

# SCHEDULED CASTES AND SCHEDULED TRIBES

(PREVENTION OF ATROCITIES)

Act, 1989 & Rules, 1995

AS AMENDED IN 2015



## A GUIDE



# CHRI

COMMONWEALTH HUMAN RIGHTS INITIATIVE  
working for the practical realisation of human rights in  
the countries of the Commonwealth

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## **Commonwealth Human Rights Initiative**

55A, Third Floor  
Siddharth Chambers  
Kalu Sarai, New Delhi 110 017  
India

**Tel:** +91 11 4318 0200

**Fax:** +91 11 2686 4688

**E-mail:** [info@humanrightsinitiative.org](mailto:info@humanrightsinitiative.org)



## **CHRI London**

Room No. 219  
School of Advanced Study  
South Block, Senate House  
Malet Street, London WC1E 7HU  
United Kingdom

**Tel:** +44(0) 207 664 4860

**Fax:** +44(0) 207 862 8820

**E-mail:** [london@humanrightsinitiative.org](mailto:london@humanrightsinitiative.org)



## **CHRI Africa, Accra**

House No.9, Samora Machel Street  
Asylum Down, Opposite Beverly Hills Hotel,  
Near Trust Towers, Accra,  
Ghana

**Tel/Fax:** +233 302 971170

**Email:** [chriafrika@humanrightsinitiative.org](mailto:chriafrika@humanrightsinitiative.org)

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Scheduled Castes and Scheduled Tribes  
(Prevention of Atrocities)  
Act, 1989 & Rules, 1995

As amended in 2015

**A GUIDE**

Written by

**Devyani Srivastava**

Edited by:

**Devika Prasad and Sanjoy Hazarika**

**The Commonwealth Human Rights Initiative (CHRI)** is an independent, non-profit, non-partisan, international non-governmental organisation, mandated to ensure the practical realisation of human rights in the countries of the Commonwealth. In 1987, several Commonwealth professional associations founded CHRI, with the conviction that there was little focus on the issues of human rights within the Commonwealth although the organisation provided member countries a shared set of values and legal principles from which to work.

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The European Union is made up of 28 Member States who have decided to gradually link together their know-how, resources and destinies. Together, during a period of enlargement of 50 years, they have built a zone of stability, democracy and sustainable development whilst maintaining cultural diversity, tolerance and individual freedoms. The European Union is committed to sharing its achievements and its values with countries and peoples beyond its borders.





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# OVERVIEW

## 1. What is the POA or the SC/ST Act?

The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, is a special law. It deals with offences specifically committed against members of the Scheduled Castes and the Scheduled Tribes in India - defined as "atrocities". It extends to the whole of India except the state of Jammu and Kashmir (J&K). The law exists to register and prosecute a range of discriminatory actions against caste and tribal identity, provide legal rights to victims, and commit governments to take measures to curb and eventually stop the commission of atrocities.

## 2. When did it come into force?

It was enacted on 11 September 1989 and came into force on 30 January 1990. In 2015, it was amended to expand offences of atrocities and strengthen legal safeguards for victims and witnesses. The amendments came into force on 26 January 2016.

## 3. What are the purposes of the Act?

- ❖ to protect and prevent atrocities against members of Scheduled Castes and Scheduled Tribes;
  - ❖ to establish Special Courts and appoint Special Public Prosecutors for the trial of offences under this law; and
  - ❖ to create rights of victims for relief, rehabilitation, remuneration.

## 4. Who is responsible for implementing the Act- central government or the state government?

Both. As the Act was passed by the Parliament of India and extends throughout India (except J&K), the central government is responsible for reviewing and coordinating

measures taken by state governments to implement its provisions. On 31st March 1995, the central government made the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Rules, 1995, for effective implementation of the Act. These were amended in April 2016. All state governments are obliged to follow these rules. States may take separate measures to carry out the Act's provisions but these cannot undermine the overall objective and features of the central Act and Rules.

## **5. Who are members of the Scheduled Castes and the Scheduled Tribes?**

The Constitution of India recognizes certain castes, races and tribal groups as Scheduled Castes and Scheduled Tribes under Article 341 and 342. With this recognition, special protections are provided to these groups which have been historically marginalized and exploited. This includes special access to educational institutions, employment, and other socio-economic benefits. The list of the Scheduled Castes and the Scheduled Tribes varies state by state, and can be modified by Parliament. This means a group designated as Scheduled Caste or Scheduled Tribe in a particular state may not be designated as such in another state. Sometimes this is the case even between districts within a state.

# OFFENCES OF ATROCITIES

## 6. What are “atrocities”?

Atrocities are a range of acts from insult, physical harm and assault, to blocking use of public spaces and resources, to forced manual or bonded labour, among others. The table below, specifies the full range of atrocities defined in the Act and the punishments they carry.

SECTION	SUBSECTION	TYPE OF OFFENSE	PUNISHMENT	
			MINIMUM	MAXIMUM
		When a non-SC/ST person does any of the following to/against a member of the Scheduled Castes or the Scheduled Tribes:		
		<b>AGAINST A PERSON</b>		
3(1)	(a)	Forces to eat or drink an offensive or indelible substance	6 months	5 years
3(1)	(d)	Garlands with footwear or parades naked/semi naked	6 months	5 years
3(1)	(e)	Forcefully shaves of head or removes moustache or paints face or body or similar acts	6 months	5 years
3(1)	(p)	Subjects to false legal proceedings	6 months	5 years
3(1)	(q)	Gives false information to a public servant in order to injure or annoy	6 months	5 years
3(1)	(r)	Intentionally insults or humiliates in any place within public view	6 months	5 years
3(1)	(s)	Deliberately insults or humiliates by caste name in public view	6 months	5 years
3(1)	(u)	Promotes feeling of enmity, hatred or ill-will through words or signs	6 months	5 years

3(1)	(v)	Disrespects any late person held in high esteem by members of the Scheduled Castes or the Scheduled Tribes	6 months	5 years
3(2)	(i)	Gives false evidence that results in a Scheduled Caste/Scheduled Tribe member getting convicted for an offence punishable with death sentence	Life imprisonment	
		And when conviction based on false evidence leads to execution of an innocent person	Death	
3(2)	(ii)	Gives false evidence that results in a Scheduled Caste/Scheduled Tribe member getting convicted for an offence punishable with seven years or more imprisonment	6 years	7 years or more

### AGAINST LAND/PROPERTY OF A SCHEDULED CASTE/SCHEDULED TRIBE

3(1)	(b) & (c)	Dumps excreta, sewage, carcasses or any obnoxious substance in the premises or neighbourhood of a Scheduled Caste or a Scheduled Tribe	6 months	5 years
3(1)	(f)	Wrongfully occupies or cultivates land belonging to a Scheduled Caste or a Scheduled Tribe	6 months	5 years
3(1)	(g)	Wrongfully deprives a Scheduled Caste or Scheduled Tribe of land including forest rights, water or irrigation facilities	6 months	5 years

### EMPLOYMENT-RELATED OFFENSES

3(1)	(h)	Forces begging or other forms of bonded labour	6 months	5 years
3(1)	(i)	Forces to dig graves or dispose of carcasses	6 months	5 years
3(1)	(j)	Forces a Scheduled Caste/Scheduled Tribe to do manual scavenging	6 months	5 years
3(1)	(z [b])	Causes physical or mental harm on the allegation of practicing witchcraft or being a witch	6 months	5 years

### AGAINST HOUSEHOLDS/SACRED BELONGINGS

3(1)	(t)	Destroys objects including statute, photograph or portrait known to be held in high esteem	6 months	5 years
3(1)	(v)	Disrespects any late person held in high esteem	6 months	5 years

3(2)	(iii)	Damages property by causing fire	6 months	5 years
3(2)	(iv)	Damages by causing fire any homes or place of worship used by Scheduled Castes/Scheduled Tribes	Life imprisonment	

