

PESA Implementation — What Gram Sabhas Can Actually Do

PESA — the Panchayats (Extension to Scheduled Areas) Act 1996 — extends the constitutional framework of panchayati raj to India's Fifth Schedule tribal areas with critical modifications that give gram sabhas powers that gram sabhas in non-tribal areas do not hold.

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B practice-note Social Justice & Tribal Welfare

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The Act applies to ten states with Fifth Schedule areas: Andhra Pradesh, Telangana, Chhattisgarh, Gujarat, Himachal Pradesh, Jharkhand, Madhya Pradesh, Maharashtra, Odisha, and Rajasthan. In Odisha, PESA applies across the tribal-dominated districts — the same districts where JaBaSu's partner NGOs predominantly work.

The gram sabha powers that PESA grants:

Over natural resources:

- Ownership rights over Minor Forest Produce (MFP) — PESA gram sabhas own the MFP in their territory, not the Forest Department
- Control over water bodies — gram sabhas manage and regulate fisheries and water resources
- Control over land — before any land is acquired or transferred within a Scheduled Area, the gram sabha must be consulted
- Sand and minor minerals — gram sabhas must be a checkpoint for approvals, a power that in Chhattisgarh's Surguja district has demonstrably increased transparency and village bargaining power in quarrying decisions

Over development:

- Any development plan, any project, any programme in the Scheduled Area must be recommended by the gram sabha before implementation. This is not advisory — it is mandatory prior consultation.
- Gram sabhas must approve the utilisation of money from any fund for tribal development
- Any mining lease or acquisition of land for development in a Scheduled Area requires prior gram sabha consent

Over social regulation:

- Gram sabhas have the power to regulate the sale or consumption of intoxicants. In September 2024, Chainpur Gram Sabha in Chhattisgarh's Ambikapur area voted to ban liquor and tobacco in public places — this is an explicit use of PESA's intoxicant-regulation power
- Gram sabhas have the power to regulate money lending to prevent exploitation of tribal communities
- Gram sabhas manage social sector institutions in their area, including oversight of ASHA, AWW, and school functioning

Over governance:

- Every village in a Scheduled Area must constitute its own gram sabha — not just the revenue village, but each habitation
- Gram sabhas have powers that higher-level panchayats cannot override or usurp
- State legislatures hold only an advisory role with respect to how PESA gram sabhas exercise their powers

This is extraordinary constitutional authority. Most tribal communities in Odisha do not know they hold it.

The Implementation Gap: Why PESA Has Not Been Used

Thirty years of under-implementation have specific, documented causes that must be understood before designing facilitation programmes.

Awareness deficit at every level. Not only do tribal communities not know their PESA rights — many government officials, including sarpanches, block development officers, and even some district collectors, do not know the full scope of PESA's provisions. When an NGO facilitates a gram sabha meeting where community members begin to exercise their PESA authority, they are sometimes met with genuine surprise from officials who believed the gram sabha's role was advisory.

State law subordination. PESA requires that state laws be brought in line with its provisions. In several states, state laws governing land acquisition, mining, and forest management were not amended after PESA's passage, creating legal conflicts that effectively nullified PESA's protections in practice. Odisha has enacted PESA rules, but the quality of state law alignment varies across domains.

Administrative resistance. Line departments — Forest Department, Revenue Department, Mining Department — have institutional interests in maintaining their existing authority over the resources and decisions that PESA transfers to gram sabhas. Bureaucratic resistance to gram

sabha authority is documented across all PESA states. Officials who face gram sabhas asserting their right to approve or reject a project frequently find procedural grounds to delay, dilute, or ignore the gram sabha's position.

Weak gram sabha governance. Gram sabhas that rarely meet, have no functioning secretary keeping records, and have no institutional memory of previous decisions cannot effectively exercise the authority PESA grants them. PESA power flows to gram sabhas that function; it sits on paper for those that don't.

Political capture. In some PVTG areas, traditional leaders whose authority predates formal governance have complex relationships with elected panchayat structures. In others, dominant community members use the gram sabha as a platform for personal influence rather than community decision-making. The legal institution is only as good as the community governance within it.

