same-sex couples the same legal rights and benefits as heterosexual couples. This would reduce stigma and discrimination, ultimately leading to improved well-being and happiness for the LGBTQIA+ community.

Arguments against legalizing same-sex marriage in India:

- **Morality and Religion:** Many individuals in India hold strong religious or moral beliefs that deem homosexuality as unnatural or sinful. They fear that legalizing same-sex marriage would legitimize homosexuality, potentially eroding traditional moral values and religious teachings.
- **Legal Complexities:** Opponents also argue that legalizing same-sex marriage would necessitate significant changes to existing laws, policies, and social structures that are currently based on heterosexual marriage. This could lead to legal complexities and challenges in implementation.
- **Practicality and Feasibility:** It is also argued that if a man starts recognizing himself as a female then how will he be treated before the law.

Constitutional and social implications of legalising same-sex marriage in India

- **Constitutional Implications:** Legalizing same-sex marriage can be seen as a constitutional right and a way to uphold the dignity and equality of the LGBTQ+ community.
   - However, the Constitution also grants the freedom of religion under Article 25, which allows different religious communities to have their own personal laws governing matters such as marriage, divorce, inheritance, etc.
   - Therefore, legalizing same-sex marriage in India may face opposition from some religious groups who consider homosexuality as sinful or unnatural.
- **Social Implications:** Legalizing same-sex marriage in India has significant and diverse social implications. It can reduce LGBTQ+ stigma, improve mental health,

promote inclusion, and grant legal rights. However, it may also provoke backlash, create conflicts, and challenge cultural values, potentially affecting societal harmony and evolution.

Conclusion:

Legalizing same-sex marriage in India is a complex matter with constitutional and social impacts. It demands thoughtful consideration, respectful dialogue, and a decision grounded in democratic, just, and dignified principles outlined in the Indian Constitution.

3. **Discuss the need and challenges of sub-categorisation of OBCs in India. How will it affect the existing reservation policy and the social justice agenda? (250 words)**

Approach:
➢ Define OBCs and sub-categorisation. Mention the constitutional provisions and the commission for sub-categorisation of OBCs.
➢ Discuss the need and challenges of sub-categorisation of OBCs in India. Explain how it will affect the existing reservation policy and the social justice agenda.
➢ Summarize the main points and give your opinion or suggestions.

Introduction:

OBCs are disadvantaged castes in India, comprising 52% of the population according to the Mandal Commission (1980). However, uneven socio-economic status has led to unequal reservation benefits. To address this, Article 340 of the Constitution allows the President to appoint a commission. In 2017, a five-member commission led by Justice (Retd.) G Rohini was formed to examine sub-categorization of OBCs for equitable representation.

Body:

The need for sub-categorisation of OBCs arises from the following reasons:

➢ To address the intra-group inequalities and horizontal imbalances among OBCs. According to a 2018 data analysis, 24.95% of jobs and seats under OBC quota have gone to just 10 OBC communities, while 983 OBC communities (37% of the total) had zero representation.

➢ To ensure that the benefits of reservation reach the most backward and marginalized sections of OBCs, such as de-notified tribes, nomadic tribes, etc.

➢ To rationalize and streamline the Central List of OBCs by removing any repetitions, ambiguities, inconsistencies and errors.

The challenges for sub-categorisation of OBCs are as follows:

➢ The lack of reliable and updated data on the population and socio-economic status of various OBC communities. The Socio-Economic Caste Census (SECC) data are not considered reliable by the commission, which has requested an all-India survey.
  ○ The Census 2021 is also expected to collect data on OBCs, but there have been no further announcements on that.
➢ The political and social implications of sub-categorisation of OBCs. Sub-categorisation may create divisions and conflicts among different OBC communities over their share of reservation.
➢ It may also be used as a tool to appease or alienate certain vote-banks by the ruling or opposition parties.

