

SC/ST Prevention of Atrocities Act — Supporting Survivors Through the Justice System

The law is strong in intention and structurally compromised in practice. Working with this reality — not pretending the justice system functions well while helping survivors navigate it as it actually is — is the NGO's most honest and most useful posture.

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What the Act Provides: Key Sections NGO Staff Must Know

The SC/ST (Prevention of Atrocities) Act 1989, as amended in 2015 and 2018, defines specific atrocities against SC/ST members and provides criminal penalties. NGO staff do not need to memorise all sections, but they must know the most frequently relevant ones.

Section 3(1) — Specific Atrocities: The Act criminalises a specific list of acts when committed by a non-SC/ST person against an SC/ST person. Key provisions:

- Forcing a member of SC/ST to drink inedible substances, to parade naked, or to do manual scavenging — Section 3(1)(a)-(c)
- Wrongfully occupying or cultivating land belonging to an SC/ST person — Section 3(1)(f)
- Compelling an SC/ST person to leave their village or residence — Section 3(1)(x)

- Using words or acts to humiliate an SC/ST person — Section 3(1)(xi) (*Note: The 2024 Dashrath Sahu ruling requires that this be committed with the intention that the victim belongs to SC/ST — a narrowing that civil society organisations are contesting*)
- Sexual violence against SC/ST women — Sections 3(1)(n)-(p)
- Social or economic boycott of SC/ST persons — Section 3(2)(ta)

Section 4 — Wilful Neglect by Public Servants: A government servant who refuses to register an FIR or who fails to perform their duty under the Act can themselves be prosecuted under Section 4. This is the provision that holds police accountable for FIR registration refusal — and it is the provision that transforms a police officer's refusal from a practical obstacle into a legal violation that can be pursued.

Section 15A — Rights of Victims and Witnesses: Added by the 2015 amendment. Victims and witnesses are entitled to: the assistance of a government-appointed lawyer; travel allowances; dietary and maintenance expenses during trial; protection from intimidation; and access to all documents relating to the case. These are entitlements, not discretionary benefits.

Section 17 — Exclusive Special Courts: The Act mandates Special Courts for exclusive trial of PoA Act cases, with cases to be disposed of within two months of filing charges. In practice, as noted above, most districts lack exclusive Special Courts and pendency is enormous. Where Special Courts exist, NGOs should ensure survivors' cases are registered in Special Courts, not in sessions courts handling general matters.

Section 21A — Relief and Rehabilitation: The state government must provide relief and rehabilitation to victims of atrocities. The Rules under the Act specify detailed compensation amounts — from ₹25,000 for minor injuries to ₹8.25 lakh for cases of gang rape — payable to victims as relief, not as contingent on conviction. This relief is unconditional: it must be paid once an atrocity is established, regardless of the eventual outcome of criminal proceedings.

The 2018 Amendment's most important provision: Section 18A, added in 2018, explicitly removes: the requirement for a preliminary inquiry before registering an FIR; the need for prior approval before arresting an accused; and the possibility of anticipatory bail for accused persons. This was enacted in response to a Supreme Court judgment that had temporarily weakened these provisions — the 2018 Amendment Parliament passed specifically to restore the Act's strength. Police officers who cite the earlier Supreme Court ruling to delay arrest or require preliminary inquiry are citing overturned law.

The FIR Problem: Most Critical and Most Fixable

Systematic documentation of PoA Act implementation — including the NCDHR report and multiple academic evaluations — identifies FIR registration as the single largest barrier to justice for atrocity survivors. The specific failure: in 43.6% of registered cases, police do not include the correct PoA Act sections in the FIR, meaning the case proceeds as an ordinary IPC matter without the Act's enhanced protections and mandatory compensation provisions.

This is both a police knowledge failure and a police incentive failure. Officers who register crimes under the PoA Act are perceived internally as increasing their jurisdiction's "atrocity crime rate," which is unfavourable in performance assessments. The systemic pressure is toward under-registration, misclassification, and discouragement of complainants.

What NGO accompaniment during FIR registration achieves:

An NGO staff member who accompanies a survivor to the police station — and who knows the relevant PoA Act sections, knows that Section 18A removes preliminary inquiry requirements, and knows that Section 4 makes FIR refusal a punishable offence — changes the dynamic of the FIR registration interaction in documented ways.

The officer knows that the case will be scrutinised. The survivor knows they have support. The probability that the correct sections are included in the FIR, and that the FIR is registered rather than a non-cognisable complaint note taken, is significantly higher with an informed advocate present than without.

What to do if FIR registration is refused:

1. Ask the officer to state in writing why the FIR is not being registered. Most officers will not do this — the refusal to write down the refusal is itself revealing.
 2. Send the complaint in writing to the station by registered post. The police station is legally required to acknowledge receipt of a written complaint and must investigate. The dated postal receipt is documentary evidence of the complaint.
 3. File the complaint directly to the Magistrate under Section 156(3) of the BNSS (formerly CrPC). The Magistrate can direct the police to register the FIR and investigate.
 4. Escalate to the SC/ST Protection Cell at district level — every state is required to have one. Odisha's protection cell can direct local police to register FIRs.
 5. Document the refusal incident as a potential Section 4 wilful neglect violation — the officer who refused can be prosecuted.
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Supporting Survivors Through the Investigation and Trial

Witness protection is critical — and neglected. The most documented cause of acquittal in PoA Act cases is witness hostility — survivors and witnesses who recant or refuse to testify because of pressure, threats, or economic coercion from the accused or their community. The 2015 amendment explicitly provides for witness protection, but implementation is minimal.

