



25 years of
PESA
Slow Progress
in Rajasthan

Nesar Ahmad

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Budget Analysis and Research Centre Trust



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Tribals in Rajasthan: An introduction

Rajasthan, geographically the largest state of India, is one of the states with sizable presence of tribal population. Tribal communities constitute around 13.5% of the total population in the state as per the Census 2011 (Annexure table 1). The tribals in Rajasthan are largely concentrated in southern districts of Rajasthan, covering 5 districts – Dungarpur, Bnswara, Udaipur, Pratapgarh and Sirohi.

Highest share of the tribal population is in Banswara district (76.4%), followed by Dungarpur (70.8%), Pratapgarh (63.4%), Udaipur (49.7%), and Sirohi (28.2%), all southern Rajasthan districts (Annexure table 1). The major tribes in Rajasthan are Bhil, Meena, Damor, Patelias, Gometis, Bhil-Meena, Sahariyas, and Gharasia etc.

Though the majority of the tribal communities reside in the southern districts, the Sahariya tribes are found in two blocks of Baran district of Rajasthan, which is a south-eastern district of the state. It's important to note that Sahariyas are only tribe from Rajasthan which are part of particularly vulnerable tribal groups (PVTGs), recognized by the government of India.¹

The annual plan 2016-17 of Rajasthan states that:

“Most scheduled caste and tribal families possess small or no landholdings. Their low resource base is compounded by poor employable attributes, as reflected in their comparatively poor literacy. This leads to their disproportionately large presence of the marginalized (over 90 per cent) in BPL families. Their poverty leaves them vulnerable to exploitation. Women in these groups are even more marginalized, with much lower literacy rates.”²

Literacy among the tribal communities of Rajasthan is just 52.8% compared to 66% of state average literacy rate, while literacy among the tribal women is just 37.3% which is 52% among all women in the state, as per the Census 2011. Data on adult literacy also suggests a high level of disparity in the state. According to World Bank, in 2012, 58% of the SC adults, 48% of ST adults, 42% of OBC adults and 21% of general category adults were recorded to be illiterate in the state.³

¹<https://tribal.nic.in/ST/StatewisePvTGsList.pdf>

²<https://plan.rajasthan.gov.in/content/dam/planning-portal/planning-dpt/plan/annual-plans/chapters/year%202016-17/930082016120118.pdf>

³<https://documents1.worldbank.org/curated/en/255081468179096086/pdf/105876-BRI-P157572-ADD-SERIES-India-state-briefs-PUBLIC-Rajasthan-Social.pdf>



The tribals communities have their distinct cultural identity and traditions based on community living and natural harmony. Their life and livelihood are largely dependent on land and forests.

Land Alienation and Land Rights and Forest Rights

However, the major issues of the tribals in Rajasthan, like most part of the country, are related to their land rights and their access to the forests. As we know the tribal population is dependent largely on the land and forests. Various studies have suggest that the extent of land alienation among the tribals (and also dalits) is very high despite the protective measures provide by the Constitution and various central and state level laws⁴.

According to the 2007-08 Annual Report of the Ministry of Rural Development, “Reports received from various States, indicate that 5.06 lakh cases of tribal land alienation have been registered, covering 9.02 lakh acres of land, of which 2.25 lakh cases (44.46%) have been disposed off in favour of tribals covering a total area of 5.00 lakh acres. 1.99 lakh cases (39.32%) covering an area of 4.11 lakh acres have been rejected by the Courts on various grounds”.

This shows a very high percentage of cases of tribal land alienation being rejected in the courts and tribal people losing their lands in result. This percentage increased to 41% according to another report of the Ministry.⁵

The same level of land alienation is evident in the state of Rajasthan also. According to the Annual Report 2007-08 of the Ministry of Rural Development, a total of 2,084 cases of land alienation involving 6,615 acres of land have been filed in the appropriate courts. 1,257 cases have been disposed of, of which only 187 cases (involving 587 acres of land) were in favour of adivasis, while 53 cases involving 187 acres were rejected.

A detailed filed level study by Centre for Equity Studies (CES), conducted in 2016, provides insights on how the tribal land alienation takes place in the state of Rajasthan, in spite of the protective legislations.⁶

Another important issue for tribals is their access to forests and forest produce, which has been a bone of contention between the tribal communities and the state, beginning in the colonial period. A series of forest legislations, starting from the Indian Forests Act, 1865, has restricted the rights of the communities over forests and forest produces. The Indian Forest Act 1927, which

⁴ See for example, Mohanty 2001;Sharan 2005; and DoLR, 2008.

