

PESA Act — 40 Traps

Panchayats (Extension to Scheduled Areas) Act, 1996

High-value traps for Scheduled Areas & tribal self-rule

The Legend IAS



Understanding PESA: Traps 1-10

Trap 1

✗ **PESA** applies to all **states**.

✓ Applies only to **Scheduled Areas** under the **Fifth Schedule** (States with such areas).

Trap 2

✗ **PESA** automatically overrides Part IX (**73rd Amendment**).

✓ **PESA** extends and modifies Part IX for **Scheduled Areas**—it supplements with special provisions; **state laws** must conform.

Trap 3

✗ **PESA** is a Union **law** that fully replaces **state law** in **Scheduled Areas**.

✓ It requires **states** to amend/align their **laws**; many **PESA** provisions need **state action** to be effective.

Trap 4

✗ **Gram Sabha** under **PESA** is ceremonial.

✓ **Gram Sabha** is the primary decision-making body for many matters (resource use, local **governance**).

Trap 5

✗ **PESA** only repeats Panchayati Raj features.

✓ **PESA** recognises **tribal customary rights**, control over resources, and community **consent** — distinct features.

Trap 6

✗ **PESA** gives **Gram Sabha** power to alienate **tribal land**.

✓ It seeks to prevent **alienation of tribal land** and protect **customary tenure**.

Trap 7

✗ **PESA** allows **state governments** to bypass **Gram Sabha** for development projects.

✓ **PESA** mandates **consultation/consent** of **Gram Sabha** for projects affecting land, resources, livelihoods.

Trap 8

✗ **PESA** vests all resource control in **Gram Panchayats**.

✓ It grants decision-making & regulatory roles on **minor resources**; major minerals often remain under State/Centre control.

Trap 9

✗ **PESA** nullifies **tribal customary law**.

✓ It recognises and protects **customary law** and **institutions**, subject to **Constitutional limits**.

Trap 10

✗ **PESA** applies automatically; no need for **state laws**.

✓ **States** must enact/amend **laws** to fully implement **PESA** provisions.

Resource Control & Forest Rights: Traps 11-20

Trap 11

✗ **PESA** empowers **Gram Sabha** to manage forests as if it were FRA.

✓ **PESA** gives **Gram Sabha** roles over **minor forest produce** & local management, but FRA (2006) separately addresses community **forest rights**.

Trap 12

✗ **PESA** allows sale of **minor forest produce** without restriction.

✓ It seeks community control and regulation to protect **tribal** interests.

Trap 13

✗ **PESA** makes **traditional bodies** irrelevant.

✓ It incorporates **traditional tribal institutions** into local governance frameworks.

Trap 14

✗ **PESA** overrides the **Fifth Schedule** protections.

✓ It was enacted to strengthen **Fifth Schedule** protections, not overturn them.

Trap 15

✗ **PESA** is a complete substitute for **PESA rules** in all **states**.

✓ **PESA** is a framework; **state** specific rules must be notified for implementation.

Trap 16

✗ **Gram Sabha** powers under **PESA** are limited to meetings.

✓ Powers include approval of plans, control over local resources, and dispute resolution in some **states**.

Trap 17

✗ **PESA** requires no **consultation** before mining/leasing in **Scheduled Areas**.

✓ It requires due **consultation** with **Gram Sabhas/tribal communities** for projects affecting land and resources.

Trap 18

✗ **PESA** prevents all kinds of development in **Scheduled Areas**.

✓ It seeks participatory development — development with **tribal consent** and protection of **rights**.

Trap 19

✗ **PESA** uniformly implemented across **tribal areas**.

✓ Implementation varies widely; many **states** lag behind.

Trap 20

✗ **PESA** makes **state laws** redundant.

✓ **State legislation** must be harmonised with **PESA**; local **state rules** remain crucial.

Governance & Powers: Traps 21-30

Trap 21

✗ **Local bodies** in **PESA areas** have full taxation powers.

✓ **PESA** allows empowerment but taxation powers depend on **state laws**.

Trap 22

✗ **PESA** removes role of **Governor** in **Scheduled Areas**.

✓ **Governor** and **Fifth Schedule** powers remain; **PESA** operates within that structure.

Trap 23

✗ **PESA** gives **Gram Sabhas** power to veto **central laws**.

✓ They have **consultative** & recommendatory roles, not absolute veto over Parliament.

Trap 24

✗ **PESA** ended the **colonial land tenure protections** for **tribals**.

✓ It strengthened protection against **land alienation** and exploitation.

Trap 25

✗ **PESA** is identical to **73rd Amendment**; nothing special.

✓ **PESA** is specialised for **tribal areas** with distinct rights and safeguards.

Trap 26

✗ **PESA** guarantees immediate transfer of all **functionaries** to local control.

✓ **Functionaries** remain largely state-controlled unless states devolve them.

Trap 27

✗ **PESA** is only about **politics**; not **culture** or **custom**.

✓ It explicitly protects **custom**, **cultural practices**, and **customary dispute resolution**.

Trap 28

✗ **PESA** ensures **universal literacy & education** in **Scheduled Areas**.

✓ It promotes local control over **education**, but delivery depends on state action/resources.

Trap 29

✗ **Tribal women** have no special protection under **PESA**.

✓ **PESA's** focus on community rights supports **gender-sensitive local governance** — implementation varies.

Trap 30

✗ **PESA** disallows **state interference** in community decisions.

✓ State can frame **laws** consistent with **PESA**; **judicial review** ensures legality.

Land Rights & Development: Traps 31-40

Trap 31

✗ **PESA** only protects forests; not minerals.

✓ **PESA** emphasises control over local natural resources, but major mineral policy often outside local control.

Trap 32

✗ **PESA** makes **Gram Sabha** a final authority on land titles.

✓ It recognises **customary rights**; formal title systems may still require **state procedures**.

Trap 33

✗ **PESA** abolished the role of development agencies in **tribal** areas.

✓ Agencies continue but must coordinate with **Gram Sabhas** and respect **PESA** safeguards.

Trap 34

✗ **PESA** is self-executing and needs no follow-up schemes.

✓ Effective implementation requires **state rules**, capacity building, and administrative reforms.

Trap 35

✗ **PESA** has strong enforcement machinery built into the Act.

✓ Enforcement mechanisms are weak unless states create supporting institutions.

Trap 36

✗ **PESA** prevents modern infrastructure in **Scheduled Areas**.

✓ It seeks sustainable and culturally sensitive infrastructure, not blanket prohibition.

Trap 37

✗ **PESA** demands uniform **Gram Sabha** powers across states.

✓ Central Act sets norms; states decide details and operational rules.

Trap 38

✗ **PESA** replaced **Fifth Schedule** entirely.

✓ It works alongside **Fifth Schedule** to strengthen **tribal** self-rule.

Trap 39

✗ **PESA** was intended to be urbanised into ULBs.

✓ **PESA** specifically targets rural **Scheduled Areas**; ULBs fall outside its scope.

Trap 40

✗ **PESA** is merely symbolic with no policy significance.

✓ **PESA** is a landmark legal framework for **tribal** governance; its policy effect depends on implementation but it is legally significant.

Key Takeaways

The **PESA** Act represents a landmark framework for **tribal** self-governance that extends beyond the **73rd Amendment** to provide special protections and powers for **Scheduled Areas**.

Critical Understanding Points

- **PESA** supplements, not replaces, existing constitutional provisions
- **Gram Sabha** holds primary decision-making authority in many matters
- **State** implementation is crucial for effectiveness
- **Traditional institutions** are incorporated, not eliminated

Common Misconceptions

- **PESA** is not universally applicable across all **states**
- It doesn't provide absolute veto powers to **Gram Sabhas**
- Implementation varies significantly across **states**
- Enforcement mechanisms require **state** support

Remember: **PESA** is a framework that requires active **state** participation and proper implementation to achieve its objectives of strengthening **tribal** self-rule and protecting **customary rights** in **Scheduled Areas**.