What NGOs can do for witness protection:

- Maintain regular contact with survivor and witnesses throughout the trial period — which may be years
- Document any threats or pressure experienced by the survivor or witnesses in writing, and report these to the Special Court and the SC/ST Protection Cell
- Help survivors access the government-provided lawyer (Section 15A) and ensure that lawyer is genuinely engaged with the case, not nominal
- Inform survivors of their right to request in-camera proceedings (private trials) in sexual violence cases under the PoA Act
- For cases involving serious risk to physical safety: connect with the HRLN or NCDHR for legal support and, where necessary, safe relocation assistance

The investigation quality problem: Police investigations in PoA Act cases are frequently inadequate — witness statements not properly recorded, evidence not collected, medical examinations delayed, key sections of the Act not included in the charge sheet. An NGO that reviews the charge sheet (which the government lawyer should share with the survivor) for completeness — specifically, whether all relevant PoA Act sections are charged, whether the investigation covered all documented aspects of the atrocity — can identify gaps before the case goes to trial.

The Special Court relationship: If your district has a Special Court or an exclusive sessions court for PoA Act matters, build a relationship with the Special Public Prosecutor (SPP) — the government lawyer designated for PoA Act cases. The SPP's quality and engagement are major determinants of case outcomes. An SPP who is informed about the case, has access to all documents, and is prepared for hearings performs better than one who encounters the case details for the first time at the hearing.

The Relief and Compensation Process: Separate from the Criminal Case

Under PoA Act Rules, the District Collector (or designated relief officer) must provide relief and rehabilitation compensation to atrocity victims. This is a civil administrative process, entirely separate from the criminal case, and does not require a conviction or even a completed investigation.

The key provision many survivors don't know: The District Relief Officer must provide interim relief within seven days of the FIR being registered. Final relief must be provided within three months.

The amounts under the latest schedule:

- Physical violence: ₹25,000–1 lakh depending on severity
- Murder: ₹15 lakh (₹8.25 lakh to be paid immediately)
- Gang rape: ₹8.25 lakh
- Sexual assault: ₹2–4 lakh
- Wrongful dispossession from land: value of land

How to apply: The surviving victim submits an application to the District Collector/DCPO along with the FIR copy and medical report (where applicable). No court judgment is required.

The follow-up role for NGOs: Most survivors do not know this relief exists; most District Collector offices do not proactively inform them. An NGO that systematically helps survivors apply for PoA Act relief — within the Act's mandated timelines — is doing something specific, verifiable, and immediately material to survivor wellbeing.

Documentation as Advocacy: The NCDHR Model

The National Campaign on Dalit Human Rights (NCDHR) has, over twenty years, developed the most systematic approach to PoA Act monitoring in India: the Dalit Atrocity Relief and Monitoring System (DARMS), through which civil society

organisations submit case data on a standardised format that allows pattern analysis across districts and states.

For NGOs in Odisha working in communities where caste violence occurs, submitting case data to NCDHR's monitoring system produces benefits that go beyond individual case support: it contributes to the aggregate evidence base that enables policy advocacy on PoA Act implementation at the state and national level, and it creates a documented record that the Odisha government cannot disavow.

How to participate: Contact NCDHR (ncdhr.org.in) to register as a monitoring partner. The case format is standardised and can be completed by field staff with basic documentation of what occurred, when, what police action was taken, and what the current status is.

The 2024 Judicial Narrowing: What NGOs Need to Know

Two significant 2024 court rulings have narrowed the Act's reach:

Dashrath Sahu vs State of Chhattisgarh (2024): The Supreme Court ruled that for the offence of outraging the modesty of an SC/ST woman under Section 3(1)(xi), the prosecution must prove that the accused acted with the specific intention that the victim belonged to the SC/ST category — a caste-specific mens rea that Parliament did not include in the section's text. Civil society organisations including NCDHR have been critical of this ruling.

Bhawana Gupta vs State of Punjab (2024): The Punjab and Haryana High Court ruled that caste-based verbal abuse was insufficient to attract the PoA Act without establishing caste-specific intent.

Practical impact for NGOs: These rulings mean that cases involving verbal abuse or sexual violence where the caste-specific intent cannot be clearly established will face harder prosecution. Documentation of any statement by the accused that references

the victim's caste — any verbal indication that the attack was motivated by caste — is more important than ever. When supporting FIR registration in these cases, ensure that the investigating officer records any such statements from witnesses and the survivor.

Related Knowledge Commons content: Social Justice & Tribal Welfare Sector Primer (Sector 03) · Practice Note: Mining Displacement in Odisha — where mining violence may involve PoA Act violations · Practice Note: GBV Survivors — Connecting Them to the Support They Are Entitled To

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