

**RECOMMENDATIONS SUBMITTED BY NGOs ON THE PROPOSED SCHEME FOR RELIEF
AND REHABILITATION OF VICTIMS OF RAPE***

We commend National Commission for Women's initiative to implement the direction of Honorable Supreme Court in Delhi Domestic working Women's Forum Vs. Union of India and Others ¹(Writ Petition (CrI.) No. 362 of 1993) by proposing a scheme for relief and rehabilitation of victims of rape. There is a need to come up with a comprehensive scheme on gender based violence studying the legal developments in other jurisdictions on similar issues.

The following recommendations are in response to the meetings organized by National commission for Women (NCW) on June 19, 2008, July 23, 2009 on the proposed "scheme for relief and rehabilitation of victims of rape". These recommendations consolidate the suggestions made at the two meetings.

Intent, Scope and Form:

1. This should be an Act and not a Scheme.
2. There should be a preamble that links this Act with the state's responsibility to compensate for failure to prevent violence. It should further say that gender based violence is a human rights violation perpetrated on women only because they are women. It should also mention that the compensation is a well recognized Constitutional principle as expanded by jurisprudence of the Supreme Court and by India's acceptance of obligations to prevent, fulfill and protect women's human rights under CEDAW [General Recommendation 19]
3. This scheme/Act should be extended to 'injuries' resulting from gender based crimes, not just rape.
4. The Act/scheme should be autonomous of the criminal justice system, conviction etc, and its focus should be 'injuries' and not the offence; requiring evidence of injuries and loss caused by them.

Operational and Substantive element:

1. The injuries to be compensated should be put as a schedule which can be revised without a law amendment.
2. There should be review of slabs of compensation every 3 years.
3. The injury may not be physical in nature but has to be quantifiable in terms of monetary loss it entails, job loss/ medical care/ re-location/ counseling/ side effects, example psychological and psychosomatic injuries that are linked to the assault.

* The above recommendations were prepared by Partners for Law in Development in 2008, pursuant to the first meeting of MWCD and NCW on June 19, 2008. Some of these recommendations were proposed and discussed at a small consultation at the AIDAWA office on June 23, 2008. These recommendations were circulated by PLD to women's groups by email for wider debate and endorsements, and subsequently submitted to the NCW and the MWCD in 2008. They were again submitted to the NCW on July 25, 2009 at the second meeting called by NCW on the theme – at this stage MARG also endorsed the recommendations. Yet again, on March 7, 2010, at the MWCD's national consultation on Access to Justice, Relief and Rehabilitation of Rape Victims, these were submitted by Vrinda Grover, with 3 more signatories.

¹ (1995)1SCC14

4. There should be a realistic time limit for reporting with specified conditions that justify waiver of limitation
5. Notified third party, such as NGOs, should have the standi to file claim on behalf of victim/ survivor/ heir.
6. Non cooperation of claimant/ false reports can influence the outcome of 'determination of injury' but should not result in penalty to the applicant.

Mechanism:

1. The Act/scheme should create an autonomous structure (although housed and serviced by the District Collector) with dedicated persons available for determination of injury.
2. One member should be from a women's group working on violence against women.
3. A medical personnel should be invited by the Board constituted for expert opinion but not be a member of the Board
4. Board members to be periodically put through orientation programmes on violence against women and human rights/ other relevant areas.
5. State level documentation of cases/ determination should be made mandatory. A yearly review, followed by a periodic 3 yearly review should be built into the structure of operations.
6. Administration supporting the Board should have a data base, including that of lawyers/ counsellors/ shelter homes for referrals. The Board's main function will be determination of injuries, but the administrative support should be equipped with information on all services for referrals. A list of lawyers for women [not legal aid lawyers] and women's groups' should be with them.

The above mentioned recommendations have been submitted and endorsed by (as on March 7, 2010):

1. Partners for Law in Development, New Delhi
2. Vrinda Grover, MARG, New Delhi
3. Geeta Ramaseshan, Advocate, Chennai High Court
4. Farah Naqvi, Writer, New Delhi
5. Geetha Devi M. Papanna, Advocate, Bangalore High Court