The impact of sub-categorisation of OBCs on the existing reservation policy and the social justice agenda:

➢ On one hand, sub-categorisation may enhance the social justice agenda by ensuring that the most backward and deprived sections of OBCs get adequate representation and opportunities in jobs and education.
  ○ It may also reduce the resentment and agitation among some upper castes who feel that reservation benefits are cornered by a few dominant OBC communities.
➢ On the other hand, sub-categorisation may dilute the existing reservation policy by creating further fragmentation and hierarchy among OBCs.
  ○ It may also undermine the principle of proportional representation by reducing the share of some larger or more populous OBC communities.
  ○ It may also divert attention from the structural issues and systemic discrimination faced by OBCs as a whole.

Note:

Conclusion

Sub-categorisation of OBCs is a complex and contentious issue that requires a balanced and holistic approach. While it may address some aspects of intra-group inequalities among OBCs, it may also create new challenges and problems for the reservation policy and the social justice agenda. Therefore, it is important to have a comprehensive and credible database, a clear and consistent legal framework, and a broad-based and inclusive consultation process before implementing any sub-categorisation scheme.

4. Evaluate the effectiveness of affirmative action policies in India's quest for social justice, considering challenges and potential reforms. (250 Words)

Approach:

➢ Start the answer by introducing affirmative action.
➢ Illustrate the effectiveness of affirmative action policies in India's quest for social justice.
➢ Evaluate the persistent challenges and potential reforms required in affirmative action.
➢ Conclude suitably.

Introduction:

Affirmative action policies in India have been implemented to address historical discrimination and promote social justice. These policies, including reservations in education and employment, aim to uplift marginalized communities such as Scheduled Castes (SCs), Scheduled Tribes (STs), and Other Backward Classes (OBCs).

➢ Affirmative action in India has its roots in the Constitution, with provisions like Article 15(4) and Article 16(4), allowing for reservations in educational institutions and government jobs. The Mandal Commission report in 1980 further expanded reservation to include OBCs, reflecting a commitment to addressing caste-based disparities.

Body:

Effectiveness of Affirmative Action Policies:

1. Socio-Economic Empowerment:

➢ Affirmative action has led to increased representation of marginalized communities in education and employment.

➢ The representation of SCs, STs and OBCs in the posts and services under the Central Government, as on 01.01.2016, increased to 17.49%, 8.47% and 21.57% respectively.

2. Political Representation:

➢ Affirmative action has facilitated political empowerment, with reserved seats in legislatures ensuring the representation of marginalized groups.

➢ For instance, the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, aims to protect marginalized communities from discrimination and violence.

3. Educational Opportunities:

➢ Reservation policies have increased access to education for marginalized communities, contributing to their social mobility.

➢ The implementation of the Right to Education Act, 2009, has furthered this objective by ensuring free and compulsory education for children from disadvantaged backgrounds.

Challenges:

1. Creamy Layer and Elite Capture:

➢ The concept of the creamy layer has been criticized for allowing affluent individuals within reserved categories to benefit, leaving the truly marginalized at a disadvantage.

➢ **Elite capture** refers to the dominance of politically and economically powerful individuals within reserved categories, limiting the benefits to the most marginalized.

2. Quality vs. Quantity Debate:

➢ Critics argue that reservations compromise meritocracy and quality, leading to inefficiencies in educational and professional institutions.

➢ The mismatch between educational qualifications and job requirements has been a concern, impacting the effectiveness of affirmative action.

3. Social Stigma and Discrimination:

➢ Despite reservations, marginalized communities continue to face social stigma and discrimination, hindering their holistic development.

➢ The perpetuation of stereotypes and biases poses challenges to the integration of marginalized communities into mainstream society.

Note:

4. Resistance and Backlash:

➢ There is often resistance from dominant groups who perceive these policies as unfair, leading to social tensions and conflicts.

Potential Reforms:

1. Strengthening Implementation Mechanisms:

➢ Enhancing monitoring and evaluation mechanisms to ensure the effective implementation of affirmative action policies.

➢ Implementing stricter penalties for non-compliance with reservation norms to deter violations.