⁵ Quoted in GoI and UNDP, available on:

<https://tribal.nic.in/downloads/FRA/5.%20Land%20and%20Governance%20under%20Fifth%20Schedule.pdf>

⁶<http://centreforequitystudies.org/wp-content/uploads/2020/05/TribalLandAlienation.pdf>



upholds states' eminent domain power over forestland –including the land traditionally owned and used by STs and other forest dwellers and common land in Scheduled areas – is another Act which constrains people's rights over and access to forest lands. The National Forest Policy 1952 and the Forest Policy 1988 are in conformity with the Indian Forest Act. Moreover, the Forest Conservation Act of 1980 prohibits the people's access to forest resources, including minor forest produce.

The tribals of Rajasthan have also been badly affected by the forest legislations and forest policies of the government. Interestingly the land reform acts like Rajasthan Land Reforms and Resumption of Jagir Act, 1952 provided rights of tenets over the land worked by them in non tribal areas while the Rajasthan Forests Act, 1953 which was passed very next year restricted the traditional rights of the tribals over their lands and they were treated as encroachers.⁷

Scheduled Areas in Rajasthan

Scheduled V areas in Rajasthan are spread over eight districts, 47 tehsils, 55 blocks, 1620 gram panchayats and 5696 revenue villages.

Table 2: V Scheduled Areas of Rajasthan

Districts	Tehsils	No. of villages
Banswara	Entire District	1513
Dungarpur	Entire District	976
Pratapgarh	Entire District	1003
Udaipur	Kotra, Jhadol (erstwhile Phalasia), Lasadia, salumbar sarada, Kherwara, Rishabhdeo and Gogunda; Girwa (partial), Mavali (partial) Vallabhnagar (Partial)	1953
Sirohi	Abu Road Pindwara (partial)	136
Rajsamand	Nathdawara (partial), Kumbhalgarh (partial)	31
Chittorgarh	Badi sadadi (partial)	51
Pali	Bali (partial)	33
Total		5696

Source: Tribal Area Development Department, GoR⁸

Panchayat (Extension to Scheduled Areas) Act, 1996

The 1996 Panchayat (Extension to Scheduled Areas) Act, commonly referred as PESA, gives special powers to the Gram Sabhas and the Panchayats in the Scheduled areas. Among other

⁷<https://hindi.indiawaterportal.org/content/jangala-jamaina-andaolana/content-type-page/49665>

⁸https://tad.rajasthan.gov.in/Content/Hindi/Scheduledareahindi.aspx?menu_id=10085



things, the PESA makes it mandatory that the Gram Sabha or the Panchayat at the appropriate level shall be consulted before making the acquisition of land in the Scheduled areas for the development projects and before resettling and rehabilitating the persons affected by such projects in the Scheduled areas. The PESA also gives rights to the Gram Sabha or Panchayats to prevent the alienation of tribal lands in the Scheduled areas and restoration of any unlawfully alienated lands to the tribals. It also provides for mandatory prior recommendation by the Gram Sabha or the Panchayat at the appropriate level for grant of prospecting license or mining lease for minor minerals in the Scheduled areas.

PESA in Rajasthan

The Panchayats or local self governance in India is a state subject and the states are required to make conformity law and rules and regulations for the law to be implemented in the respective states. Rajasthan, passed the conformity law called Rajasthan Panchayati Raj (Modification of Provisions in their Application to the Scheduled Areas) Act, 1999 in the year 1999 but framed and adopted the PESA rules called Rajasthan Panchayati Raj (Modification of Provisions in their Application to the Scheduled Areas) Rules, 2011 in the year 2011⁹, nearly after 15 years of enactment of PESA Act by the Parliament.

The heart of PESA Act is the article 4 of the act which gives powers to the gram sabha in the V Scheduled Areas. The Rajasthan PESA Acts and, specifically, the PESA Rules have diluted the provisions of the PESA Act, 1996 passed by the parliament. The Tribal Ministry and Panchayati Raj Ministry of the union government have found the Rajasthan PESA Act to be in conformity with the central PESA Act, 1996.¹⁰ An UNDP Policy Brief on PESA also found the Rajasthan Panchayati Raj Act and PESA Acts to be in conformity with all the provisions of the central PESA Act.¹¹ However, as we see in the table below it might not be the case. The table below makes a comparison of the various provisions of the PESA Act, 1996 with the Rajasthan PESA Act and Rules.

