

UNION TERRITORY CHANDIGARH
Scheme For Legal Aid Prosecution Counsel For
The Victims Of Rape And Other Crimes Against
Girls, Women And Children, 2021

Chandigarh

UNION TERRITORY CHANDIGARH SCHEME FOR LEGAL AID PROSECUTION COUNSEL FOR THE VICTIMS OF RAPE AND OTHER CRIMES AGAINST GIRLS, WOMEN AND CHILDREN, 2021

Article 39 A of the Constitution of India laid foundation of State sponsored Free Legal Services to weaker and vulnerable sections of the society. Thereafter, State Legal Services Authority, UT Chandigarh was constituted under the Legal Services Authorities Act, 1987. As provided under Section 12 of the said Act of 1987, free and competent legal services are to be provided to women, children irrespective of their income.

Women and children are vulnerable sections of society. Victims want decent treatment, quick investigations, speedy and effective trials of the culprits sans the 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 a dire need of additional legal support to provide succor to the victims. This Scheme provides for Legal Aid Prosecution Counsel to the victims of rape and other crimes against girls, women and children, keeping in view the increase of number of incidents of sexual assault and other crimes against women and children in Chandigarh.

Keeping in view the spurt of increase in crimes against women there is necessity for framing a Scheme for Legal Aid Prosecution Counsel for them as sometimes, the victims face difficulty in approaching the Police Stations and report the matter and otherwise also despite tall claims being made by the police authorities, the atmosphere in a police stations is not friendly towards the common people and victims, especially, children, girls and women.

The present scheme is based upon the judgment of the Hon'ble Supreme Court passed in "Delhi Domestic Working Women's Forum versus Union of

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India 1995 (1) R.C.R.(Criminal) 194". In the said judgment, the Hon'ble Supreme Court laid the following broad parameters:-

- (1) *Speedy trial is one of the essential requisites of law. In a case of this character such a trial cannot be frustrated by prolongation of investigation. Therefore, this Court has to spell out the parameters of expeditious conduct and investigation of trial; otherwise the rights guaranteed under Articles 14 and 21 of the Constitution will be meaningless.*
- (2) *The complainants of sexual assault cases should be provided with legal representation. It is important to have someone 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 counseling 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, represents her till the end of the case.*
- (3) *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.*
- (4) *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.*
- (5) *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 on lawyer is unavailable.*
- (6) *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 authorized to act at the Police Station before leave of the Court was sought or obtained.*
- (7) *In all rape trials anonymity of the victim must be maintained, as far as necessary.*
- (8) *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.*
- (9) *Compensation for victims shall be awarded by the court on conviction of the offender and 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.*

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Now, therefore, in order to address the aforesaid issues and concerns and in compliance of the judgment of the Hon'ble Supreme Court of India, the present Scheme to be called as **"Union Territory Chandigarh Scheme For Legal Aid Prosecution Counsel For The Victims Of Rape And Other Crimes Against Girl, Women And Children, 2021"** is hereby contemplated with the approval of the Hon'ble Executive Chairman of State Legal Services Authority, UT Chandigarh for provision of Legal Aid Prosecution Counsel to the victims of rape and other crime against women and children and notified for the Union Territory of Chandigarh.

1. The State Legal Services Authority, Union Territory, Chandigarh, shall prepare a panel/roster of Lady Advocates practicing in the courts at UT Chandigarh and are well acquainted with the criminal justice system, who shall act as Legal Aid Prosecution Counsel and will be required to visit the Police Stations falling under the jurisdiction of concerned court(s) allocated to them under the scheme and shall have to render assistance to the victims of rape and other crimes against girls, women and children as prescribed herein after.
2. The SHO / Incharge of the Police Station in UT Chandigarh under whose jurisdiction a crime against girl, women & child occurs, or is reported shall ensure the compliance of Scheme and to do the needful as requisite on his/her part. The SHO / Incharge of the concerned Police Station shall immediately on the receipt of information or complaint about a crime against girl, women & child, inform about the same to the lady advocate and cooperate with the lady advocate who is on the panel/roster prepared by the State Legal Services Authority, Union Territory Chandigarh in this regard, in discharge of their duties as enshrined in the Scheme. Information in this regard shall also be sent to State Legal Services Authority, Union Territory Chandigarh. The concerned SHO/Incharge shall, thereafter, at the earliest convenient moment, seek the formal leave of the concerned Court regarding appointment of lady advocate for that case.
3. The SHO / Incharge of the Police Station shall be duty bound to inform the victim about their right to get representation by a Legal Aid Prosecution Counsel before any questions are asked from the victim and police report should state that the victim was so informed.

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4. The complainant or the victim of Rape and other crimes against Girls, Women and Children should be provided with legal representation through Legal Aid Prosecution Counsel i.e. Lady Advocate on the panel/roster prepared by the State Legal Services Authority, Union Territory Chandigarh. It is important to secure continuity of assistance by the Legal Aid Prosecution Counsel by ensuring that the same counsel / lady advocate who looked after the complainant's/victim's interest in the police station, represent her till the end of the case i.e. final adjudication of the case by the Court.
5. Legal assistance by Legal Aid Prosecution Counsel will have to be provided at the Police Station itself, 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 Legal Aid Prosecution Counsel at this stage and whilst victim is being questioned by police, would be of great assistance to the victim.
6. The details of Legal Aid Prosecution Counsel appointed under the Scheme and Lady Advocate(s) who are on the panel/roster prepared by the State Legal Services Authority, Union Territory, Chandigarh must be kept at the concerned Police Station for the information of the victims of rape and other crimes against girl, women & child who do not have a particular lawyer/advocate in their mind or whose own lawyer/advocate or Legal Aid Prosecution Counsel appointed under the scheme is unavailable, so as to ensure the aim and objectives of the Scheme for providing legal representation to such victim at all times.
7. Role and duties of the Legal Aid Prosecution Counsel appointed under the Scheme to help the victim shall be as under:--
 - i. To assist the victims of rape and other crimes against the girl, women & child in getting their statement recorded in the police station and in the court;
 - ii. To explain such a victim the nature of the proceedings;
 - iii. To prepare the victim for the trial of the case;
 - iv. To guide the victims as to how they might obtain help of different nature from other agencies for counseling, medical assistance and other benefits and assist the victim in getting the same; and
 - v. To inform and assist the victim about the Victim Compensation Scheme and for grant of interim maintenance by approaching the Court or District Legal Services Authority/State Legal Services Authority, UT Chandigarh, in this regard under the Union Territory of Chandigarh Victim Assistance Scheme, 2012.

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8. The Legal Aid Prosecution Counsel appointed under the Scheme for assistance of victim shall be entitled to remuneration/fee of Rs. 500/- per case along with travelling expenses for attending the Investigations, Remand & Committal Proceedings (if any). The remuneration/fee shall be paid by the State Legal Services Authority, UT, Chandigarh.
9. For conducting trial in the court of a Magistrate, the fee would be pari materia with the pattern of payment to Legal Aid Counsel already in place for the accused in Magistrate's court or Sessions Courts as the case may be to avail facility of Legal Aid Prosecution Counsel.
10. The compliance of the requirements/provisions of Section 12 & 13 of the Legal Services Authorities Act, 1987 would be mandatory.

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