## REGARDING USE OF PUBLIC PLACES AND PUBLIC RESOURCES

3(1)	(x)	Corrupts or fouls any spring, reservoir or any other source of water	6 months	5 years
3(1)	(y)	Denies or obstructs right of passage to a place of public resort	6 months	5 years
3(1)	(z)	Forces to leave house, village or other place of residence	6 months	5 years
3(2)	(z [a])	<p><b>Obstructs or prevents from using common property resources including:</b></p> <ul style="list-style-type: none"> <li>• Burial or cremation ground</li> <li>• River, stream, well</li> <li>• Tank, water-tap, cistern</li> <li>• Road or passage</li> <li>• Bathing ghat</li> <li>• Place of worship</li> <li>• Educational institutions</li> <li>• Hospital or dispensary</li> <li>• Primary health center</li> <li>• Shop</li> <li>• Place of public entertainment</li> <li>• Utensils or articles meant for public use</li> </ul> <p><b>Obstructs or prevents from doing any of the following:</b></p> <ul style="list-style-type: none"> <li>• Mounting or riding bicycles</li> <li>• Wearing footwear or new clothes in public places</li> <li>• Taking out wedding procession trade</li> <li>• Mounting a horse or any other vehicle during wedding procession</li> <li>• Taking out any religious, social, or cultural processions</li> <li>• Practicing any profession</li> <li>• Carrying on any occupation or</li> <li>• Employment in any job</li> </ul>		
3(2)	(z [c])	Imposes or threatens a social or economic boycott of any person or family belonging to a Scheduled Caste/Scheduled Tribe	6 months	5 years

## ELECTORAL OFFENSES

3(1)	(l)	Forces or prevents from voting, or voting for or against a particular candidate, or filing/withdrawing nomination as a candidate	6 months	5 years
3(1)	(m)	Prevents the chairperson or a member or any other office holder of a Panchayat or a Municipality belonging to the Scheduled Caste/Scheduled Tribe from performing normal duties and functions	6 months	5 years

3(1)	(n)	Causes hurt or threatens to impose social or economic boycott after the polls	6 months	5 years
3(1)	(o)	Commits any offence for having voted for/against a particular candidate	6 months	5 years

### SPECIFIC CRIMES AGAINST WOMEN

3(1)	(k)	Performs or promotes devadasi by dedicating a Scheduled Caste or a Scheduled Tribe woman to any religious institution	6 months	5 years
3(1)	(w [i])	Intentionally touches a Scheduled Caste or Scheduled Tribe woman without her consent	6 months	5 years
3(1)	(w [ii])	Uses words or gestures of a sexual nature towards a Scheduled Caste or Scheduled Tribe woman	6 months	5 years

#### 7. Who is a victim of an atrocity under this Act?

Any person who is a member of a Scheduled Caste or a Scheduled Tribe and has suffered humiliation, indignity, abuse, threat, intimidation or harassment including sexual harassment from the range of actions defined as an atrocity above is a victim.

#### 8. Who is an offender under this Act?

Any person who is **not** a member of a Scheduled Caste or a Scheduled Tribe and commits an offence listed in the Act against a member of a Scheduled Caste or Scheduled Tribe is an offender, and is liable to be prosecuted.

#### 9. Can a member of the Scheduled Caste and Scheduled Tribe be charged with an offence under the Act?

No. The Act's provisions lay down that only Scheduled Castes and Scheduled Tribes are victims, while perpetrators are non-SC and ST. This is because the Act addresses offences committed **against** members of the Scheduled Castes and the Scheduled Tribes.

# WHO IS:

## A VICTIM SECTION 2(1)(ec)

A member of a Scheduled caste of Scheduled tribe including his/her relatives, legal guardians and legal heirs- who has experienced harm as a result of the offences mentioned under this act.



## A WITNESS SECTION 2(1)(ed)

Any person who is acquainted with the facts or circumstances or is in possession of any information involving any crime involving an offence under this act.



## A DEPENDENT SECTION 2(1)(bb)

The spouse, children parents and siblings of the victim who depend on him/her for support and maintainance.



Any person who is not a member of a Scheduled Caste or Scheduled Tribe who commits an offence under the Act against a member of a Scheduled Caste or Scheduled Tribe.

## AN OFFENDER SECTION 2(1)(ec)

## 10. Are atrocity offences cognizable?

Yes. This means they are seen as serious and require immediate action by the police, without the need for permission from a Magistrate. The police can register a case, start investigation on its own, and can also make arrests without a warrant.

All offences listed in the POA Act are cognizable

## 11. Can a person also be punished under the Indian Penal Code (IPC)?

Yes, the Act provides for this in the following ways:

- a) Section 3(2)(v) enhances the punishment for offences under the IPC that are punishable with **ten years** or more imprisonment, to **punishment with imprisonment for life**, if committed against a member of the Scheduled Caste and Scheduled Tribe,
- b) However, under Section 3(2)(va), this enhancement of punishment would not apply to the following categories of offences, which are listed in the Schedule provided in the Act. The Schedule is as follows:

Section under the IPC	Name of Offence and Punishment
120A	Definition of criminal conspiracy
120B	Punishment of criminal conspiracy
141	Unlawful assembly
142	Being member of unlawful assembly
143	Punishment for unlawful assembly
144	Joining unlawful assembly with deadly weapon
145	Joining or continuing in unlawful assembly, knowing it has been commanded to disperse

**146** Rioting

**147** Punishment for rioting

**217** Public servant disobeying direction of law with intent to save person from punishment or property from forfeiture

**319** Hurt

**320** Grievous hurt

**323** Punishment for voluntarily causing hurt

**324** Voluntarily causing hurt by dangerous weapons or means

**325** Punishment for voluntarily causing grievous hurt

**326B** Voluntarily throwing or attempting to throw acid

**332** Voluntarily causing hurt to deter public servant from his duty

**341** Punishment for wrongful restraint

**354** Assault or criminal force to woman with intent to outrage her modesty

**345A** Sexual harassment and punishment for sexual harassment

**345B** Assault or use of criminal force to woman with intent to disrobe

**354C** Voyeurism

<b>354D</b>	Stalking
<b>359</b>	Kidnapping
<b>363</b>	Punishment for kidnapping
<b>365</b>	Kidnapping or abducting with intent secretly and wrongfully to confine person
<b>376B</b>	Sexual intercourse by husband upon his wife during separation
<b>376C</b>	Sexual intercourse by a person in authority
<b>447</b>	Punishment for criminal trespass
<b>506</b>	Punishment for criminal intimidation
<b>509</b>	Word, gesture or act intended to insult the modesty of a woman

**12. To prove the case, is it necessary to show that the accused knew that the victim was a member of the Scheduled Castes or Scheduled Tribes?**

As part of the amendments brought in 2015, the Act states that if it is proved in Court that the accused had “personal knowledge of the victim or his family”, the Court will presume that the accused was aware of the caste or tribal identity of the victim. After that, it is up to the accused to prove otherwise.

**13. When an atrocity is committed by a group of persons, is each person liable for punishment to the same degree?**

Under this Act, when an atrocity is committed by a group of persons and it can be proved that the

offence was carried out because of an ongoing dispute related to land or any other matter, between the perpetrator and the victim, the Court will presume that **all perpetrators involved in the offence** **a)** shared a common intention of committing the crime, **or** **b)** acted to achieve the same purpose.

This means that each person that participated in carrying out the offence, whether directly or not, will be liable for punishment in the same manner as if the person was acting alone. Normally, the prosecution has to prove common intention or common object. Under this Act, it is for all those accused to prove in Court that there was no prior plan or intention among them to commit the offence.

**14. Suppose a person gives financial assistance to an accused under this Act, will such a person also be liable for punishment?**

Yes. The Act says that if a person gives financial support to someone accused of committing an atrocity, the Court will presume that such a person “abetted”, or supported, the offence. This means the Court will presume that by providing financial support, the person was complicit with the accused in committing the offence. The responsibility to prove otherwise rests on the accused person.

## 15. Who can report an atrocity?

Anyone who has information that an atrocity has been committed can approach the police to report—the victim of the crime, a witness to the crime, or anyone else with knowledge of the occurrence of the crime. You can report an offence by providing information of the atrocity to the police, which is then legally required to register a First Information Report (FIR).

