

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**.