Table 3: Comparison of Rajasthan PESA Act and Rules with the Central PESA Act 2006

Provisions in PESA Act, 1996	Rajasthan PESA Act, 1999	Rajasthan PESA Rules, 2011
Article 4(a) c.4(a): a State legislation on the Panchayats that may be made	Does not mention it	

⁹ Rajasthan PESA Act, 1999 and Rajasthan PESA Rules, 2011, and amendments in them are available on: <http://rajpanchayat.rajasthan.gov.in/en-us/actsrules/pesa.aspx>

¹⁰ See for example, Panchayati Raj Ministry, undated, Brief Note on PESA for the State of Rajasthan, available on: <https://www.im4change.org/siteadmin/tinyMCE/uploaded/Rajasthan.pdf>

¹¹ UNDP, 2012, Policy brief on Panchayat Raj (Extension to Scheduled Areas) Act of 1996, available on: https://www.in.undp.org/content/india/en/home/library/democratic_governance/UNDP-Policy-Brief-on-PESA.html



shall be in consonance with the customary law, social and religious practices and traditional management practices of community resources		
Article 4(b): a village shall ordinarily consist of a habitation or a group of habitations or a hamlet or a group of hamlets comprising a community and managing its affairs in accordance with traditions and customs;	Does not define. Leaves it to the Governor of the state (“a village specified as such by the Governor”)	Not defined ¹²
4(c): every village shall have a Gram Sabha consisting of persons whose names are included in the electoral rolls for the Panchayat at the village level;	Same as the Central Act	Gram Panchayat Sarpanch and Secretary are designated as the president/chairperson and the secretary of the Gram Sabha
Article 4(d): Customary mode of conflict resolution by the Gram Sabha	Same as the Central Act	Provision of Peace Committees (20 members from the village, minimum 30% women and 50% ST members)
Article 4(e): i. approve of the plans, programmes and projects for social and economic development before such plans, programmes and projects are taken up for implementation by the Panchayat at the village level; ii. Selection of programme beneficiaries by Gram Sabha	Same as the Central Act Also adds “power to control over local plan and resources or such plans including tribal sub-plan...in a manner to be specified by the state government” Same as the Central Act	Does not mention

¹²The government of Rajasthan declared a revenue village as a “village” for the purpose of PESA Act, by a government order dated: February 27, 2013, available on:
[http://rajpanchayat.rajasthan.gov.in/Portals/0/Documents/Notification/NOTIFICATION%2027.2.2013%20\(1\).pdf](http://rajpanchayat.rajasthan.gov.in/Portals/0/Documents/Notification/NOTIFICATION%2027.2.2013%20(1).pdf)



Article 4(f): Gram Panchayat to obtain Utilisation Certificate from Gram Sabha	Same as the Central Act	Does not mention
Article 4(g): the reservation of seats in the Scheduled Areas at every Panchayat shall be in proportion to the population of the communities in that Panchayat	Same as the Central Act	Does not mention but it has been done as per the Annual Report of the TAD Department.
Article 4(h): Nomination by State Government of persons of ST not represented in intermediate & district PRIs	Same as the Central Act	
Article 4(i): Consultation with Gram Sabha or PRI before land acquisition & resettlement and rehabilitation	“Gram Sabha or PRI at such level as prescribed by the state government” shall be consulted	Rajasthan PESA Rules state that the govt., if passes orders against the recommendations of the gram sabha(s), it will record a reason for doing so.
Article 4(j): Planning & management of water bodies by Gram Sabha or PRI	“Water bodies as may be specified by the state government”	Just says that the gram sabha is competent to manage resources such as water bodies
Article 4(k):Recommendation by Gram Sabha or PRI before grant of prospecting license or mining lease	Manner of taking recommendation to be prescribed by the state government	The recommendation is to be made by the gram sabha, panchayat samiti or zila parishad as the case may be.
Article 4(l):Recommendation by GS or PRI before exploitation of minor minerals	Manner of taking recommendation to be prescribed by the state government	
Article 4(m)(i): Power to restrict sale of intoxicant to PRI and Gram Sabha	Subject to the such rules as prescribed by the state government	Gives powers to the district collector and Excise Commissioner to act on the resolutions of the gram sabha in such matters.
Article 4(m)(ii): Ownership of Minor Forest Produce to PRI and Gram Sabha	Subject to the such rules as prescribed by the state government	Rules allow the gram sabhas to collect and market the minor forest produces



		except for the Tendu leaves and bamboo. Tendu leaves will continue to be collected by the Forest Department and the net profits will be shared with the respective GPs. Net profit later changed to gross profit by government order. ¹³
Article 4(m)(iii): Power to prevent land alienation to PRI and Gram Sabha	Same as act, "in accordance with the laws in force in the state"	Powers given to the panchayat samiti (block panchayat), roles of gram sabha not mentioned.
Article 4(m)(iv): Power to manage village markets to PRI and Gram Sabha	Same as central act	Does not mention
Article 4(m)(v): Control money lending to PRI and Gram Sabha	Same as central act	Panchayat / Panchayat Samiti shall be competent to restrict and regulate business of money lending in Scheduled Area
Article 4(m)(vi): Control of social sector institutions & functionaries to PRI and Gram Sabha	Same as central act	Does not mention

Source: Compiled by the author based on the original acts and rule and unpublished notes by Astha Sansthan, Udaipur

As the table above suggest not all the provisions of the Rajasthan PESA Act and Rules are not fully in confirmation with the central PESA Act. The Rajasthan Act

Implementation of Rajasthan PESA Act on the ground

As the table above suggests the Rajasthan PESA Rules are not entirely in conformity with the central PESA Act and Rajasthan PESA Act. Though the posts of the heads of all the PRIs have been reserved for persons from the tribal community in the scheduled areas, the other provisions specifically related to gram sabha are not entirely in confirmation with the central PESA Act and

¹³ http://rajpanchayat.rajasthan.gov.in/Portals/0/Documents/Notification/noti_250_27022013.pdf



are hardly in practice on the ground. In the section below we analyze the differences between the provisions under the central PESA Act and those of Rajasthan PESA Act and Rules and also try to have a look at actual implementation of the PESA Acts in Rajasthan at the ground in the state.

Gram Sabha:

As mentioned above the Gram Sabha has been defined as a meeting of all the voters of a revenue village in a panchayat. The PESA Act 2006 envisages gram sabha as the sabha of the traditional village which in Rajasthan are known as *fala*. But the state government has declared revenue village as a village, which could have more than one fala, for this purpose with a government order. Typically in Rajasthan, villages are spread out over a large area and a revenue village may not be an organic unit for people to come together to decide on issues.

Rajasthan PESA Rules also do not make provisions of a gram sabha fund or opening of a gram sabha account.

Panchayati Raj Department of Rajasthan government with its order dated 27.06.2016 clarified that there will be a PESA gram sabha in every revenue village of the panchayat¹⁴ but it does not clearly state that now onwards there will no ward sabha in V scheduled areas. This may create confusion, as the one revenue village may be two wards or one ward may have more than one revenue village.

The PESA rules make sarpanch as a president and panchayat secretary as the secretary of the gram Sabha which is also not very practical, as there are more than one village in a gram panchayat. The model PESA Rules of the panchayati Raj Ministry of India Government also suggests that the panchayat secretary as the secretary of the gram Sabha with be secretary of the all the gram sabha in a panchayat. The model rules however suggest that every village can have an assistant secretary from the village to assist the panchayat secretary and it will be an honorary position.¹⁵

The Rajasthan PESA Rules suggests that gram sabha quorum should be 10% and does not mention quorum for women members. Civil society organizations demand that there should be higher quorum requirements in the Gram Sabha and there should also be Rules for separate quorum requirement for women to ensure women participation.

PESA Act 2006 accepts gram sabha as the fundamental unit of governance and it should be entrusted with the “mandatory executive functions” like planning, selection of the

¹⁴ <http://rajpanchayat.rajasthan.gov.in/Portals/0/Documents/Method/Cir leg 495 27052016.pdf>

¹⁵ <https://www.panchayat.gov.in/documents/448457/0/Model+PESA+Rules+circulated+by+MoPR.pdf/>



beneficiaries and issuing the utilization certificate. Rajasthan PESA Act and Rules does not make any such provision. However, the Rajasthan government has now passed an order in a letter (dated: October 01, 2019) to District Collectors of all the districts under the Scheduled Areas of Rajasthan which says that the Gram Panchayats in PESA areas should include the plans prepared by the gram sabha of the revenue villages in the gram panchayat development plan (GPDP), the annual plan of the gram panchayats. This has also been mentioned in the state government's guideline on GPDP issued in 2016.¹⁶

The Gram Panchayat Development Plan (GPDP) Guideline for the PESA Areas issued by the Ministry of Panchayati Raj suggests mapping of the Gram Sabhas as per the state PESA Acts and the wards in the panchayats in the PESA Areas "to correlate territorial jurisdiction of the elected ward member/s with that of the PESA gram sabha/s for GPDP."¹⁷ Though this has not been done in Rajasthan neither there is a separate guideline for planning by the PESA panchayats.

Rajasthan PESA Rules also mention joint gram sabha of more than one village but do not specify how the coordination of the village gram Sabha and the panchayat gram sabha are to happen. It also does not mention where people can go if they think that gram sabha has taken some decision which is against the Rules, except for the cases of peace and conflict resolution in which case if people (or a person) go to the police, police should consult the gram sabha.

In practice in Rajasthan, however, the revenue village wise gram sabhas, as prescribed in PESA Acts and Rules are organized only in the areas where some civil society organization or people's organizations are making active efforts towards it.

Customary mode of conflict resolution by the Gram Sabha

In this regard the Rajasthan PESA Rules, 2011 makes provisions of Peace Committees (20 members from the village, minimum 30% women and 50% ST members). As per the Annual Report 2019-20 of the Tribal Area Development Department of Rajasthan government 4,939 (i.e. 86.7% of total villages in PESA areas) peace committees were formed and they held meetings by end of 2019-20.¹⁸

As per the CSOs and activists however, these peace committees have not been very effective and active on the ground. Reportedly in some cases, these peace committees also played the role of

¹⁶ http://rajpanchayat.rajasthan.gov.in/Portals/0/GPDP_FINAL_BOOK_08-01-2016.pdf

¹⁷ <https://panchayat.gov.in/documents/448457/0/PESA+GPDP+Guideline.pdf/>

¹⁸ <https://tad.rajasthan.gov.in/writereaddata/FilesManagement/PDF/03232021130122PMADM%20Report%202019-20.pdf>



brokers between people (parties involved) and police, leading to corruption, according to one activist.

Consultation in case of Land Acquisition

As mentioned above in the case of land acquisition the consultation with the gram sabha has been made mandatory under this Act and Rules. However it also mentions that the government again make orders against gram sabha's resolution with giving proper reason for it.

In practice, however, as the senior activists suggest, the government has taken consent letter from the panchayats and not the gram sabha in some cases of Land Acquisition.

Planning and management of water bodies:

As mentioned above the Rajasthan PESA Rules just mention that the gram sabha is competent to manage the local resources like water but does not provide detailed process in this regard.

Control over minerals and mining

The Annual Report of the Tribal Area Development Department informs that the Department of Mines and Geology with its notification dated 12.04.2002 issued a Rajasthan Minor Minerals Concession Rules, 2012 which makes it mandatory to get recommendation from the PRIs at appropriate levels (and not the gram sabha) to conduct exploration and mining of minor minerals in the scheduled areas of the state as per the provisions of the PESA Act.

This provision is hardly in practice on the ground. For one, it's not clear that whether this provision applies to the existing mines also or only for the new mines. Even in case of expansion of the existing mines this does not seem to have been applied anywhere. The activists and CSO leaders could not mention any case where it has actually been practiced.

Regularisation of sale of intoxicant to PRI and Gram Sabha

The Rajasthan PESA Rules has effectively given this power to the district collector and the excise commissioner to act on the resolutions of the gram sabha in such matters.

Ownership of Minor Forest Produces (MFPs)

As per the state PESA Act and PESA Rules, the gram sabhas have right to collect and market the small forest produces (MFPs) except for the *tendu* leaves, in which the monopoly of the state government under the Rajasthan Tendu Leaves (Regulation of Business) Act 1974, and bamboo. For the *tendu* leaves and the bamboo, the Forest Department continues to give rights of collection of *tendu* patta to the contractors and transfers and is supposed to transfer the gross benefits out of this to the gram sabhas in PESA Areas. However, no data is available on the sum



transferred to the panchayats from the forest department either for tendu leaves collection or bamboo or other minor forest produces.

As for other MFPs the rules does not specify the role of gram sabha in framing the process of marketing of the MFPs. In practice, however, the MFPs are collected and sold by the RAJAS Sangh¹⁹ which supposedly transfers the profit to the Zila Parishads which in trun transfer the amount to the panchayats. The support prices also continued to be declared by the RAJAS sangh without consultation of the gram sabhas.

In practice, therefore, the gram sabhas are not able to control the MFPs. Even if the proceed from the sale of the MFPs are transferred these are transferred to gram panchayats and not the gram sabha of the revenue village, even though Rule 26 of the Rajasthan PESA Rules mentions it clearly that the proceeds should go to the gram sabha. Also, there is not a provision of creation of a fund at the gram sabha level neither the provision of bank accounts of the gram sabhas. So practically the gram sabhas cannot collect and keep the fund received from the MFPs.

Tribal Land alienation

As mentioned above the powers in this regard has been given to the panchayat samitis²⁰ and role of the gram sabha has not been mentioned. There is also need to make changes in the Rajasthan Tenancy Act to check the tribal land alienation through conversion of land use from agriculture to non agriculture, which has not been done.

Management of village markets

This has not been mentioned in the Rajasthan PESA Rules, 2011.

Control over Money lending

The revenue department in its order no. F10(5)rajasva-6/2000/13 dated 17.04.2000 has appointed the Commissioner TAD as Registrar General, Panchayat Samiti as Registrar and Gram Panchayats as Assistant Registrar, under the Rajasthan Moneylenders Act, 1963. However, role of gram sabha has not been defined in this regard.

¹⁹ Rajasthan Tribal Area Development Cooperative Sangh Limited

²⁰ The revenue department in its order no. F10(5)rajasva-6/2000/12 dated 17.04.2000 has transferred the powers of the tehsildars regarding taking actions on the encroachment of the lands of the tribal people in the scheduled areas to the panchayat samitis (block panchayats), under the Rajasthan Tenancy Act,1965.



Control of social sector institutions & functionaries to PRI and Gram Sabha

This has also not been mentioned in the Rajasthan PESA Rules, 2011. Effectively, therefore, the rules and orders which are applicable in the other parts of the state are also applicable in V schedules areas, giving gram sabha limited powers to monitor and works of local social institutions like anganbadi.

Panchayat Sashaktikaran Pariyojana

Panchayat Sashaktikaran Yojana is a centrally sponsored scheme of the Ministry of Panchayatu Raj to empower the panchayats across the country. As per the Annual Report of the Department of TAD 2016-17, the department of TAD received a sum of Rs. 7.957 crores from the Panchayati Raj Department for implementation of Panchayat Sashaktikaran Yojana in the scheduled areas.²¹ Under which every revenue village gram sabha (in total 1238 gram sabhas) was to receive Rs. 2,500 per month for increasing participation in the gram sabhas, appointment of a PESA coordinator in every block (total 40 blocks) and district (5 districts), every gram panchayat to receive Rs. 10,000 per annum for orientation programme.

Various training programme on orientation on PESA were organized in the year 2017-18 to 2020-21. Online training of trainers (ToT) on PESA, organized in 2020-21 by Manikyalal Verma Tribal Research and Training Institute. These trainings, however, are not able to make desired effects as the rules and orders are not very supportive. Data could not be found on the budget utilization of Panchayat Sashaktikaran Pariyojana in PESA areas.

PESA and urbanization

The PESA Act is implemented on the panchayats in the rural areas. However, with rapidly increasing urbanization, the rural areas are being slowly included in the urban areas and are becoming part of the urban local bodies on which the PESA is not applicable. This is also slowly declining the areas of influence of PESA.

Conclusions:

The government of Rajasthan took three years to pass the state PESA Act and another 12 years to frame the Rajasthan PESA Rules. The PESA Rules, therefore, were adopted after one and half decades of passing of the PESA Act by the parliament, that also could happen after intervention of the Jodhpur High Court when some activists moved to court for giving instructions to the state government in this regard.

²¹ <https://tad.rajasthan.gov.in/writereaddata/FilesManagement/PDF/03232021130008PMADM%20Report%202016-17.pdf>



The Rajasthan PESA Rules has some evident shortcomings and has been silent on some of the critical provisions of the PESA Act. The state government passed order to declare revenue village as the “village” for the purpose of the gram sabha and the state PESA Rules do not empower the gram sabha as envisaged in the central PESA Acts. The roles of gram sabha in critically important planning and identifying the beneficiaries of various schemes as well as control over local recourses like water is either not mentioned or just gets a passing reference. The organizing of the ward sabhas and gram sabha of the entire gram panchayat is also mandatory as per the Rajasthan Panchayat Raj Act, 2009. So, there is a clearly an ambiguity about the status of the gram sabha and ward sabha and also the gram panchayats in matters like planning, selection of the beneficiaries and monitoring of the govt. programmes and schemes.

The ownership of the MFPs though is given is not in practice in true spirit and control over the minor minerals are also not visibly in practice.

The matters of land acquisition or prevention of tribal land alienation are also not ever effectively handed to the gram sabha. In case of the tribal land alienation government orders have given powers to the panchayat samiti and roles of gram sabha has not been mentioned. Also the tribal land alienation through conversion of the land use from agriculture to no-agriculture uses goes on unchecked. In matters of land acquisition and rehabilitation and resettlement, the practice is to take no objection from the panchayats instead of the gram sabhas.

However, even with this limited provisions made in the state PESA Act and Rules, in some parts where the people are organized and aware, the gram sabha does assert their rights by calling gram sabha meetings, making their plans and submitting those plans to the gram panchayats so that it could be included in gram panchayat’s annual plan.

Suggestions:

In a discussion with some of the senior activists working with tribal community and on the issues of PESA and FRA implementation some of the suggestions on what can be done to make the PESA more effective in the state emerged which are as summarized below:

- The definition of village should be as per the traditional village as per the spirit of PESA Act 1996 and not as the revenue village as defined currently in the state.



- There should be clarity about the PESA gram sabha being the fundamental unit of the planning, beneficiary selection and monitoring of the government schemes and social sector institutions.
- The ward sabha and gram panchayat's gram sabha in the PESA areas should not continue and The Panchayati Raj Act, 2009 should be amended accordingly.
- There should be a clear division of work and roles between the gram sabha and the various departments like Forest, Revenue, Mining, etc. as done in some other states.
- Currently the funds (from State and Centre Finance commissions and MGNREGA etc.) go to the gram panchayats. However, the planning is supposed to be done by the gram sabha as per PESA Act. To facilitate this either the funds should be allocated to the PESA gram sabhas or the gram panchayat should inform each gram sabha about availability of fund so that gram sabha could plan accordingly as per central PESA Act.
- The PESA gram sabhas should have their own bank accounts for maintain the funds collected / received for MFPs and other sources (like mining).
- There should be a specific portal for PESA, where implementation of the law, meeting reports, responsibility of the departments, progress of the work etc. should be developed.
- A PESA cell should be created at the block and district levels to coordinate all PESA related activities.

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Annexure Table 1: District wise population share of tribal communities in Rajasthan

State/ District	ST Population	Percentage in Population
Rajasthan	9,238,534	13.5
Ganganagar	13,477	0.7
Hanumangarh	14,289	0.8
Bikaner	7,779	0.3
Churu	11,245	0.6
Jhunjhunun	41,629	1.9
Alwar	289,249	7.9
Bharatpur	54,090	2.1
Dhaulpur	58,594	4.9
Karauli	324,960	22.3
SawaiMadhopur	285,848	21.4
Dausa	433,344	26.5
Jaipur	527,966	8.0
Sikar	75,349	2.8
Nagaur	10,418	0.3
Jodhpur	118,924	3.2
Jaisalmer	42,429	6.3
Barmer	176,257	6.8
Jalor	178,719	9.8
Sirohi	292,470	28.2
Pali	144,578	7.1
Ajmer	63,482	2.5
Tonk	178,207	12.5
Bundi	228,549	20.6
Bhilwara	229,273	9.5
Rajsamand	160,809	13.9
Dungarpur	983,437	70.8
Banswara	1,372,999	76.4
Chittaurgarh	201,546	13.1
Kota	183,816	9.4
Baran	276,857	22.6
Jhalawar	182,229	12.9
Udaipur	1,525,289	49.7
Pratapgarh	550,427	63.4





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