

MODEL PROSECUTION SCHEME

Under Section 12 of the Legal Services Authorities Act, 1987 read with rule 19 of Haryana State Legal Services Authority Rules, 1996 women and children are entitled for Legal Services irrespective of their income.

Women and Children are vulnerable section of society. Victims want decent treatment, quick investigations, speedy and effective trials of the culprits sans hassles of their repeated appearance before the police and in Courts.

The rape victim is generally shaken when she reaches police station. She is put to questioning by the police. Acute trauma and mental distress visit the victims. Right from the start, such victims need social, psychological and legal support in continuum.

Even though there are public prosecutors in all the trial courts but due to numerical deficiency and over busy schedule of the public prosecutors, in cases of crimes against the woman and child there is dire need of additional legal support to provide succour to the victims.

The model prosecution scheme is based upon the judgement of the Hon'ble Supreme Court in **Delhi Domestic Working Women's Forum versus Union of India 1995(1) R.C.R.(Criminal) 194**. In the said judgement, the Hon'ble Supreme Court laid the following broad parameters:

- (1) The complainants of sexual assault cases should be provided with legal representation. It is important to have some one who is well acquainted with the criminal justice system. The role of the victim's advocate would not only be to explain to the victim the nature of the proceedings, to prepare her for the case and to assist her in the police station and in Court but to provide her with guidance as to how she might obtain help of a different nature from other agencies, for example mind counselling or medical assistance. It is important to secure continuity of assistance by ensuring that the same person who looked after the complainant's interests in the police station represent her till the end of the case.
- (2) Legal assistance will have to be provided at the police station since the victim of sexual assault might very well be in a distressed state upon arrival at the police station, the guidance and support of a lawyer at this stage and whilst she was being questioned would be of great assistance to her.
- (3) The police should be under a duty to inform the victim of her right to representation before any questions were asked of her and that the police report should state that the victim was so informed.
- (4) A list of advocates willing to act in these cases should be kept at the police station for victims who did not have a particular lawyer in mind or whose own lawyer was unavailable.
- (5) The advocate shall be appointed by the court, upon application by the police at the earliest convenient moment, but in order to ensure that victims were questioned without undue delay, advocates would be authorised to act at the police station before leave of the Court was sought or obtained.
- (6) In all rape trials anonymity of the victim must be maintained, as far as necessary.

(7) It is necessary, having regard to the Directive Principles contained under Article 38(1) of the Constitution of India to set up Criminal Injuries Compensation Board. Rape victims frequently incur substantial financial loss. Some, for example, are too traumatized to continue in employment.

(8) "Compensation for victims shall be awarded by the Court on conviction of the offender any by the Criminal Injuries Compensation Board whether or not a conviction has taken place. The board will take into account pain, suffering and shock as well as loss of earnings due to pregnancy as a result of the rape.

Keeping in view the said judgement of the Hon'ble Supreme Court of India, the following points must be kept in mind while implementing the model prosecution scheme:

Role of the panel lawyer appointed to help victim

- (1) explain to the victim the nature of the proceedings; and
- (2) to prepare victim for the case; and
- (3) to assist victim in the police station and in Court
- (4) to provide the victim with guidance as to how victim might obtain help of a different nature from other agencies, for example mind counselling or medical assistance.

Other important points

- (1) The complainants of sexual assault cases should be provided with legal representation. It is important to secure continuity of assistance by ensuring that the same person who looked after the complainant's interests in the police station represent her till the end of the case.
- (2) Legal assistance will have to be provided at the police station since the victim of sexual assault might very well be in a distressed state upon arrival at the police station, the guidance and support of a lawyer at this stage and whilst she was being questioned would be of great assistance to her.
- (3) A list of advocates (on duty as per roster) should be kept at the police station for victims who did not have a particular lawyer in mind or whose own lawyer was unavailable.

Following important instructions may be noted in this regard:

(1) Appointment of lady advocates:

Under the scheme Secretary, District Legal Services Authority will appoint lady advocates, who will be required to visit the Police Stations falling under the jurisdiction of concerned courts allotted to them under the scheme and will give legal assistance to the victims of rape and other crimes against women and children.

All the SHO/In charge of Police Stations in the State of Haryana to do the needful and to co-operate with the lady advocates appointed by the Chief Judicial Magistrates-cum-Secretaries, District Legal Services Authorities in the State of Haryana, in discharge of the aforesaid duty by them. **(Letter No.10681/2009/MS/HSLSA Dated 31.8.2009)**

2. SHO to assist :

All the SHOs/In-charge of Police Stations must be directed to immediately intimate the lady Legal Aid Prosecution Counsel, appointed by the Chief Judicial Magistrate-cum-Secretary, District Legal Services Authority, whenever a woman/child victim of rape or any other offence approaches the police station and to co-operate with the Lady Legal Aid Prosecution Counsels in discharging their duties.

(No.11292-313/2012/MS/HALSA Dated, Chandigarh, the 24.7.2012)

3. Travelling allowances:

The Hon'ble Executive Chairman has approved the Model Scheme for Legal Aid Prosecution Counsel for victim's and other crime against women and children for implementing in all Districts of Haryana. Under the scheme you may appoint lady advocates. They will be required to visit the Police Station falling under the jurisdiction of concerned courts allotted to them under the scheme and will give legal assistance to the victims of rape and other crimes against women and children. They will be paid an amount of Rs.500/- per case for attending Investigations, Remand & Committal Proceedings (if any). They will also be entitled to travelling expenses at the following rates.

Upto 20 kilometers	:	Rs. 100/-
Upto 40 kilometers	:	Rs. 150/-
Upto 60 kilometers	:	Rs. 200/-
Upto 80 kilometers	:	Rs. 250/-

At the stage of trial, if the Secretary, District Legal Services Authority is satisfied that any victim of sexual offence against women and children, needs legal assistance, then Legal Aid Counsel may be provided to her/him and Legal Aid Counsels shall be paid legal fee as per scheduled already fixed by Haryana State Legal Services Authority vide letter No.5015-34/MS/HLSA dated 8.7.2002.

(Letter No.10643-10661/2009/MS/HLSA Dated, Chandigarh, the 31.8.2009)