2. Addressing Creamy Layer and Elite Capture:

➢ Introducing income criteria to identify beneficiaries, ensuring that reservations benefit the economically disadvantaged within reserved categories.

➢ Promoting transparency in selection processes to prevent elite capture and ensure equitable distribution of benefits.

3. Promoting Social Inclusion and Awareness:

➢ Launching campaigns to raise awareness about the importance of social inclusion and the detrimental effects of discrimination.

➢ Implementing programs to promote interaction and understanding between different communities, fostering a culture of inclusivity.

4. Socio-Educational Index:

➢ A more nuanced approach that considers the socio-educational status of individuals, in addition to their caste, can ensure that the most marginalized within each group receive the benefits.

5. Diversification of Beneficiaries:

➢ Including other marginalized groups like religious minorities, transgender individuals, and the disabled in affirmative action policies can make them more inclusive.

Conclusion:

Affirmative action policies in India have played a crucial role in promoting social justice and empowering marginalized communities. However, challenges such as creamy layer issues, quality concerns, and social stigma persist. Addressing these challenges through reforms that strengthen implementation, address elite capture, and promote social inclusion is essential to enhancing the effectiveness of affirmative action policies and realizing their goal of ensuring social justice for all.

5. **Assess the effectiveness of India's flagship welfare schemes in promoting social justice and reducing inequality. Discuss with examples. (250 Words)**

Approach:

➢ Start the answer by introducing the Social Justice.

➢ Illustrate the effectiveness of India's flagship welfare schemes in promoting social justice.

➢ Analyze the relevance of welfare schemes in reducing inequality.

➢ Conclude suitably.

Introduction:

India's flagship welfare schemes have been instrumental in promoting social justice and reducing inequality. These schemes, aimed at uplifting marginalized communities and ensuring inclusive growth, have played a significant role in addressing various socio-economic challenges.

Body:

Effectiveness in Promoting Social Justice and Reducing Inequality:

1. Impact on Poverty Alleviation:

➢ The Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA) with its rights-based framework for 100 days of guaranteed unskilled work in rural India has provided employment opportunities to millions of rural households, reducing poverty and improving livelihoods.

➢ According to a World Bank report, MGNREGA has contributed to a reduction in poverty rates and increased rural consumption.

➢ **Example:** MGNREGA provided livelihood support to migrant workers during the COVID-19 pandemic, preventing a deeper economic crisis.

2. Enhancing Food Security:

➢ The National Food Security Act (NFSA) aims to provide subsidized food grains to two-thirds of the population.

➢ NFSA has improved food security and nutrition outcomes, especially for vulnerable groups.

> **Example:** The provision of nutritious food through Anganwadi centers has helped in reducing malnutrition among children.

3. Improving Healthcare Access:

> The Ayushman Bharat scheme, which includes the Pradhan Mantri Jan Arogya Yojana (PMJAY), aims to provide health insurance coverage to vulnerable families.

> PMJAY has facilitated access to healthcare services for millions, reducing the financial burden of medical expenses.

> **Example:** PMJAY covered the medical expenses of a family in a remote village, enabling them to afford life-saving treatment.

4. Empowering Women:

> Schemes like the Beti Bachao Beti Padhao (BBBP) and the Pradhan Mantri Matru Vandana Yojana (PMMVY) aim to improve the status of women in society.

> BBBP has led to increased awareness about the importance of the girl child and has contributed to a decline in the sex ratio imbalance in certain regions.

> **Example:** PMMVY provides financial assistance to pregnant and lactating mothers, enabling them to access healthcare services and nutrition.

5. Promoting Education:

> The Sarva Shiksha Abhiyan (SSA) and the Mid-Day Meal Scheme (MDMS) aim to enhance access to quality education.

> SSA has led to an increase in school enrollment and retention rates, especially among marginalized communities.

> **Example:** MDMS has improved the nutritional status of children and has encouraged regular attendance in schools.