## 16. What is a First Information Report or an FIR?

An FIR is a written report of the first information of the commission of a cognizable offence, either given by someone to the police or registered by the police themselves, based on knowledge of the alleged crime. It can be given orally or in writing to the police. The police begin their investigation based on the information stated in the FIR. Thus, while giving information to the police, it is important to mention all relevant information as clearly as possible to the police, like:

- ❖ The name and address of the complainant/informant including name of village, tehsil and district.
- ❖ Date, time and location of the incident
- ❖ Details of the incident as it occurred including the manner of the commission of the crime
- ❖ The names and description of the persons involved in the incident
- ❖ The names and details of witnesses
- ❖ Details of property stolen, if any
- ❖ Reasons for delay in reporting of the offence, if any
- ❖ Details of offences made out including relevant IPC and/or special law provisions

Even when a victim or a complainant is unsure of any of the above details, they must still report to the police and it is the duty of the police to take down the information and register an FIR.

Additionally, in the case of an atrocity, it is important to give information in the FIR that mentions the caste/tribe of the victim complainant as well as the caste of all those accused, wherever possible. This will ensure the police registers the case under the POA Act along with relevant provisions under the Indian Penal Code.

## 17. Is there any particular format for registering an FIR?

Yes. Every state has prescribed a particular form for registering the FIR and an FIR is officially registered only when the information is recorded in this form. Note that it is not the obligation of the victim or informant to comply with the prescribed form but only of the police. Every victim is entitled to a free copy of the FIR.

## PROCEDURE FOR REGISTERING AN FIR

### GIVE INFORMATION TO THE POLICE ABOUT THE CRIME

YOU CAN

NARRATE IT

The Police must

WRITE IT DOWN

READ IT TO YOU

GIVE IT IN WRITING

SIGN THE DOCUMENT  
ONCE YOU AGREE TO WHAT  
IS RECORDED

MAKE SURE THE POLICE GIVE YOU A  
COPY OF THE OFFICIAL FORMAT,  
FREE OF COST

### IF YOU ARE A FEMALE VICTIM OF A SEXUAL OFFENCE

- ❖ A female police officer must record your information
- ❖ Information given by a disabled female victim must be recorded at her residence, where she is comfortable and in the presence of an interpreter.
- ❖ Recording of the information must be videographed.

## 18. Are there special provisions laid down for women victims of crime in registering an FIR?

Yes. The Code of Criminal Procedure, 1973, the central law governing **all criminal proceedings** in India, lays down special procedures which the police have to follow while registering FIR in cases of sexual offences including rape, assault, sexual harassment, voyeurism, stalking, and throwing acid. If the victim herself comes to the police station to register the complaint, her FIR must be recorded by a woman police officer or any other woman officer. If the victim is mentally or physically disabled (even temporarily), the FIR must be recorded at her residence or location of her choice in the presence of an interpreter/special educator, and it must be videographed. When a woman belonging to the Scheduled Castes or the Scheduled Tribes reports any of these sexual offences, the police are duty bound to follow these procedures in addition to the provisions of the POA Act.

**FIR of a woman victim of sexual offences must be recorded by a woman police officer**

## 19. What if I cannot write my complaint?

If you are not able to write your complaint yourself, you can ask a friend or someone you trust to write it for you. Under the Act, it is also the duty of the police to help you by writing down your complaint as you narrate what you know. The police officer should read the written version back to you for your approval without changing the information given by you, and only after that do you have to sign the complaint.

## 20. Is filing an FIR necessary for complaints under the Act?

Yes. Since all offences listed under the Act are cognizable offences, the police must register an FIR. Refusal to register an FIR is now punishable with up to one year imprisonment under Section 4 of this Act.

**FIR must be registered under the POA Act**

## 21. Can the police hold a preliminary inquiry before registering FIR under this Act?

In cognizable offences, it is necessary for the police to register an FIR immediately on receiving information about the commission of a crime under Section 154 of the CrPC. A preliminary inquiry

before registering FIR is allowed only for **a very limited category of cases** which include matrimonial disputes, commercial offences, medical negligence cases, corruption cases, or cases where there seems to be unreasonable delay in reporting [(2014) 2 SCC 1]. Even in these instances, the police have been allowed some discretion for holding a preliminary inquiry **only when** the information they receive does not clearly indicate a cognizable offence. In all other cases, the police **do not** have the powers to hold any preliminary inquiry to “assess whether the complaint seems true” and register FIR only if they are satisfied with the information under this Act. Any attempt by the police officer to dissuade a complainant from registering, pressurize them to reach a settlement, simply refuse to register, or register it as a non-cognizable offence, is against the law. A police officer can be punished for this.

[On 20 March 2018, the Supreme Court of India passed a judgment in *Dr Subhash Kashinath Mahajan versus the State of Maharashtra and ANR* allowing preliminary inquiry by the DSP before registering a complaint under the POA Act. As of printing, the Government of India had filed a review petition challenging the Court's order.]

## 22. Do you need any special documents to register an FIR under the Act?

In order to register a complaint under the POA Act, the police need to know that the complainant belongs to the Scheduled Castes or the Scheduled Tribes. At the time of registration, it is important to specify your caste and produce a copy of your caste certificate. If you don't have your caste certificate, the police are still duty bound to register your FIR, and once a case is registered, they should help in arranging the caste certificate. This may delay investigation, so it is best you produce your certificate during registration itself.

It is important to specify caste of the victim as well as the accused in the FIR

## 23. Can an FIR be filed at any police station?

Yes, **an FIR can be filed at any police station**. No police officer can refuse to register an FIR in case a

cognizable offence has been committed, even if the offence being reported has occurred outside the jurisdiction of that particular police station. In such a case, it is their duty to register it as a Zero FIR and forward it to the concerned police station.

**An FIR can be filed at any police station**

#### 24. What can you do if the police refuse to register your complaint?

There are several steps you can take if the police refuse to register your complaint:

❖ Send information about the crime to the Deputy Superintendent of Police in charge of your sub-division as well as to the Superintendent of Police in charge of your district.	They may either investigate the case themselves or order an investigation.
❖ File an FIR under Section 4 of the POA Act for negligence of public duty.	If found guilty, the concerned officer can get punished up to one year imprisonment.
❖ File a complaint with the nearest Magistrate court	This may then order a police investigation.
❖ Make a complaint to the State Human Rights Commission and/or the National Human Rights Commission.	Upon inquiry into the complaint, the Commission can recommend the concerned government to provide compensation to the victim and his/her family, to register a case against the concerned police officer for negligence of duty, and/or provide immediate interim relief to the victim and his/her family.
❖ Make a complaint to the State/National Commission for Scheduled Caste and/or the State/National Commission for Scheduled Tribe	

**NON-REGISTRATION OF AN FIR IS AN OFFENCE UNDER SECTION 4, POA ACT. THE POLICE CAN BE PUNISHED UP TO ONE YEAR PRISON TERM.**

As a female victim of a sexual offence, you can also file an FIR against the concerned police officer under [Section 166A\(c\)](#) of the Indian Penal Code.

As a minor (below 18 years) victim of sexual assault, you can file an FIR against the concerned police officer under [Section 21\(1\)](#) of POCSO Act, 2012, where the officer, if found guilty, can get punished up to 6 months in prison along with a fine.

**25.Can the police also be punished for not writing *all the relevant sections* of the POA Act while registering your case?**

Yes. Section 4 of this Act makes it a duty of the police not only to register an FIR immediately, but to register it under the accurate Sections that describe all the alleged atrocities that took place. This is very important because different atrocities have different punishments, as well as relief amounts due to the victim and his/her family. It is the police's responsibility to ensure all the relevant Sections of the Act are included. Take the assistance of a lawyer or NGO if you are not sure or need help.

////////////////////  
**YOUR RIGHTS DURING  
REGISTRATION**  
////////////////////

To have your complaint  
**REGISTERED AS AN FIR**

To mention all relevant sections of the  
**POA ACT IN THE FIR**

To receive a copy of the FIR  
**FREE OF COST**

To be informed of your  
**LEGAL RIGHTS**

To have the proceeding  
**VIDEO-RECORDED**

# INVESTIGATION

## **26. How much time does the police have to complete investigation?**

The investigating officers have to give an explanation in writing (this is to their seniors as well as to the Court) when they are unable to complete their investigation within this period. Laying down a timeline for completing investigation helps to check arbitrary and unnecessary delays and allows supervisory officers to take action against delinquent officers where need be.

**Once the FIR is registered, the Act requires the police to complete investigation within 60 days**

## **27. What rank of officers are responsible for conducting investigation under this Act?**

Investigation of atrocity offences is to be done by a police officer not below the rank of Deputy Superintendent of Police (DSP) as per Rule 7, POA Rules, 1995. These are mid-level supervisory officers who oversee the work of a group of police stations, or a subdivision within a district, and report directly to the district Superintendent of Police. Their rank is above that of a Station House Officer in charge of a police station. The main idea behind this rule was that more senior officers can ensure unbiased and rigorous police investigation. Note that some states, like Bihar and Madhya Pradesh, have extended the power to investigate atrocity cases to all investigating ranks namely the Inspector, Sub-Inspector and Assistant Sub-Inspector of police.

## **28. What happens when the police finish investigating a case?**

Once investigation is completed, the police either file a closure report or a chargesheet before the Court, under Section 173, CrPC. A closure report is one where the police either find that the FIR registered is false and that no offence as alleged in the complaint took place, or that an offence has taken place but the evidence is not enough to prosecute the accused persons. At this stage, the victim has a right to oppose the closure before the Court and ask for further investigation

A chargesheet is filed when the police investigation confirms that an offence has taken place and there is enough evidence to prosecute the accused persons. The chargesheet puts together all the evidence collected by the police, whether documentary or statements of victims and witnesses, details of persons arrested and whether released on bail, medical examination report in cases of sexual offences.

### **29. What can you do if you receive threats once your case has been registered?**

1. File an application at the Special Court requesting that the names and addresses of witnesses not be disclosed in any order or judgment.
2. File a complaint at the Special Court of any harassment, including from a public servant, and request for protection. The Court will hear your complaint separately from the main case and take a decision within two months. When your complaint is against a public servant, the Court can pass an order directing that the concerned public servant interacts with the victim, informant or witness only with the permission of the Court.

### **30. Can an accused under the Act obtain anticipatory bail?**

No. Normally, anticipatory bail can be sought by a person who fears his/her arrest because there is an FIR against them for having committed an offence. Such person can approach the Court under Section 438, CrPC, for an order allowing to be released on bail if arrested. However, under this Act, the right of an accused to seek anticipatory bail has been taken away.

[On 20 March 2018, the Supreme Court of India passed a judgment in *Dr Subhash Kashinath Mahajan versus the State of Maharashtra and ANR* allowing anticipatory bail in cases under the POA Act where no prima facie case is made out or where on judicial scrutiny the case is found to be false. As of printing, the Government of India had filed a review petition challenging the Court's order.]

////////////////////  
**YOUR RIGHTS DURING  
INVESTIGATION**  
////////////////////

**TO RECEIVE TRAVELING ALLOWANCE**  
for an attendant  
(in case of a female victim or witness)



**TO RECEIVE TRAVELING ALLOWANCE FOR**  
visits to the IO, DySP and/or the SP



To receive daily + maintenance allowance  
**WITHIN THREE DAYS**



**TO RECEIVE IMMEDIATE RELIEF**  
in respect of death or injury or damage  
to property



**TO RECEIVE REGULAR UPDATES**  
on status of investigation and chargesheet



**TO BE INFORMED IN ADVANCE**  
about the dates and place of investigation



To receive copy of the chargesheet  
**FREE OF COST**



**TO RECEIVE LEGAL AID**



To seek assistance from  
**NON-GOVERNMENT ORGANIZATIONS,  
SOCIAL WORKERS OR ADVOCATES**



### **31. What is a Special/Exclusive Special Court?**

It is the responsibility of the state government to set up an Exclusive Special Court in districts that record a high number of atrocity cases, and designate a Court of Session as a Special Court in districts with less cases. The state government requires the approval of the Chief Justice of the High Court in deciding about the Special Courts. In both cases, the Court can directly take cognizance of offences under the Act.

All offences under the Act are required to be tried in a Special Court at the district level

### **32. Who is a Special Public Prosecutor/Exclusive Public Prosecutor?**

A Special Public Prosecutor is a lawyer appointed by the state government who fights the case against the accused in the Special Court. Similarly, an Exclusive Public Prosecutor is appointed for fighting cases in the Exclusive Special Court. Senior advocates having more than seven years of experience as an advocate are also eligible for appointment for a term of three years, if desired by the victims or if deemed necessary by the Special Court. Note that the victim always has the right to have his/her own lawyer assist the SPP in prosecuting the case against the accused.

### **33. Can a victim suggest a lawyer of their own choice to represent them in the Special Court?**

Yes. The Act allows the victim to approach the District Magistrate or the Sub-Divisional Magistrate to have a lawyer of their own choice assist the Special Public Prosecutor in their case.

### **34. How much time can the Court take for completing the trial?**

The Special Court or the Exclusive Special Court have an obligation to complete the trial within a period of 60 days. They are required to hold proceedings continually every day until all witnesses have been

Special Courts must complete trial within 60 days

examined, and in the case of adjournment beyond the following day, must record their reasons in writing.

### 35. What are the duties of the Special or Exclusive Special Court?

❖ to provide the victim reasonable, accurate and timely notice of any court proceeding related to their case;

❖ to provide the victim complete protection, traveling and maintenance expenses, relocation and socio-economic rehabilitation during investigation, inquiry and trial;

❖ to periodically review the protection being offered by the state and pass appropriate orders;

❖ to consider putting the property of an accused on hold during the trial period, and in case of conviction, order the property to be forfeited to the state government.

### 36. Can the accused be released on bail upon arrest?

Once arrested, **only the Special Court or the Exclusive Special Court, or a superior Court, can release an accused on bail.** All offences under the Act are non-bailable offences, which means only the Court can grant bail. Bail proceedings must be held with the participation of the victim and his/her lawyer. It is the duty of the Court and the State Government to inform the victim of bail proceedings well in time and make sure the victim's concerns are heard before taking a decision.

### 37. Can an order granting bail be challenged?

Yes. A victim can file an appeal before the High Court challenging the order of the Special Court or the Exclusive Special Court granting bail to an accused. Additionally, under established law, if an accused, after release on bail, attempts to influence the witnesses, tamper with the evidence or violates any bail condition, the victim/state can ask for his bail to be cancelled.



# YOUR RIGHTS DURING TRIAL



To receive  
**ACCURATE AND TIMELY NOTICE**  
of all Court's proceedings



To be heard in all proceedings including  
**BAIL, DISCHARGE, RELEASE,  
PAROLE, CONVICTION OR SENTENCE  
OF AN ACCUSED**



To receive  
**TRAVELING AND MAINTENANCE**  
expenses during trial



To receive  
**SOCIAL-ECONOMIC REHABILITATION**  
during trial



**TO RECEIVE PROTECTION**  
in case of any harassment



# APPEAL

## **38. Can an appeal be filed against the judgments and orders of the Special Court or the Exclusive Special Court?**

Yes. Appeals can be filed at the High Court challenging any judgment, sentence or order passed by the Special Court or the Exclusive Special Court on facts and on law.

## **39. By when must an appeal be filed?**

Appeals should be filed within 90 days of the date of judgment, sentence or order which is being appealed against. The High Court may admit appeals between 90 and 180 days if it is satisfied that the appellant had sufficient cause for not filing it within the 90-day period.

## **40. What is the time limit for deciding appeals?**

The High Court has to take a decision on any appeal filed under this Act within 90 days from the date of admission of the appeal.

#### 41. What is an identified area?

The state government has an obligation to identify areas where it believes members of the Scheduled Castes and the Scheduled Tribes are likely to be subjected to atrocities and take a series of steps to prevent atrocities and ensure safety of all persons.

#### 42. What happens once an area has been declared as an identified area?

- ❖ Review of the law and order situation in the identified area by the District Magistrate and the Superintendent of Police;
- ❖ Cancellation of the arms licenses of persons not belonging to the Scheduled Castes and the Scheduled Tribes;
- ❖ Seizure of all illegal firearms and prohibition of all illegal manufacture of fire-arms;
- ❖ Providing arms licenses to the members of the Scheduled Castes and the Scheduled Tribes;
  - ❖ Deployment of special police force in the identified area.

#### 43. What is Externment?

Externment refers to the power of the Special Court to direct a person, who the police or any complainant suspects may commit an offence under this Act, to leave a particular area for a maximum period of three years. Such a person will have to obey the order and whatever conditions the Court lays down and will be allowed to reenter only with the permission of the Court. The main idea of this provision is to prevent an atrocity and ensure safety of those fearful of being targeted. Only the Court also has the right to revoke or modify the order. But the Court can exercise this power only in either a Scheduled Area referred to in Article 244 of the Constitution or an identified area as notified by the state government. It does not extend to the whole state.

#### **44. What can the Court do if the person fails to comply with its orders?**

If any person fails to comply with the Court's order to remove themselves from a particular area, or enters the area within the period specified, the Court may order the person to be arrested and kept in police custody outside such area.

#### 45. What is a Spot Inspection?

A spot inspection is an immediate examination of the place(s) where atrocities have been committed. It is required to be done by the district administration. Officers including the District Magistrate, the Sub-Divisional Magistrate, the Superintendent of Police, and the Deputy Superintendent of Police are to do the inspection to assess the extent of loss. After inspecting, the officers must work together to ensure the following:

DISTRICT MAGISTRATE	SUPERINTENDENT OF POLICE
<b>Draw a list of victims, their family members and dependents who are entitled for relief</b>	<b>Ensure an FIR is registered</b>
	<b>Appoint an investigating officer</b>
<b>Provide relief in cash or in kind or both within seven days to the victims of atrocity</b>	<b>Deploy sufficient police force in the area</b>
	<b>Provide protection to the witnesses and other sympathizers of the victim</b>

**BOTH ARE REQUIRED TO PREPARE A REPORT ON THE EXTENT OF DAMAGE, LOSS OF LIFE AND PROPERTY, AND THE RELIEF AND REHABILITATION FACILITIES PROVIDED TO THE VICTIMS AND FORWARD TO THE STATE GOVERNMENT AS WELL AS THE SPECIAL COURT OR THE EXCLUSIVE SPECIAL COURT.**

# RELIEF AND REHABILITATION

## 46. Does the Act offer compensatory relief to victims of atrocity offences?

Yes. Relief support to victims is available in different ways under the Act:

### a) Immediate Relief (within 7 days):

When an atrocity takes place, the district administration is responsible for providing immediate relief, in cash or kind or both, to the victims after assessing the extent of loss of life, property as well as injury. Such immediate relief is to include food, water, clothing, shelter, medical aid, transport facilities and other essential items, and must be given within 7 days of the incident. The monetary relief varies for different offences and payment to the victim is done in stages, starting from the time of registration of the FIR, then at the chargesheet stage, and finally, at the time of conviction. The relief amount is laid down in the Act and is as follows:

SL. NO	TYPE OF OFFENCE	MINIMUM AMOUNT OF RELIEF
1	Putting any inedible or obnoxious substance or any other obnoxious substance	<b>Rs.1,00,000/- to the victim.</b> <b>Payment to the victim to be made as follows:</b> (i) 10% at FIR stage for serial numbers (2) and (3) and 25% at FIR stage for serial numbers (1), (4) and (5) (ii) 50% when the charge-sheet is sent to court (iii) 40% when the accused are convicted by the lower court for serial numbers (2) and (3) and 25% for serial numbers (1), (4) and (5)
2	Dumping excreta, sewage, carcasses with intent to cause injury, insult or annoyance	
3	Garlanding with footwear or parading naked or semi-naked	
4	Forcibly committing acts such as removing clothes, forcible tonsuring of head, removing moustaches, painting face or body.	

SL. NO

TYPE OF OFFENCE

MINIMUM AMOUNT OF RELIEF

5 Wrongful occupation or cultivation of land

6 Wrongful dispossession of land or premises including forest rights

7 Beggary or other forms of forced or bonded labour

8 Compelling to dispose or carry human or animal carcasses, or to dig graves

9 Making a member of the Scheduled Castes or the Scheduled Tribes to do manual scavenging or employing him for such purpos

10 Performing, or promoting dedication of a Scheduled Caste or a Scheduled Tribewoman as a devadasi

11 Prevention from voting, filing nomination

12 Forcing, intimidating or obstructing a holder of office of Panchayat or Municipality from performing duties

13 After poll violence and imposition of social and economic boycott

14 Committing any offence under this Act for having voted or not having voted for a particular candidate

Rs.1,00,000/- to the victim.

The land or premises or water supply or irrigation facility shall be restored where necessary at Government cost by the concerned State Government or Union territory Administration.

Payment to the victim will be made as follows:

- (i) 25% at FIR stage
- (ii) 50% when the charge sheet is sent to the court
- (iii) 25% when the accused are convicted by the lower court

Rs.85,000/- to the victim.

Payment to be made as follows:

- (i) 25% at FIR stage;
- (ii) 50% when the charge sheet is sent to the court
- (iii) 25% when the accused are convicted by the lower court

## SL. NO

## TYPE OF OFFENCE

## MINIMUM AMOUNT OF RELIEF

15	Instituting false, malicious or vexatious legal proceedings	<p>Rs.85,000/- to the victim or reimbursement of actual legal expenses and damages, whichever is less.</p> <p>Payment to be made as follows:</p> <p>(i) 25% at the FIR stage</p> <p>(ii) 50% when the charge sheet is sent to court;</p> <p>(iii) 25% when the accused are convicted by the lower court.</p>
16	Giving false and frivolous information to a public servant	<p>Rs.1,00,000/- to the victim or reimbursement of actual legal expenses and damages, whichever is less.</p> <p>Payment to be made as follows:</p> <p>(i) 25% at the FIR stage</p> <p>(ii) 50% when the charge sheet is sent to court;</p> <p>(iii) 25% when the accused are convicted by the lower court.</p>
17	Intentional insult or intimidation to humiliate in any place within public view	
18	Abusing by caste name in any place within public view	
19	Destroying, damaging or defiling any object held sacred or in high esteem	<p>Rs.1,00,000/- to the victim.</p> <p>Payment to the victim to be made as follows:</p> <p>(i) 25% at the FIR stage</p> <p>(ii) 50% when the charge-sheet is sent to court</p> <p>(iii) 25% when the accused are convicted by the lower court.</p>
20	Promoting feelings of enmity, hatred or ill-will	
21	Disrespecting by words or any other means of any late person held in high esteem	

SL. NO

TYPE OF OFFENCE

MINIMUM AMOUNT OF RELIEF

22	Intentionally touching a Scheduled Caste or a Scheduled Tribe woman without consent , using acts or gestures, as an act of sexual nature	Rs.2,00,000/- to the victim. Payment to be made as follows: (i) 25% at the FIR stage (ii) 50% when the charge sheet is sent to court; (iii) 25% when the accused are convicted by the lower court.
23	Section 326B, IPC. Voluntarily throwing or attempting to throw acid	(a) Rs.8,25,000/- to the victim with burns exceeding and 2% and above burns on face or in case of functional impairment of eye, ear, nose and mouth and or burn injury on body exceeding 30%; (b) Rs.4,15,000/- to the victim with burns between 10% and 30% on the body; (c) Rs.85,000/- to the victim with burns less than 10% on the body other than on face. In addition, the State Government or Union territory Administration shall take full responsibility for the treatment of the victim of acid attack.  The payment in terms of items (a) to (c) are to be made as follows: (i) 50% at FIR stage (ii) 50%after receipt of medical report.
24	Section 354, IPC. Assault or criminal force to woman with intent to outrage her modesty.	
25	Section 354A, IPC. Sexual harassment and punishment for sexual harassment.	Rs.2,00,000/- to the victim. Payment to be made as follows: (i) 25% at the FIR stage (ii) 50% when the charge sheet is sent to court (iii) 25% on conclusion of trial by the lower court.
26	Section 354B, IPC. Assault or use of criminal force to woman with intent to disrobe	

SL. NO	TYPE OF OFFENCE	MINIMUM AMOUNT OF RELIEF
27	Section 354B, IPC. Voyeurism	Rs.2,00,000/- to the victim.  Payment to be made as follows: (i) 10% at the FIR stage (ii) 50% when the charge sheet is sent to court (iii) 40% when the accused are convicted by the lower court.
28	Section 354D, IPC. Stalking	Rs.2,00,000/- to the victim.  Payment to be made as follows: (i) 50% at the FIR stage (ii) 25% when the charge sheet is sent to court (iii) 25% when the accused are convicted by the lower court.
29	Section 376B, IPC. Sexual intercourse by husband upon his wife during separation	Rs.4,00,000/- to the victim.  Payment to be made as follows: (i) 50% at the FIR stage (ii) 25% when the charge sheet is sent to court (iii) 25% on conclusion of trial by the lower court
30	Section 376C, IPC. Sexual intercourse by a person in authority	Rs.2,00,000/- to the victim.  Payment to be made as follows: (i) 25% at the FIR stage (ii) 50% when the charge sheet is sent to court (iii) 25% when the accused are convicted by the lower court.
31	Section 509, IPC. Word, gesture or act intended to insult the modesty of a woman	Full cost of restoration of normal facility, including cleaning when the water is fouled, to be borne by the concerned State Government or Union territory Administration. In addition, an amount of Rs.8,25,000/- shall be deposited with the District Magistrate for creating community assets of the nature to be decided by the District Authority in consultation with the Local Body.
32	Fouling or corrupting of water	

33

Denial of customary right of passage to a place of public resort or obstruction from using or accessing public resort

Rs.4,25,000/- to the victim and cost of restoration of right of passage by the concerned State Government or Union Territory Administration.

Payment to be made as follows:

- (i) 25% at the FIR stage
- (ii) 50% when the charge sheet is sent to court
- (iii) 25% when the accused are convicted by the lower court.

34

Forcing or causing to leave house, village, residence desert place of residence

Restoration of the site or right to stay in house, village or other place of residence by the concerned State Government or Union territory Administration and relief of Rs.1,00,000/- to the victim and reconstruction of the house at Government cost, if destroyed.

Payment to be made as follows:

- (i) 25% at the FIR stage
- (ii) 50% when the charge sheet is sent to court
- (iii) 25% when the accused are convicted by the lower court.

35

Obstructing or preventing a member of a Scheduled Caste or a Scheduled Tribe in any manner with regard to—

- a using common property resources of an area, or burial or cremation ground equally with others or using any river, stream, spring, well, tank, cistern, water-tap or other watering place, or any bathing ghat, any public conveyance, any road, or passage

Restoration of the right using common property resources of an area, or burial or cremation ground equally with others or using any river, stream, spring, well, tank, cistern, water-tap or other watering place, or any bathing ghat, any public conveyance, any road, or passage equally with others, by the concerned State Government or Union Territory Administration and relief of Rs.1,00,000/- to the victim.

## SL. NO

## TYPE OF OFFENCE

## MINIMUM AMOUNT OF RELIEF

- |          |  |   |
|----------|--|---|
| <b>b</b> | mounting or riding bicycles or motor cycles or wearing footwear or new clothes in public places or taking out wedding procession, or mounting a horse or any other vehicle during wedding processions                                      | <b>Restoration of the right of mounting or riding bicycles or motor cycles or wearing footwear or new clothes in public places or taking out wedding procession, or mounting a horse or any other vehicle during wedding processions, equally with others by the concerned State Government or Union territory Administration and relief of Rs.1,00,000/- to the victim.</b>  |
| <b>c</b> | entering any place of worship which is open to the public or other persons professing the same religion or taking part in, or taking out, any religious, social or cultural processions including jatras                                   | <b>Restoration of the right of entering any place of worship which is open to the public or other persons professing the same religion or taking part in, or taking out any religious procession or jatras, as is open to the public or other persons professing the same religion, social or cultural processions including jatras, equally with other persons, by the concerned State Government or Union territory Administration and relief of Rs.1,00,000/- to the victim.</b> |
| <b>d</b> | Entering any educational institution, hospital, dispensary, primary health centre, shop or place of public entertainment or any other public place; or using any utensils or articles meant for public use in any place open to the public | <b>Restoration of the right of entering any educational institution, hospital, dispensary, primary health centre, shop or place of public entertainment or any other public place; or using any utensils or articles meant for public use in any place open to the public, equally with other persons by the concerned State Government or Union territory Administration and relief of Rs.1,00,000/- to the victim.</b>  |
| <b>e</b> | Practicing any profession or the carrying on of any occupation, trade or business or employment in any job which other members of the public, or any section thereof, have a right to use or have access to                                | <b>Restoration of the right of practicing any profession or the carrying on of any occupation, trade or business or employment in any job which other members of the public, or any section thereof, have a right to use or have access to, by the concerned State Government/Union territory Administration and relief of one lakh rupees to the victim.</b>   |

## SL. NO

## TYPE OF OFFENCE

## MINIMUM AMOUNT OF RELIEF

Payment in all of the above cases shall be made as follows:

- (i) 25% at the FIR stage
- (ii) 50% when the charge sheet is sent to court
- (iii) 25% when the accused are convicted by the lower court.

- 36** Causing physical harm or mental agony on the allegation of being a witch or practicing witchcraft or being a witch.

Rs.1,00,000/- to the victim and also commensurate with the indignity, insult, injury and defamation suffered by the victim.

Payment to be made as follows:

- (i) 25% at the FIR stage
- (ii) 50% when the charge sheet is sent to court
- (iii) 25% when the accused are convicted by the lower court.

- 37** Imposing or threatening a social or economic boycott.

Restoration of provision of all economic and social services equally with other persons, by the concerned State Government or Union territory Administration and relief of Rs.1,00,000/- to the victim.

To be paid in full when charge sheet is sent to the lower court.

- 38** Giving or fabricating false evidence.

Rs.4,15,000/- to the victim.

Payment to be made as follows:

- (i) 25% at the FIR stage
- (ii) 50% when the charge sheet is sent to court
- (iii) 25% when the accused are convicted by the lower court.

- 39** Committing offences under the IPC punishable with imprisonment for a term of ten years or more.

Rs.4,00,000/- to the victim and or his dependents. The amount would vary, if specifically otherwise provided in this Schedule.

Payment to be made as follows:

- (i) 25% at the FIR stage
- (ii) 50% when the charge sheet is sent to court
- (iii) 25% when the accused are convicted by the lower court.

## SL. NO

## TYPE OF OFFENCE

## MINIMUM AMOUNT OF RELIEF

40

Committing offences under the IPC specified in the Schedule to the Act punishable with such punishment as specified under the Indian Penal Code for such offences.

Rs.2,00,000/- to the victim and or his dependents. The amount would vary if specifically otherwise provided in this Schedule.

Payment to be made as follows:

- (i) 25% at the FIR stage
- (ii) 50% when the charge sheet is sent to court
- (iii) 25% when the accused are convicted by the lower court.

41

Victimisation at the hands of a public servant.

Rs.2,00,000/- to the victim and or his dependents.

Payment to be made as follows:

- (i) 25% at the FIR stage
- (ii) 50% when the charge sheet is sent to court
- (iii) 25% when the accused are convicted by the lower court.

42

Disability.

a

100% incapacitation

Rs 8,25,000/- to the victim

b

where incapacitation is less than 100% but more than 50%

Rs.4,50,000/- to the victim

c

c. where incapacitation is less than 50%

Rs 2,50,000/- to the victim

Payment to be made as follows:

- (i) 50% after medical examination and confirmatory medical report;
- (ii) 50% when the charge sheet is sent to the court.

43

Rape or Gang rape.

a

Rape

Rs. 5,00,000/- to the victim

b

Gang rape

Rs. 8,25,000/- to the victim

Payment to be made as follows:

- (i) 50% after medical examination and confirmatory medical report;
- (ii) 25% when the charge sheet is sent to the court;
- (iii) 25% on conclusion of trial by the lower court.

**44** Murder or Death.

Rs. 8,25,000/- to the victim.

Payment to be made as follows:

- (i) 50% after post mortem report;
- (ii) 50% when the charge sheet is sent to the court.

**45** Additional relief to victims of murder, death, massacre, rape, gang rape, permanent incapacitation and dacoity.

In addition to relief amounts paid under above items, relief may be arranged within three months of date of atrocity as follows:-

- (i) Basic Pension to the widow or other dependents of deceased persons belonging to a Scheduled Caste or a Scheduled Tribe amounting to Rs.5000/month, as applicable to a Government servant of the concerned State Government or Union territory Administration, with admissible dearness allowance and employment to one member of the family of the deceased, and provision of agricultural land, an house, if necessary by outright purchase;
- (ii) Full cost of the education up to graduation level and maintenance of the children of the victims. Children may be admitted to Ashram schools or residential schools, fully funded by the Government;
- (iii) Provision of utensils, rice, wheat, dals, pulses, etc., for a period of three months.

**46** Complete destruction or burnt houses.

Brick or stone masonry house to be constructed or provided at Government cost where it has been burnt or destroyed.

## b) Traveling allowance, daily allowance and maintenance expenses

(within 3 days): To assist every victim of atrocity and witnesses to participate effectively in investigation, hearing and trial, this Act offers a range of allowance as follows:

TYPE OF ALLOWANCE	DETAILS OF ALLOWANCE	CONCERNED AUTHORITY	TIME PERIOD
<b>Travel allowance</b>	<p><b>Includes:</b> To and fro rail fare by second class or Actual bus or taxi fare</p> <p><b>Given to:</b> Victim or dependents, and Witnesses, and Attendants</p> <p><b>Given for:</b> Travel to the place of investigation Visiting the Superintendent of Police Visiting the Deputy Superintendent of Police Visiting the District Magistrate or any other Executive Magistrate Visiting the hospital Visiting the Special Court Any other officer concerned All these travel expenses are to be separately reimbursed by the district administration.</p> <p><b>Special conditions:</b> Every woman victim, woman witness, a minor, elderly citizen (above 60 years) and person with 40 per cent disability is entitled to be accompanied by an attendant whose travel expenses will also be covered as per the above details.</p>	<b>District Magistrate or Sub-Divisional Magistrate or any other Executive Magistrate</b>	<b>Within 3 days</b>
<b>Daily maintenance allowance</b>	<p><b>Includes:</b> Daily allowance not less than the minimum wage fixed by the state government</p> <p>(Contd)</p>	<b>District Magistrate or Sub-Divisional Magistrate or any other Executive Magistrate</b>	<b>Within 3 days</b>

TYPE OF ALLOWANCE	DETAILS OF ALLOWANCE	CONCERNED AUTHORITY	TIME PERIOD
<p><b>Daily maintenance allowance</b></p>	<p><b>Given to:</b> Victim or dependents, and Witnesses, and Attendants</p> <p><b>Given for:</b> All the days the person is away from place of residence during investigation, hearing and trial</p>	<p>District Magistrate or Sub-Divisional Magistrate or any other Executive Magistrate</p>	<p>Within 3 days</p>
<p><b>Diet expenses</b></p>	<p><b>Includes</b> Daily diet expenses at rates fixed by the state government</p> <p><b>Given to:</b> Victim or dependents, and Witnesses, and Attendants</p>	<p>District Magistrate or Sub-Divisional Magistrate or any other Executive Magistrate</p>	<p>Within 3 days</p>
<p><b>Medical expenses</b></p>	<p><b>Includes:</b> Payment of medicines Medical consultation Blood transfusion Replacement of essential clothing</p>	<p>District Magistrate or Sub-Divisional Magistrate or any other Executive Magistrate</p>	<p>Immediately</p>

#### 47. What can you do if you don't receive the relief amount?

In case you don't receive any relief amount or receive only part of the amount or in case of any delay, you can approach the Special Court or the Exclusive Special Court of your district. The Court will look into the matter and, if satisfied with your complaint, it can order for full or part thereof payment of relief or any other kind of assistance due to you.

# MONITORING MECHANISMS

## 48. What is a Vigilance and Monitoring Committee?

The Act requires state governments to set up Vigilance and Monitoring Committees at three levels - state, district and sub-division. These committees work to make sure that the Act is properly implemented, and that different officials fulfil their mandate effectively so that victims and witnesses can avail their rights, receive timely relief, and get justice. The composition and specific mandate of each of these committees is as follows:

MINIMUM AMOUNT OF RELIEF	TYPE OF OFFENCE	FREQUENCY TO MEET
<p><b>State-level vigilance and monitoring committee</b></p>	<p><b>Convenor:</b> Secretary in-charge to the welfare and development of the Scheduled Castes and Scheduled Tribes.</p> <p><b>Members:</b> Chief minister or administrator- Chairman (in case of a state under president's rule, the governor shall be the chairman)</p> <p>Home Minister, Finance Minister and Minister(s) responsible for the development of the scheduled Castes and scheduled Tribes (in case of a state under the President's rule, the advisors shall be Members);</p> <p>All elected Members of Parliament and State legislative assembly and legislative council belonging to the Scheduled Caste and Scheduled Tribes;</p> <p>Chief Secretary, Home Secretary, the Director-General of Police, Director/Deputy director, the National commission for the scheduled castes and the National commission for the Scheduled Tribes;</p>	<p><b>At least twice in a calendar year, in the month of January and in the month of July.</b></p>

## MINIMUM AMOUNT OF RELIEF

## TYPE OF OFFENCE

## FREQUENCY TO MEET

### District-level vigilance and monitoring committee

Elected members of Parliament and State legislative assembly and Legislative council

Superintendent of Police

Three group 'A' officer/ Gazetted officers to the state government belonging to the scheduled caste and scheduled tribes

A maximum of 5 non-official members belonging to the scheduled castes and scheduled tribes and

a maximum of 3 members who are associated with NGOs and not belonging to the scheduled castes and scheduled tribes

District magistrate and district social welfare officer shall be chairman and member-secretary respectively.

At least once in 3 months.

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### Sub-divisional level vigilance and monitoring committee

The sub-divisional magistrate shall be the chairperson

Member of state legislative assembly and Legislative council from the sub-division, elected members of Panchayati Raj Institutions belonging to the scheduled caste and scheduled tribes

Deputy Superintendent of the Police

Tehsildar

Block Development officer shall be the member secretary

Not more than 2 non official members belonging to scheduled caste and scheduled tribes

not more than 2 members from categories other than scheduled castes and scheduled tribes having association with NGOs.

At least twice in a calendar year, in the month of January and in the month of July.

#### 49. Who is a Nodal officer?

The Nodal Officer is an officer of the rank of Secretary who is appointed by the state government to oversee the implementation of the Act and coordinate the functioning of different authorities including the district police and the district magistrates. In appointing the Nodal Officer, it is the duty of governments to give preference to persons belonging to the Scheduled Castes or the Scheduled Tribes.

#### 50. What are the duties of the Nodal Officer?

The Nodal Officer is responsible for reviewing:

- ❖ Reports received by state governments;
- ❖ Status of the cases registered under the Act;
- ❖ Law and order situation in the identified area;
- ❖ Adequacy of the immediate facilities like rationing, clothing, shelter, legal aid, travelling allowance, daily allowance and transport facilities provided to the victims of the atrocities;
  - ❖ Measures adopted to provide immediate relief, cash or kind, to the victims of the atrocities;
- ❖ Performance of various committees and the public servants responsible for implementing the provisions of the Act; and
  - ❖ Implementation of the rights of the victims and the witnesses, guaranteed under the act.

#### 51. Who is a Special Officer?

The Special Officer is an officer of the rank of Additional District Magistrate appointed by the state government to coordinate the functioning of different state authorities in an identified area.

## 52. What are the duties of a Special Officer?

Special Officers function only in identified areas.

Their responsibilities include:

- ❖ To provide immediate relief and other facilities to victims;
- ❖ To take preventive measures to avoid an atrocity from taking place;
- ❖ To spread awareness about rights and remedies among the Scheduled Castes and the Scheduled Tribes;
  - ❖ To coordinate with, and support, non-government organizations in organising workshops;
- ❖ To work to implement rights of victims and witnesses in identified areas.

# ANNEXE 1

## Timeline of a case under the act



List of main duties of various government functionaries

	STATE AUTHORITIES	MAIN DUTIES
POLICE	Officer-in-charge of police station/ Station House Officer (SHO)	<b>Registration [Rule 5]</b> Register FIR immediately Register FIR under all appropriate provisions Get FIR signed by the complainant Provide copy of FIR free of cost
	Deputy Superintendent of Police (DSP)	<b>Investigation [Rule 7]</b> Record statements of victims and witnesses Complete investigation and file charge-sheet within 60 days Submit report to the SP Explain any delay in writing  <b>Where atrocity has occurred [Rule 6]</b> Conduct spot inspection Draw list of victims and dependents Order intensive police patrolling in the area Provide protection to witnesses Provide relief to victims Prepare detailed report on extent of atrocity, loss and damage to property of victims
	Superintendent of Police (SP)	<b>Receive complaints regarding non-registration and direct police station in charge to register</b>
	Police headquarters	Closely monitor and review police performance under the Act; take action against officers for any negligence;

	STATE AUTHORITIES	MAIN DUTIES
ADMINISTRATION	<p><b>ADMINISTRATION</b>  <b>District Magistrate/  Sub-divisional/  magistrate</b></p>	<p><b>Preventive action [Section 17, POA Act]</b>  declare atrocity-prone areas for maintaining order and peace</p> <p><b>Monitoring [Rule 4]</b>  Review performance of SPP twice, in January and July, every year (together with Director, Prosecution)  Review position of cases registered under the Act  Review implementation of the rights of victims and witnesses  Submit monthly report to Director of Prosecution and the state government</p> <p><b>Regarding trial</b>  Engage Senior Advocate of victim's choice for conducting cases in the Special Court/ Exclusive Special Court</p> <p><b>Where atrocity has occurred [Rule 6]</b>  Conduct spot inspection  Draw list of victims and dependents  Order intensive police patrolling in the area  Provide protection to witnesses  Provide relief to victims  Prepare detailed report on extent of atrocity, loss and damage to property of victims</p> <p><b>Relief</b>  Provide transport facilities or reimbursement, daily allowance, maintenance allowance to victims/dependents/witnesses  Reimburse medical expenses of victims  Provide relief in cash or kind to victims  Submit report on relief and rehabilitation to the Special Court</p>

	STATE AUTHORITIES	MAIN DUTIES
ADMINISTRATION	<b>Nodal Officer (Secretary rank)</b>	<b>[Rule 9]</b> Coordinate functioning of the District Magistrate and Superintendent of Police Review position of cases, law and order situation, and implementation of measures for providing relief and other facilities to victims of atrocity
	<b>Special Officer (ADM rank)</b>	<b>[Rule 10]</b> Coordinate with the DM, SP and other officers to provide immediate relief and other facilities to the victims of atrocity
PROSECUTION	<b>Director of Prosecution</b>	<b>Monitoring [Rule 4]</b> Review performance of SPP twice, in January and July, every year (together with the DM)
	<b>Special Public Prosecutor (SPP)</b>	<b>Send complete and timely notice of all court proceedings to the victim</b>
JUDICIARY	<b>Special Court/ Exclusive Special Court</b>	<b>Trial [Section 14]</b> Hold daily hearings in a case Record reason for adjourning to next day in writing Complete trial within 2 months from filing chargesheet  <b>Allowance to the victim [Section 15A]</b> Provide traveling and maintenance expenses during investigation, inquiry and trial  <b>Protection [Section 15A]</b> Pass orders to provide protection to victims/

	STATE AUTHORITIES	MAIN DUTIES
JUDICIARY	Special Court/ Exclusive Special Court	<p>dependents/witnesses</p> <p>Review protection offered by the state</p> <p>Conceal names and addresses of witnesses in its order or judgment</p> <p><b>Externment: Section 10</b></p> <p>Issue externment orders</p>
	High Court	<p><b>Appeal [Section 14-A]</b></p> <p>Decide appeals filed against Special Court orders and judgment</p> <p>Decide appeals within 3 months from date of admission</p>
GOVERNMENTS	State Governments	<p><b>Section 9</b></p> <p>Confer powers of arrest, investigation and prosecution to any officer of state government in any district or parts of district</p> <p><b>Rules 3, 4, 8, 9, 13,14,15, 16, 17, 18</b></p> <p>Declare identified areas and order district authorities to take all measures to prevent an atrocity from taking place</p> <p>Set up monitoring committees at the state, district and divisional levels</p> <p>Organize legal awareness workshops</p> <p>Prepare a panel of eminent senior advocates and a separate panel of Special Public Prosecutors</p> <p>Set up a SC and ST Protection cell at the police headquarter</p> <p>Nominate a Secretary-level officer as nodal officer</p> <p>Appoint Special Officers at district level</p> <p>Ensure adequate representation of SC and ST at all levels of administration and the police</p>

	STATE AUTHORITIES	MAIN DUTIES
GOVERNMENTS		<p>Make necessary provisions in the budget for providing relief and rehabilitation to victims of atrocities</p> <p>Develop and implement a Contingency Plan for effective implementation of the Act</p> <p>Submit annual report to the central government</p>
	<b>Central government</b>	<p>Submit annual report on implementation of the Act</p> <p>Make rules for implementation of the Act</p>

# CHRI PROGRAMMES



CHRI believes that the Commonwealth and its member countries must be held to high standards and functional mechanisms for accountability and participation. This is essential if human rights, genuine democracy and development are to become a reality in people's lives. CHRI furthers this belief through strategic initiatives and advocacy on human rights, access to justice and access to information. It does so through research, publications, workshops, information dissemination and advocacy. It has three principal programmes:

## 1. Access to Justice

**Police Reforms:** In too many countries the police are seen as an oppressive instrument of state rather than as protectors of citizens' rights, leading to widespread rights violations and denial of justice. CHRI promotes systemic reform so that the police act as upholders of the rule of law rather than as instruments of the current regime. In India, CHRI's programme aims at mobilising public support for police reform. In South Asia, CHRI works to strengthen civil society engagement on police reforms. In East Africa and Ghana, CHRI is examining police accountability issues and political interference.

**Prison Reforms:** CHRI's work is focused on increasing transparency of a traditionally closed system and exposing malpractices. A major area is focussed on highlighting failures of the legal system that result in terrible overcrowding and unconscionably long pre-trial detention and prison overstay, and engaging in interventions to ease this. Another area of concentration is aimed at reviving the prison oversight systems that have completely failed. We believe that attention to these areas will bring improvements to the administration of prisons as well as have a knock-on effect on the administration of justice overall.

## 2. Access to Information

CHRI is acknowledged as one of the main organisations working to promote Access to Information across the Commonwealth. It encourages countries to pass and implement

effective Right to Information laws. It routinely assists in the development of legislation and has been particularly successful in promoting Right to Information laws and practices in India, Srilanka, Afghanistan, Bangladesh and Ghana. In the later CHRI's is the Secretariat for the RTI civil society coalition. CHRI regularly critiques new legislation and intervenes to bring best practices into governments and civil society knowledge both at a time when laws are being drafted and when they are first being implemented. Its experience of working in hostile environments as well as culturally varied jurisdictions allows CHRI to bring valuable insights into countries seeking to evolve and implement new laws on right to information. In Ghana, for instance it has been promoting knowledge about the value of Access to Information which is guaranteed by law while at the same time pushing for introduction of an effective and progressive law.

### 3. International Advocacy and Programming

CHRI monitors commonwealth member states' compliance with human rights obligations and advocates around human rights exigencies where such obligations are breached. CHRI strategically engages with regional and international bodies including the Commonwealth Ministerial Action Group, the UN and the African Commission for Human and People's Rights. Ongoing strategic initiatives include: advocating for and monitoring the Commonwealth's reform; reviewing Commonwealth countries' human rights promises at the UN Human Rights Council, the Universal Periodic Review; advocating for the protection of human rights defenders and civil society space; and monitoring the performance of National Human Rights Institutions in the Commonwealth while advocating for their strengthening.

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5/5, Shanti Niketan, New Delhi - 110021

Tel: +91 11 66781919

Fax: +91 11 66781955

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**CHRI**

COMMONWEALTH HUMAN RIGHTS INITIATIVE  
working for the practical realisation of human rights in  
the countries of the Commonwealth

**Commonwealth Human Rights Initiative**

55A, Third Floor, Siddharth Chambers, Kalu Sarai, New Delhi 110 017, India

Tel: +91 11 4318 0200 / Fax: +91 11 2686 4688 / E-mail: [info@humanrightsinitiative.org](mailto:info@humanrightsinitiative.org)

[www.humanrightsinitiative.org](http://www.humanrightsinitiative.org)