What Has Changed in 2024: New Facilitation Opportunities

The Ministry of Panchayati Raj held a National Conference on PESA in September 2024, at which it launched the **PESA Gram Panchayat Development Plan (GPDP) Portal** — a digital platform enabling hamlet- and village-wise resource planning in PESA gram panchayats. This is a significant infrastructure development: it gives gram sabhas a formal channel to articulate their development priorities in a documented form that must be taken into account by higher-level planning.

Seven specialist training modules were developed at the September 2024 conference, covering: Minor Forest Produce rights, land alienation prevention, and customary dispute resolution. State-level master trainer training was conducted in 2024–25 to train elected representatives across PESA provisions.

The Ministry of Panchayati Raj has simultaneously constituted 5 model PESA gram sabhas in 2025–26 — pilot implementations of genuine PESA self-governance intended to generate documented evidence of what PESA looks like when it works.

What this means for NGOs: There is now more government infrastructure around PESA than at any previous point in the law's history. The GPDP portal is a legitimate channel through which NGO-facilitated gram sabhas can articulate their development plans. The master trainer training creates district-level government capacity that NGOs can connect to. And the model gram sabha initiative creates documented evidence of best practice that NGOs can use as reference in their own facilitation work.

The NGO Facilitation Approach: Six Practical Steps

Step 1: Know which Fifth Schedule blocks you work in

PESA applies only in Fifth Schedule areas. Not all districts with significant tribal populations are Fifth Schedule areas. Confirm whether the blocks where your NGO operates are in the Fifth Schedule — your District Collector's office and the State Tribal Welfare Department can confirm this. Only if you are in a Fifth Schedule area does PESA apply.

Step 2: Obtain and study Odisha's PESA rules

Odisha has enacted PESA rules that specify how the gram sabha powers are to be exercised in the state. The Odisha Panchayat Raj Act as amended for PESA, and the state's PESA rules, are available from the Odisha Panchayati Raj Department and from the Ministry of Panchayati Raj website. Your programme team needs to read and understand these — specifically the provisions on MFP ownership, land acquisition consultation, and development plan approval.

Step 3: Legal literacy with elected representatives and community members

The entry point for PESA facilitation is legal literacy — the same approach as for FRA rights and entitlements. A structured, two-day orientation (in the tribal language, in the field) for gram sabha members, elected panchayat representatives, and CFMRC members covering:

- What PESA provides — using the specific language of the relevant provisions, not vague "you have rights" generalisations
- What it means practically — concrete scenarios. If a mining company wants to survey land in this village, what do they have to do first? (Answer: they must present to and receive approval from the gram sabha.)
- What the gram sabha can do when its authority is ignored — documentation, escalation to the DLC or District Collector, legal support options

The Ministry of Panchayati Raj's seven PESA training modules, available through the GPDP portal, can be used or adapted as facilitation material — they are government-produced, which gives them legitimacy with both community members and officials.

Step 4: Activate gram sabha meeting regularity

A PESA gram sabha that doesn't meet cannot exercise its powers. The same activation approach described in the VLCPC Activation Practice Note applies here: fixed meeting schedule, standard agenda, documented proceedings, and accountability for follow-through.

In Odisha, PESA gram sabhas typically encompass smaller habitations rather than revenue

villages. Each habitation-level gram sabha should meet regularly — ideally monthly. The gram sabha secretary's record of proceedings is the legal documentation of the gram sabha's decisions. Every decision the gram sabha makes under PESA authority should be formally minuted.

Step 5: Exercise specific powers on specific issues

Abstract knowledge of rights becomes meaningful through specific exercise. The most accessible PESA powers to exercise first — because they involve clear community benefit and relatively low administrative resistance — are:

MFP rights: If the gram sabha holds a CFR title, it already has rights over MFP within the CFR area. If not, PESA still grants MFP ownership to gram sabhas in Fifth Schedule areas. The CFMRC establishing community-managed MFP harvesting and collective sale (as covered in the NTFP Market Development Practice Note) is an exercise of PESA MFP rights. Document this explicitly as PESA implementation.