6. Addressing Housing and Infrastructure Needs:

> The Pradhan Mantri Awas Yojana (PMAY) aims to provide affordable housing to all by 2022.

> PMAY has facilitated the construction of houses for the homeless and those living in inadequate housing conditions.

> **Example:** PMAY-Grameen has provided pucca houses to rural households, improving their living standards.

Conclusion:

India's flagship welfare schemes have been effective in promoting social justice and reducing inequality by addressing various socio-economic challenges. These schemes have not only improved the lives of millions but have also contributed to the overall development of the country. However, there is a need for continuous evaluation and improvement to ensure that these schemes reach the intended beneficiaries and achieve their objectives effectively.

6. **"Social justice cannot be achieved without economic empowerment." Discuss this statement in the context of poverty alleviation programs in India. (150 words)**

Approach:

> Introduce by mentioning the link between social justice and economic empowerment

> Delve into economic empowerment as a prerequisite for social justice

> Mention key arguments featuring social justice as a catalyst for economic empowerment

> Conclude in a balanced manner.

Introduction:

Social justice and economic empowerment are inextricably linked concepts that lie at the heart of efforts to **alleviate poverty** and promote **inclusive development.**

> The statement "Social justice cannot be achieved without economic empowerment" encapsulates the notion that addressing economic disparities and providing opportunities for **economic self-sufficiency** are crucial steps towards realizing **social equality and justice.**

Economic Empowerment as a Prerequisite for Social Justice:

> **Poverty as a Barrier to Social Inclusion:** Poverty often leads to exclusion from **education, healthcare,** and other essential services.

> ○ Economic empowerment through poverty alleviation programs can provide access to these services, **fostering social inclusion and equality.**

Note:

○ **Example:** The **Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA)** has provided employment opportunities and income security to rural households, enabling them to access basic necessities.

➢ **Enabling Participation and Agency**: Poverty can limit an individual's ability to participate in **decision-making processes** that affect their lives.

○ Economic empowerment through **skill development, entrepreneurship, and financial inclusion** can enhance agency and participation in societal processes.

○ **Example:** The **Self-Help Group (SHG) movement** has empowered women economically, enabling them to have a voice in household and community decisions.

➢ **Breaking the Cycle of Intergenerational Poverty:** Poverty can perpetuate itself across generations, hindering social mobility and exacerbating inequalities.

○ Economic empowerment programs that focus on **education, vocational training, and asset creation** can break this cycle and promote social justice for future generations.

○ **Example: Sukanya Samriddhi Yojana** provides a secure and attractive investment option for parents to invest in their daughters' future, breaking the cycle of financial insecurity and dependence.

Social Justice as a Catalyst for Economic Empowerment:

➢ **Addressing Systemic Inequalities:** Policies and programs that promote inclusivity and address discrimination can open pathways for economic empowerment.

○ **Example:** The **Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act** aims to protect the rights of marginalized communities and create an enabling environment for their economic progress.

➢ **Promoting Inclusive Development:** Social justice principles emphasize the inclusion of marginalized and vulnerable groups in development processes.

○ Inclusive development approaches can create economic opportunities and ensure **equitable access to resources and services.**

○ **Example:** The **Socio-Economic and Caste Census (SECC)** has facilitated the identification of economically disadvantaged households for targeted poverty alleviation programs.

➢ **Building Human Capabilities:** Social justice initiatives focus on improved human capabilities can lead to better economic opportunities and sustainable livelihoods.

○ **Example:** The **Integrated Child Development Services (ICDS) program** aims to improve the health, nutrition, and early childhood education of children from disadvantaged communitie**s, laying the foundation for their future economic empowerment.**

Conclusion:

In this way, there is a synergistic relationship between social justice and economic empowerment. By addressing intersectional inequalities and promoting sustainable livelihoods, India can create a virtuous cycle of inclusive growth and social transformation and accelerate progress towards achieving the SDGs, particularly **Goal 1 (No Poverty), Goal 5 (Gender Equality), and Goal 10 (Reduced Inequalities).**

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Note: