



HALSA (LEGAL SERVICES TO WIDOWS) SCHEME, 2020



**HARYANA STATE LEGAL SERVICES
AUTHORITY**

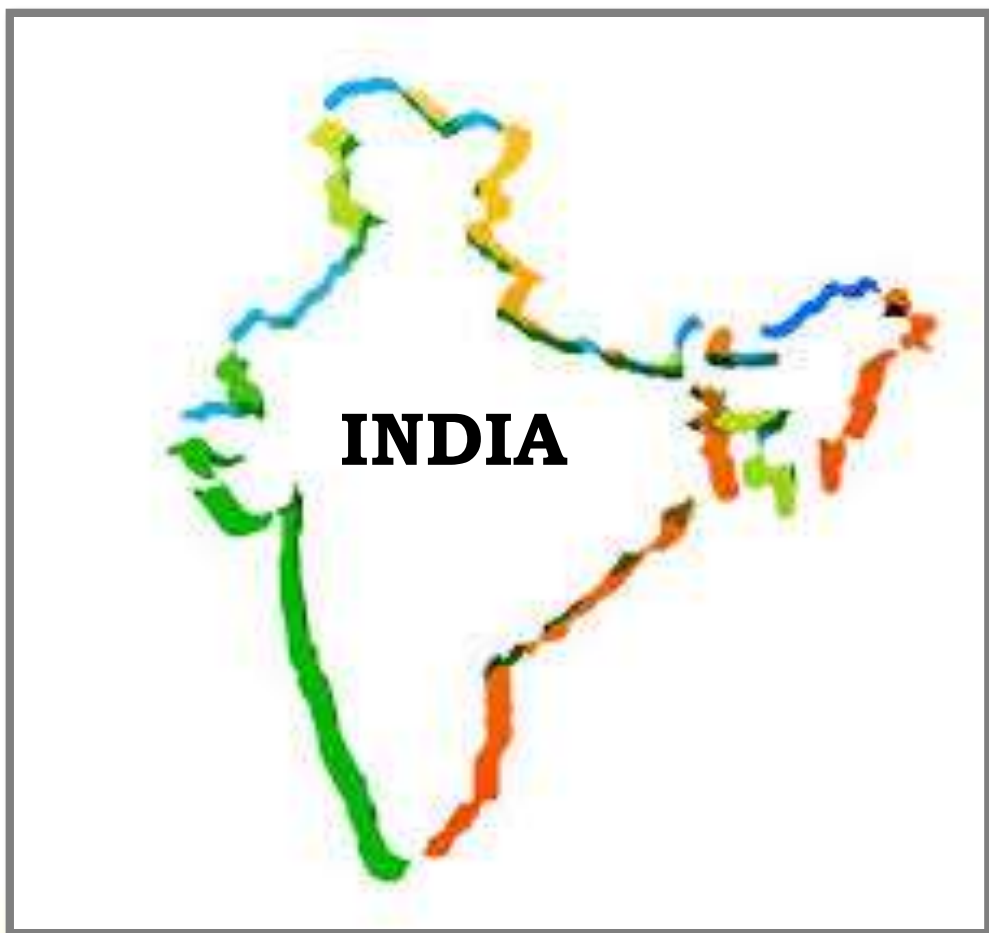
1. BACKGROUND

- 1.1** Although to be a widow is not a sin, yet widowhood is an event that constitutes the greatest and saddest change in the life of a woman. In all societies, the loss of the marital partner through death necessarily involves several changes in the financial arrangements and subsequent economic management and these are even more so if the dead spouse was the primary earner in the family. The loss of a partner is devastating. For many women, that loss is magnified by a long-term struggle for basic needs, their human rights and dignity. They may be denied inheritance rights to the piece of land that they relied on for livelihood or evicted from their homes, forced into unwanted marriages or traumatizing widowhood rituals. They are stigmatized for life, shunned and shamed.



- 1.2** India has the largest recorded number of widows in the world i.e. 33 million (10% of the female population, compared to only 3% of men), and the number is growing because of HIV/AIDS and other civil conflicts.

Fifty-four percent of women aged 60 and above are widows. Remarriage is an exception rather than a rule. It is very strange that in India unlike other countries only about 10 percent of widows marry again. India is perhaps the only country where widowhood, in addition to being a personal status, exists as a social stigma. Widows' deprivation and stigmatization are exacerbated by ritual and religious symbolism.



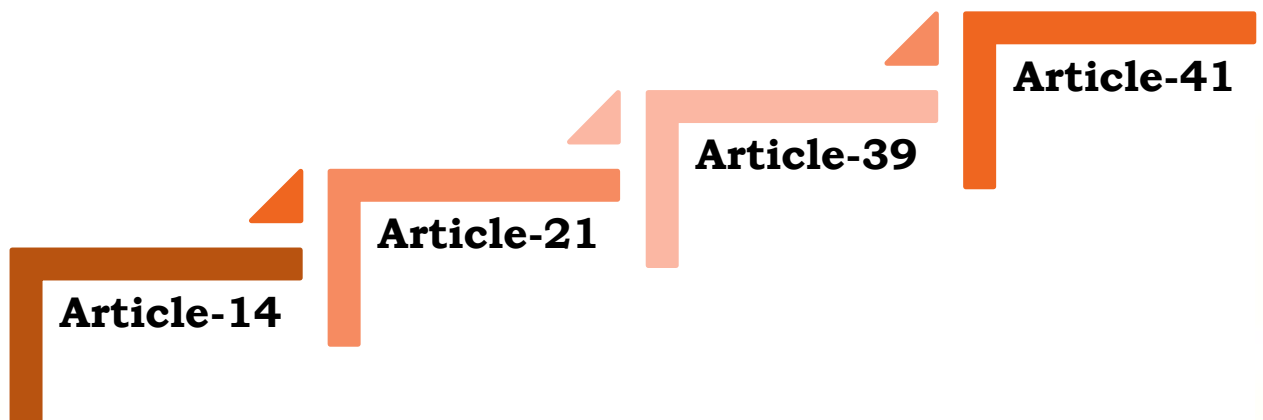
India has the largest recorded number of widows in the world

i.e. 33 million (10% of the female population, compared to only 3% of men)

2. CONSTITUTIONAL GUARANTEES

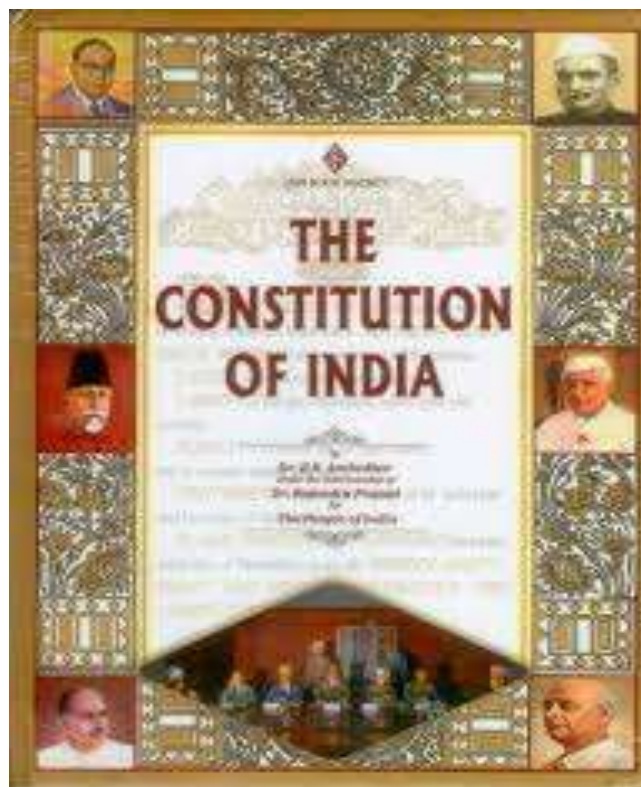
The Constitution of India guarantees the right to life and liberty of every individual under **Article 21**. This has been interpreted to include the right to live with dignity and would encompass the right to live with dignity of the widows. **Article 14** of the Constitution clearly provides that the State shall not deny to any person equality before the law or equal protection of laws within the territory of India.

CONSTITUTIONAL GUARANTEES PROVIDED UNDER ARTICLES:



Article 39 of the constitution lays down that the State shall direct its policy towards securing that the citizens, men and women equally, have the right to adequate means of livelihood and that the health and strength of the workers, men and women, and the tender age of the children are not abused and that the citizens are not forced by economic necessity to enter avocations unsuited to their age or strength.

▶ **Article 39-A** of the Constitution provides that the State shall secure that the operation of the legal system promotes justice, on a basis of equal opportunity, and shall, in particular, provide free legal aid by suitable legislation or schemes or in any other way to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities.



▶ The **Article 41** of the Constitution lays down that the State shall, within the limits of economic capacity and development, make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement, and in other cases of undeserved want.

3. LEGISLATIVE FRAMEWORK

3.1 Most of the legislations, as exist today, really make provisions for rehabilitation and welfare of widows. **Section 8 of the Hindu Succession Act, 1956**, provides that a widow is eligible to claim her share in the property of her deceased husband. A widow is also entitled to her share even in the coparcenary property of her husband and she is allowed one share at the time of Notional partition under the Hindu Succession Act 1956. Even a widowed daughter has been made a class-I legal heir of her father and now as per Section-6 of the Hindu Succession Act, 1956, she is also a coparcener in the same capacity like a son. These provisions preserve her pecuniary security and status even after the death of her husband.

VARIOUS LAWS AND LEGISLATIONS



**Hindu
Succession
Act, 1956**



**Hindu
Adoptions and
Maintenance
Act, 1956**



**Protection of
Women from
Domestic
Violence Act,
2005**



**Code of
Criminal
Procedure, 1973**



**Maintenance and
Welfare of
Parents and
Senior Citizens
Act, 2007**

- 3.2 Section 14 of the Hindu Succession Act, 1956** provides that any property possessed by female Hindu whether acquired before or after the commencement of this Act, shall be held by her as full owner thereof and not as a limited owner. Female Hindu in this Section also includes widow.
- 3.3 Section 24 of the Hindu Succession Act, 1956** which debarred a widow from inheritance of certain property on her remarriage, has been omitted w.e.f. 09.09.2005. So now remarriage is not a disqualification for a widow to inherit any property.
- 3.4 Section 19 of the Hindu Adoptions and Maintenance Act, 1956** speaks of the obligation of the father-in-law to maintain his son's widow, if she is unable to maintain herself out of her own earnings or other property or where she has no property of her own, is unable to obtain maintenance from the estate of her deceased husband or her parents or children.
- 3.5** Further several provisions have been made under the **Protection of Women from Domestic Violence Act, 2005** in favour of women including widows. If any Domestic Violence as defined under Section 3 of above said Act is committed against any women including a widow, by any of the person having domestic relationship as defined under Section 2(f) of the above said Act, such women may initiate proceedings against such family members under the provisions of the Protection of Women from Domestic Violence Act, 2005. She can also claim right to reside in a shared house hold, protection orders, residence orders, compensation orders etc. under this Act.

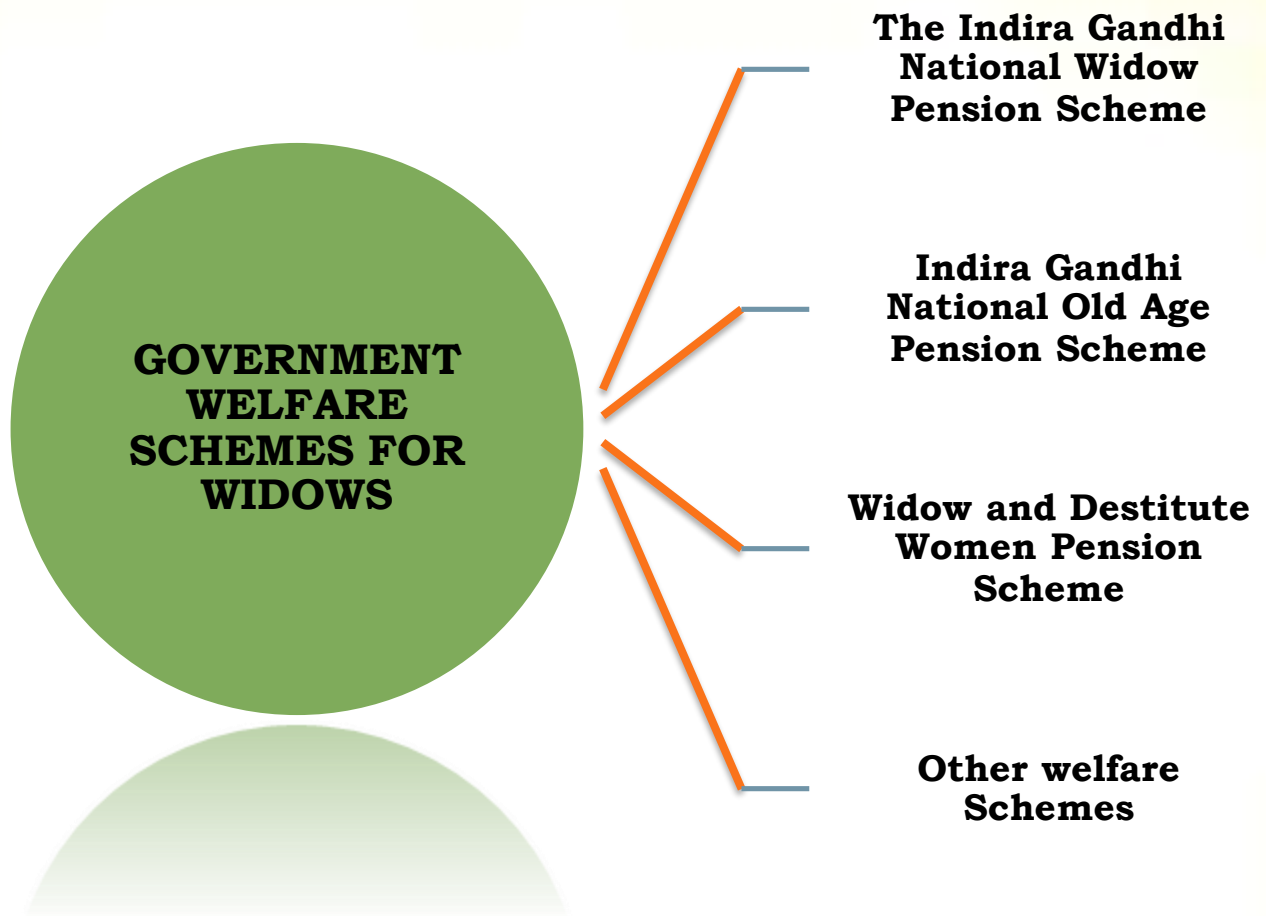
3.6 Provision for maintenance of wife is also made **under Section 125 of the Code of Criminal Procedure, 1973**. Even after the death of her husband, a widow can claim maintenance from her major son (sons) under Section 125 of The Code of Criminal Procedure, 1973.

3.7 Further, the **Maintenance and Welfare of Parents and Senior Citizens Act, 2007** was enacted for the benefit of the old aged parents and senior citizens. All the widows who have attained the age of 60 years or above are covered under this Act. Under this Act, an application for maintenance can be made by (a) 'Parent' i.e. father or mother including an old aged widow who has attained the age of 60 years or above. The Act provides for the setting up of one or more Tribunals for each sub-division for the purpose of adjudicating and deciding upon the order of maintenance and for the constitution of Appellate Tribunal for each district to hear the appeal against the order of the Tribunal. Importantly, under the Act, the right to receive maintenance is enforceable against transferee or property of the parent/senior citizen, if the transferee has notice of the right, or if the transfer is gratuitous though the same is not enforceable against the transferee for consideration and without notice of right. The Tribunal may even declare transfer of property by a senior citizen including an old aged widow as void at the option of the transferor where a senior citizen has transferred the property by way of gift or otherwise, subject to the condition that the transferee shall provide the transferor with basic amenities and basic physical needs, and such transferee refuses or fails to provide such amenities and physical needs.

3.8 Another important feature of the Act is that abandoning of senior citizen by anyone having care or protection of such senior citizen is an offence punishable for a maximum period of 03 months or fine up to Rs.5000/- or with both. This is a very important provision for protecting the life and property of senior citizens and to prevent their being abandoned at places from where they could not be found. The Act also provides:

- for the establishment of Old Age Homes for Indigent Senior Citizens i.e. senior citizens who do not have sufficient means.
- that the State Government has to ensure that the Government hospitals or hospitals funded fully or partially by the Government shall provide beds for all senior citizens; separate queues are arranged for senior citizens and that facility for treatment of chronic, terminal and degenerative diseases is expanded for senior citizens.

4. GOVERNMENT SCHEMES FOR WELFARE OF WIDOWS



4.1 The Centre/State Governments have framed various Schemes for the security and betterment of widows in India. The Schemes are formulated with the objectives to strengthen the widows socially, economically and financially in our society. Shelter Homes have been established for rehabilitation of destitute and abandoned widows where basic amenities are being provided to them. Efforts are being made to create self employment for such widows so that their dependency can be reduced at each and every stage of their lives.

4.2 The Indira Gandhi National Widow Pension Scheme: The Scheme was launched by Ministry of Rural Development. It is a part of National Social Assistance Program (NSAP). The objective of the Scheme is to improve the livelihood of the widows residing in rural areas and to ensure that the widows living below the poverty line get financial assistance and other benefits from the Government.

- ▶ **Eligibility:** All widows aged 40 to 59 and below the poverty line category according to the criteria prescribed by the Government of India from time to time, are eligible to be a beneficiary of the scheme.
- ▶ **Benefits:** Under the Scheme, Government provides pension of Rs.200/- per month.

4.3 Indira Gandhi National Old Age Pension Scheme (IGNOAPS): Indira Gandhi National Old Age Pension Scheme (IGNOAPS) is a non-contributory old age pension scheme that covers Indians who are 60 years and above and live below the poverty line.

- ▶ **Eligibility:** All individuals including widows of the age of 60 years or above who live below the poverty line, are eligible to apply for IGNOAPS.
- ▶ **Benefit:** All IGNOAPS beneficiaries aged 60-79 receive a monthly pension of Rs.300 (Rs.200 by Central Government and Rs.100 by State Government). Those 80 years and above receive a monthly pension amount of Rs.500/-.

4.4 Widow and Destitute Women Pension Scheme: Social Justice Department of Government of Haryana has introduced Widow and Destitute Women Pension Scheme.

- ▶ **Eligibility:** A women of 18 years and above is eligible for grant of pension under the scheme if she is domicile of Haryana and has been residing in Haryana State for the last one year at the time of submission of application and her own income from all sources is below Rs. 2,00,000/- per annum and further any one of the three conditions are fulfilled:

- i) She is a widow; or

- ii) She is destitute without husband, parents and son(s): or

- iii) She is destitute due to desertion or physical/mental incapacity of,

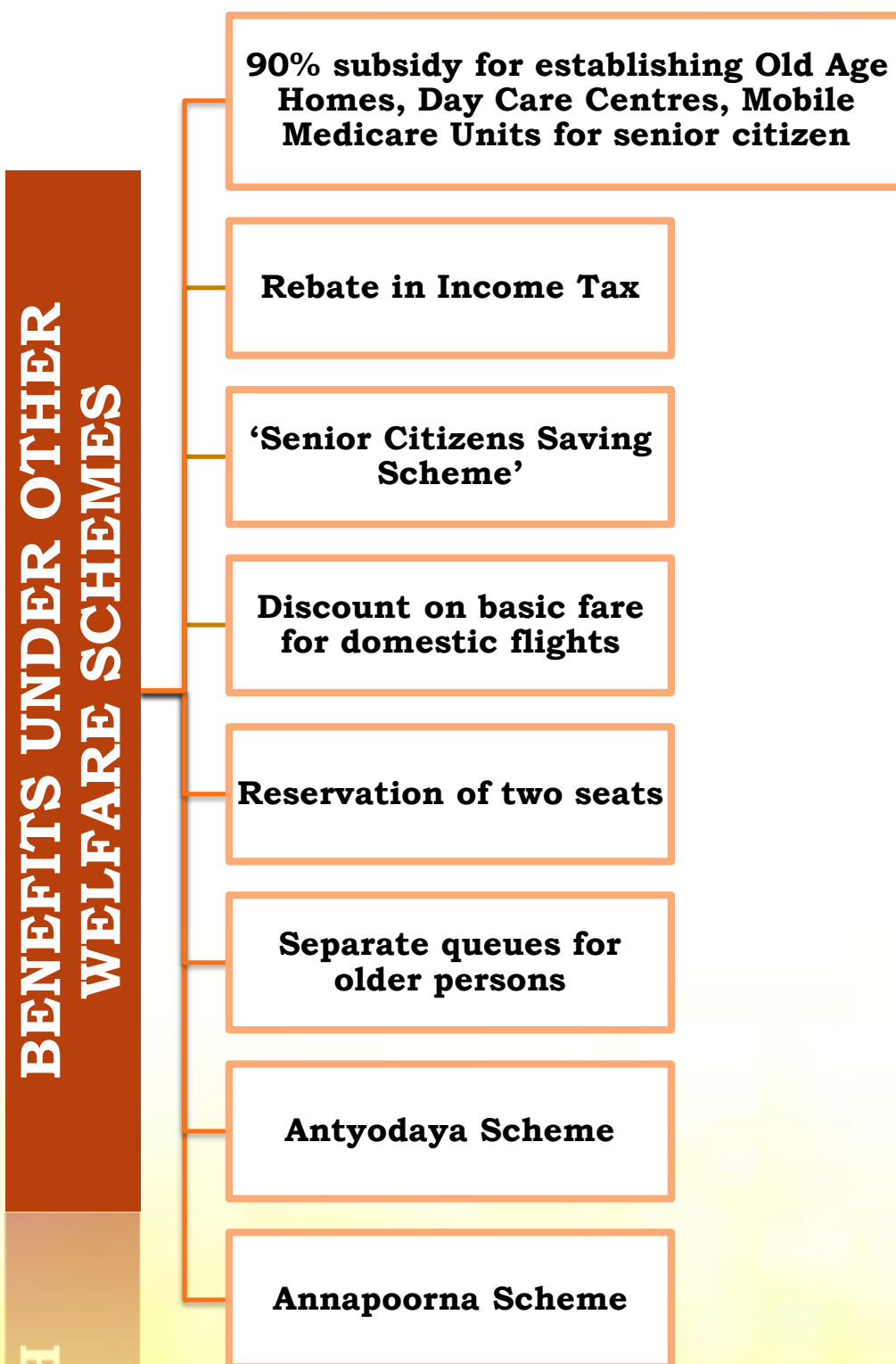
- (a) Husband in case of married women; or

- (b) Parents in case of other women

- ▶ **Benefits:** Under this Social Welfare Scheme, Government provides financial assistance in the form of monthly pension to the deserted, destitute and widow in the State. The Government of Haryana provides a monthly pension of Rs.2000/- P.M. w.e.f. 01.11.2018 for all eligible widows/destitute women.

4.5 GOVERNMENT SCHEMES FOR WIDOWS WHO ARE SENIOR CITIZENS OF 60 YEARS OR ABOVE:

Different Ministries under the Central Government have come up with different Schemes for widows, who are senior citizens, which are as under:



- ▶ **90% subsidy for establishing Old Age Homes, Day Care Centres, Mobile Medicare Units for senior citizen:** Integrated Programme for Older Persons under which financial assistance up to 90 % of the project cost is provided to NGOs for establishing and maintaining Old Age Homes, Day Care Centres, Mobile Medicare Units and to provide non-institutional services to older persons.
- ▶ **Rebate in Income Tax:** Rebate in income tax, deduction in respect of medical insurance premium up to Rs.30,000/- under Section 80 D of Income Tax Act, 1961, deduction under Section 80 D for treatment of specified ailment is Rs.60,000/- for senior citizens, separate counters for senior citizens at the time of filing the income tax returns and on the spot assessment facility.
- ▶ **‘Senior Citizens Saving Scheme’** under which the citizens of 60 years and above can deposit Rs.1000/- or its multiples in post offices doing savings bank work which carried an interest of 9 % per annum and the maturity period of the deposit is five years, extendable by another three years. For senior citizens i.e. those having the age of 65 years and above, higher rates of interest on saving schemes are available.
- ▶ **Indira Gandhi National Old Age Pension Scheme:** Under the Scheme, central assistance is given towards pension at the rate of Rs.200/- per month to persons above 60 years and at the rate of Rs.500/- per month to senior citizens of 80 years and above belonging to a household below the poverty line and the same is expected to be supplemented by at least an equal contribution by the States.

- ▶ **Discount on basic fare for domestic flights:** Discount on basic fare for domestic flights in economy class and priority in boarding the flights.
- ▶ **Concession for senior citizens in all classes and trains, priority for lower berths:** Concession for senior citizens in all classes and trains, priority for lower berths, separate counters for senior citizens for purchase/booking or cancellation of tickets, wheel chairs for use of senior citizens are available at all junctions, District Headquarters and other important stations.
- ▶ **Reservation of two seats:** Reservation of two seats in the front rows of buses of State Road Transport Undertakings for senior citizens and even fare concession.
- ▶ **Separate queues for older persons:** Separate queues for older persons in hospitals for registration and clinical examination and concessions to senior citizens in treatment of diseases like kidney problem, cardiac problem, diabetes and eye problem.
- ▶ **Antyodaya Scheme:** Under the Scheme, the Below Poverty Line Families which include older persons are provided food grains i.e. 35 kgs per family per month at concessional rates. The persons above 60 years from the BPL category were given priority for identification.
- ▶ **Annapoorna Scheme:** Under the Scheme, being implemented by the States/UT Administration, 10 kgs of food grains per beneficiary per month are provided free of cost to those senior citizens who remain uncovered under the old age pension scheme.
- ▶ **Priority in issuance of ration:** Priority in issuance of ration to ration card holders who are over 60 years of age in Fair Price Shops.

4.6 Widow Cell: As per Haryana Government notification dated 03.07.2018, 'a Widow Cell' has been constituted in all the Districts of Haryana in view of directions of Hon'ble Supreme Court in Writ Petition (Civil) 659-2007 Environment and Consumer Protection Foundations Vs. Union of India.

- ▶ The Secretary, District Legal Services Authority is the Chairperson of a Widow Cell.
- ▶ The Widows Cell shall be collectively and individually responsible for planning, allocation and execution of work related to registration of widows, outreach to widows, documentation, grievance redressal, response to Helpline and Help Desk, overseeing mechanisms for Shelter Homes, health Services, Legal Aid, counseling, linking with livelihood and housing schemes, ensuring protection of the person, children and property of widows in their jurisdiction and networking with all the other district Widows' Cell, State and National mechanisms established for the welfare of widows.
- ▶ Regular meetings are held of widow cell.

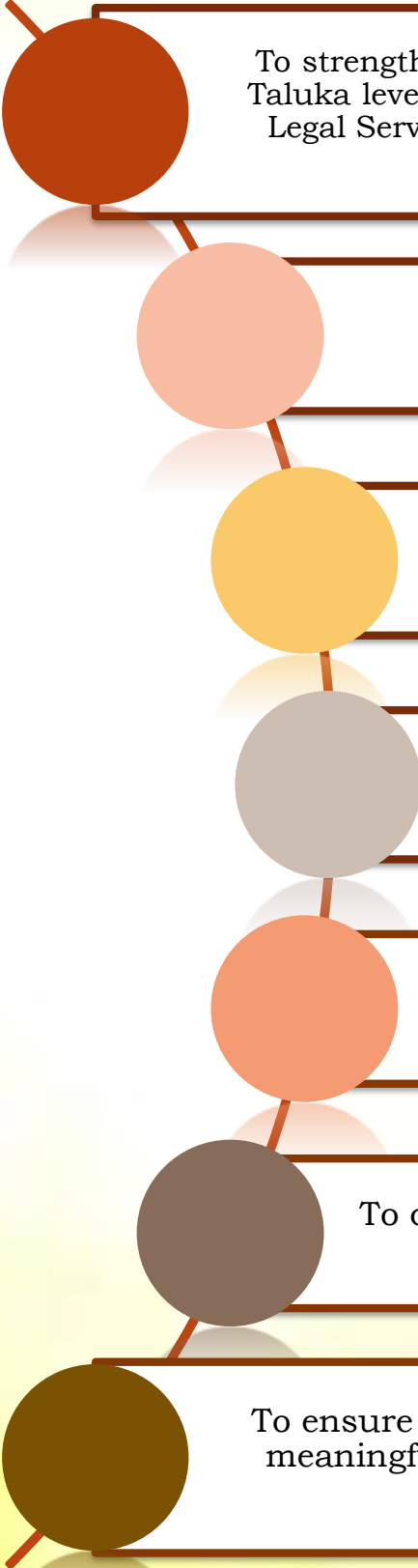
4.7 Despite the existence of various legal provisions and Schemes for welfare of widows, their benefits have reached to a very few widows. Often the widows are unaware of their entitlements and/or they are in a destitute condition. They are not only deprived of their properties but are also subjected to all forms of atrocities. The Legal Services Authorities can play a pivotal role in ensuring access to the benefits of the Schemes and the legal provisions to the widows.

4.8 The Preamble of the Legal Services Authorities Act, 1987 emphasizes that the Legal Services Authorities are concerned with the weaker sections of the society and imposes a duty on them to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities. Section 7(c) of the Act empowers the State Legal Services Authority to undertake preventive and strategic legal aid programmes. Thus, the Act itself casts a duty upon the Legal Services Authorities to spread awareness about the laws and various administrative measures and programmes and to undertake preventive and strategic measures.

5. NAME OF THE SCHEME

The Scheme shall be called “***HALSA (Legal Services to Widows) Scheme, 2020***”. This Scheme is formulated for protection, reformation, rehabilitation and reintegration of widows in our society. This Scheme will underline various social, economic and financial issues of a widow in case of ignorance by their families, relatives and societies etc.

6. OBJECTIVES OF THE SCHEME



To strengthen legal aid and representation at State, District and Taluka levels for widows who are entitled under Section 12 of the Legal Services Authorities Act, 1987 for availing the benefits of various legal provisions;

To disseminate information among the widows regarding their entitlements under the existing legislations and Schemes;

To assist widows in getting benefits of various welfare schemes of Centre/State Governments;

To outline the basic rights and benefits that should be accorded to widows;

To explore the problems of widowhood and to study the condition of widows;

To create and spread mass awareness about the rights and entitlements of the widows

To ensure involvement of Public agencies/NGOs to organize meaningful and comprehensive programmes for welfare of widows.

7. PLAN OF ACTION



7.1 Visit to Shelter Homes for Widows:

- DLSAs should carry out regular visits to the Shelter Homes for widows to ensure that the widows have adequate facilities and that they are treated with dignity.

7.2 Establishment of Legal Services Clinics:

- Each DLSA shall establish a Legal Services Clinic specially for the widows of the District in which only the lady advocates, lady PLVs and girls law students shall be deputed.

- The Legal Services Clinics so established shall be governed by the NALSA (Legal Services Clinics) Regulations, 2011 in respect of their



functioning, infrastructural facilities, maintenance of records and registers, deputing of PLVs and control over such clinics.

- The DLSAs shall encourage the students in Legal Services Clinics set up in colleges and universities to visit Shelter Homes for widows and provide legal services to widows in the community.
- The Legal Services Clinics shall also facilitate the widows in getting pensionary benefits and other entitlements.

7.3 Legal Representation

- All widows are entitled to free legal aid under Section 12 of the Legal Services Authorities Act, 1987 and they shall be provided legal aid on a priority basis.
- DLSAs shall ensure that the widows do not have to face any kind of discomfort in procedural wrangles.
- Every District Legal Services Authority and Taluka Legal Services Committee shall designate at least three lady Panel Lawyers as Legal Services Officers for the purpose of this Scheme.



RIGHT TO FREE LEGAL AID: A FUNDAMENTAL RIGHT



- ▶ The DLSAs shall also depute sufficient number of female PLVs for the implementation of this Scheme.
- ▶ The PLVs shall act as the interface between the widows and Legal Services Institutions in the community who are unable to access the Legal Services Institutions. Where it is not possible for the widows to reach the Legal Services Institutions on account of their conditions, the DLSAs shall reach out to them through panel lawyers and PLVs.
- ▶ DLSAs shall provide training to panel lawyers to enable them to sensitively deal with cases of widows. It be also ensured that the legal services provided to widows are of the highest quality so that meaningful and effective legal services can be provided to them.

7.4 Identification of issues affecting Widows:

- ▶ DLSAs shall make an endeavour to identify the core issues which affect the widows in particular areas and deal with them accordingly.
- ▶ DLSAs shall then seek solutions to the issues that arise on regional basis and use their resources to implement the solutions including through coordination with the concerned Government agencies.
- ▶ DLSAs should facilitate the setting up of Self-Help Groups of widows to encourage community support and to reduce a sense of dependency on the part of the widows. Such Self-Help Groups shall consist of lady advocates, female PLVs, lady teachers from private and Government schools and colleges and the lady social workers. Male persons can also be joined in such Groups as per the requirements.

7.5 Database

- ▶ All DLSAs shall have database of all the existing Central or State Schemes, policies, regulations, policy directives concerning widows and the same may also be published in the form of pamphlets or booklets to be used in dissemination of information and creating awareness about the rights of widows.
- ▶ DLSAs shall also maintain a database of hospitals, medical centres and other facilities which may be available for widows in their area.

- ▶ The information maintained by DLSAs shall be circulated to the Taluka Legal Services Committees, village Panchayats, legal services clinics and PLVs.
- ▶ DLSAs shall prepare a database of widows in their area so that PLVs may be deputed for their assistance as and when required. Such database may also be shared with law enforcement agencies to address security concerns of widows. This would also enable the DLSAs to provide immediate assistance to persons in distress by coordinating with the concerned Departments such as Health or Police Departments etc.
- ▶ DLSAs to ensure that all widows have all the relevant papers i.e. Aadhar Card, Ration Card, Voter Card etc. which are necessary to avail benefits of various Schemes. If they are not having any such documents, Panel Advocates and PLVs shall help the widows in getting prepared their documents.

7.6 Implementation of various Schemes

- ▶ Each DLSA shall prepare awareness module whereby all the Government Schemes and rights are listed.
- ▶ DLSAs shall take all steps to disseminate information regarding the policies, schemes, programmes to the widows and government functionaries.
- ▶ DLSAs shall ensure that such information is prominently displayed in shelter homes, hospitals and other places which are frequented by widows.

- ▶ Legal Services to be provided would include informing the beneficiaries about the different Government Schemes to which they are entitled and the benefits thereunder; assisting the beneficiaries to procure the documents required for availing the benefits under the Schemes; informing the beneficiaries of the name and address of the designated authority or the officer who may be approached for availing the benefits under the Schemes; offering to send PLVs with the beneficiaries to the office of the designated authority or to the officer concerned under any of the schemes.
- ▶ DLSAs shall develop effective coordination and interface with all the government bodies or functionaries, non-governmental organizations and other organizations concerning the welfare of widows to ensure that the benefits of various Schemes that exist for widows reach the widows.
- ▶ Since medical needs of widows are generally ignored, so it is necessary to ensure to cover all the widows under “*Ayushman Bharat Scheme*” or any other Scheme which is beneficial to the widows regarding as far as their health is concerned.

7.7 Awareness

- ▶ DLSAs shall draw up programmes for creating awareness on the rights of widows and should endeavour to create a culture which is sensitive to the rights and needs of widows.

- ▶ DLSAs shall organize awareness programmes to sensitize people to the needs of the widows.
- ▶ DLSAs should explain the need to treat the widows with dignity.
- ▶ DLSAs shall conduct awareness programmes to generate awareness about the entitlements of the widows under various laws and government schemes.
- ▶ DLSAs and Taluka Legal Services Committees shall also create awareness regarding the availability of legal services for widows to facilitate access to their entitlements.
- ▶ Special awareness drives may be undertaken in shelter homes or other places frequented by widows and PLVs and students may be encouraged to actively participate in such programmes.
- ▶ DLSAs shall form a team of female Panel Lawyers, PLVs and law students to hold Door-to-Door campaigning in rural and remote areas to identify the widows and to apprise them about various welfare Schemes meant for them.
- ▶ DLSAs shall explore each and every possibility to join hands with the Public agencies/NGOs working for the growth and welfare of widows.
- ▶ Each DLSA shall take up the matter with the concerned Departments to provide skills trainings to the widows to help them in getting better job opportunities in earning their livelihoods.

7.8 Training and Orientation Programmes

- ▶ DLSAs shall conduct training and orientation programmes for panel lawyers and PLVs to sensitize them on how to deal with cases of widows and to build their capacity, knowledge and skill. Sensitization programmes should also be organized for other stakeholders such as the government functionaries, police personnel and NGOs, etc.

7.9 Observance of the International Widows Day

- ▶ DLSAs shall observe 23rd June of every year as the International Widows Day and organize awareness programmes on that day for creating awareness of the rights and entitlements of widows.

7.10 Sending of Monthly Reports to HALSA:

- ▶ Each DLSA shall prepare monthly reports regarding the action taken regarding the issues relating to widows in Excel Format and the same shall be sent to the Member Secretary, HALSA, before 10th day of each month as per attached Schedule.