Development plan endorsement: Any government scheme, development project, or government contractor active in the gram sabha's territory must, under PESA, receive gram sabha endorsement. When MGNREGS works are planned, when a road alignment is proposed, when an Anganwadi is built — the gram sabha's formal endorsement is legally required. Facilitating gram sabhas to demand this endorsement process, and to document that it has been followed, builds the practice of PESA authority.

Sand and mineral control: In Odisha's river-adjacent tribal blocks, sand extraction by contractors is often conducted without any gram sabha involvement. PESA gives the gram sabha a mandatory role. Facilitating gram sabhas to assert this role — by requiring that contractors present to the gram sabha and receive its approval before extracting — both generates local revenue (the gram sabha can negotiate a royalty) and builds institutional authority.

Step 6: Document everything and escalate when ignored

When a gram sabha exercises its PESA authority and is ignored by an official, the next step is documentation and escalation — not confrontation. The gram sabha records its resolution in the register. The NGO supports the gram sabha in sending a formal written communication to the relevant official quoting the specific PESA provision, stating the gram sabha's position, and requesting a response. Copies go to the District Collector's office and the PESA Cell at the state Tribal Welfare Department.

In states like Chhattisgarh where PESA implementation is more advanced, NGOs have successfully used this documentation-and-escalation approach to secure gram sabha authority in development decisions. The key: every ignored gram sabha decision becomes part of the documented record of PESA violations in that district — which is the raw material for sustained

policy advocacy.

Aragamee in Odisha's KBK region has three decades of documented experience using exactly this approach — gram sabha resolution, formal communication, escalation — to build genuine tribal self-governance authority in PESA-applicable areas. Their field documentation is the best available reference for Odisha-specific PESA facilitation.

The PESA-GPDP Portal: Practical Entry Point

The PESA Gram Panchayat Development Plan Portal, launched in September 2024, allows gram sabhas to input their development priorities — for water, roads, agriculture, forest management, health, education — in a standardised digital format that feeds into district planning.

For NGO-facilitated gram sabhas, this portal is both a legitimate advocacy channel and a documentation tool. A gram sabha that has entered its development priorities in the GPDP portal has a documented record of what it has requested from government — which can be referenced when those priorities are ignored. And the portal's data aggregation function means that patterns across gram sabhas — the same requests being made repeatedly and being ignored repeatedly — become visible to district and state planners.

To use the portal: the gram panchayat secretary is the designated entry point. The NGO supports the gram sabha in preparing its inputs, helps the secretary navigate the portal, and ensures the gram sabha's recorded priorities reflect genuine community priorities rather than the secretary's assumptions.

What PESA Does Not Fix

PESA provides gram sabhas with extraordinary legal authority. It does not automatically produce:

- The administrative capacity to use that authority effectively
- The political protection to exercise it without fear of retaliation
- The legal support to defend it when officials ignore it
- The economic independence that would allow community members to challenge powerful interests without risk

These are the conditions that NGO facilitation can contribute to building — slowly, relationally, over years of sustained presence. PESA without these conditions is a powerful law that helps no one. PESA with these conditions is a constitutional mechanism for genuine tribal self-governance.

Related Knowledge Commons content: Social Justice & Tribal Welfare Sector Primer (Sector 03) · Practice Note: Community Forest Rights — From Title to Livelihood · Practice Note: SC/ST Prevention of Atrocities Act — Supporting Survivors

Evidence Grade: B — Multi-study. This Practice Note draws on TheLaw.Institute PESA analysis (February 2026), IMPRI PESA implementation review (June 2025), the Ministry of Panchayati Raj PESA Mahotsav documentation (December 2025), the Journal of Political Science gram sabha functioning study (September 2025), and Agrabamee field documentation from Odisha's KBK region. Last reviewed: April 2026.

Questions or corrections: knowledge@jabasu.org

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