

31 The state of Chhattisgarh, carved out of Madhya Pradesh on November 1, 2000, occupies a
32 unique position in the Indian geopolitical landscape. It is at once rich in natural resources holding
33 roughly 16% of India's coal deposits and significant iron ore reserves and demographically
34 distinct, with a substantial tribal population governed under the protective umbrella of the Fifth
35 Schedule of the Indian Constitution. The governance of these "Scheduled Areas," which cover
36 vast swathes of districts like Bastar, Dantewada, Surguja, and Korba, is constitutionally mandated
37 to be distinct from the general administrative framework (Ministry of Panchayati Raj, n.d.). This
38 distinction is rooted in the recognition that Adivasi (indigenous) communities possess unique
39 cultural, social, and economic systems that require protection from the homogenizing and often
40 exploitative forces of mainstream development (Mishra, 2020). The central legislative instrument
41 designed to operationalize this protection is the *Provisions of the Panchayats (Extension to the*
42 *Scheduled Areas) Act, 1996*, widely known as PESA. The Act was born out of the realization that
43 the standard model of Panchayati Raj, introduced by the 73rd Constitutional Amendment in
44 1992, was insufficient for tribal areas as it emphasized a three-tier representative structure rather
45 than direct, face-to-face democracy.

46 However, the trajectory of PESA in Chhattisgarh has been characterized by a profound paradox.
47 While the state's political rhetoric has frequently invoked the slogan of "*Mawa Nate Mawa Raj*"
48 (Our Village, Our Rule), the administrative reality has been one of delay, dilution, and denial. For
49 over two decades post-statehood, Chhattisgarh failed to frame specific rules to implement the
50 Central PESA Act, relying instead on ad-hoc adaptations of the *Madhya Pradesh Panchayat Raj*
51 *Adhiniyam, 1993*. This legislative vacuum was not benign; it created a fertile ground for
52 ambiguity, allowing state executives to bypass mandatory consent provisions, particularly in
53 matters of land acquisition for mining and industrial projects. It was only in August 2022, nearly
54 26 years after the central enactment that the Chhattisgarh government finally notified the
55 *Chhattisgarh Panchayat Provisions (Extension to the Scheduled Areas) Rules, 2022*. While
56 politically celebrated as a realization of tribal rights, the Rules have faced intense scrutiny from
57 legal experts, civil society, and tribal organizations who argue that the new framework
58 bureaucratizes the Gram Sabha and subordinates its powers to the District Collector (Teer
59 Foundation, 2024).

61 **Historical Context and Constitutional Evolution**

62 The governance of tribal areas in India has evolved through a complex history of colonial
63 isolation, post-colonial integration, and eventual constitutional protection. To understand the
64 current challenges of PESA in Chhattisgarh, one must locate them within this historical
65 continuum. During the British Raj, tribal areas were often classified as “Excluded” or “Partially
66 Excluded” areas, a policy of isolation ostensibly designed to protect tribes but primarily used to
67 secure state control over timber and mineral resources. This legacy persisted into the independent
68 Indian Constitution through the Fifth Schedule, which provided for a Tribal Advisory Council
69 and gave the Governor sweeping powers. However, in practice, the Governor’s powers were
70 rarely exercised independently of the state cabinet, leading to a situation where protective
71 mechanisms remained dormant while the extractive machinery of the state expanded. By the
72 1990s, displacement due to development projects had alienated tribal communities, necessitating
73 the Bhuria Committee’s recommendation for a decentralized framework where the Gram Sabha
74 would be the supreme power center.

75 When Chhattisgarh was formed in 2000, it inherited the legal framework of Madhya Pradesh.
76 While the PESA Act was technically in force as a central statute, its implementation required
77 state-specific rules to define procedures. The delay in framing these rules had profound
78 implications. In the absence of state rules, officials often argued that the specific mechanisms for
79 Gram Sabha consent were undefined, allowing them to proceed with land acquisitions under
80 general laws like the *Coal Bearing Areas Act, 1957* or the *Land Acquisition Act, 1894*. This
81 period saw the allocation of massive coal blocks in the biologically diverse Hasdeo Arand region
82 and the expansion of iron ore mining in Rowghat, often in direct violation of the spirit of PESA.
83 The state’s reluctance to notify rules was widely interpreted by activists as a deliberate strategy to
84 maintain a “flexibility” that favored industrialization over tribal rights.

85 **The 2022 Chhattisgarh PESA Rules: A Critical Legal Analysis**

86 The notification of the *Chhattisgarh Panchayat Provisions (Extension to the Scheduled Areas)*
87 *Rules, 2022* on August 8, 2022, was a long-awaited development. Ostensibly, these rules were
88 framed to operationalize the central mandates. However, a granular textual analysis of the Rules
89 reveals significant departures from the spirit of the Central Act 1996, often introducing
90 bureaucratic caveats that dilute the Gram Sabha’s authority. The most contentious aspect is the

91 framework for land acquisition. Under Section 4(i) of the Central Act, the Gram Sabha must be
92 “consulted” before land acquisition. Rule 8 of the Chhattisgarh PESA Rules 2022 governs this
93 process, stating that the Gram Sabha shall be consulted. However, the procedural mechanics
94 introduce a critical weakness: if the Gram Sabha raises an objection, the Rules empower the
95 District Collector to hear and dispose of these objections. Legal activists argue that by
96 designating the Collector who is often the agent of the state pushing for acquisition as the appellate
97 authority, the Rules effectively nullify the concept of “Prior Informed Consent,” reducing it to a
98 procedural formality (Teer Foundation, 2024).

99 Furthermore, the Rules introduce bureaucratic layers in the constitution and functioning of the
100 Gram Sabha. While Rule 4 and 5 mandate that 50% of the quorum must be tribal, the formation
101 of separate Gram Sabhas for smaller hamlets is subject to the Governor’s order, creating an
102 administrative bottleneck. Rule 19 establishes the *Resource Planning and Management*
103 *Committee* (RPMC) to manage natural resources, but Rule 26 requires the Gram Sabha to
104 “inform” the Forest Department if it wishes to market Tendu leaves on its own, implicitly
105 subjecting the sovereign owner of the produce to the regulatory control of the department.
106 Additionally, Rule 14 provides that appeals against Gram Sabha decisions lie with the Sub-
107 Divisional Officer (Revenue), a provision that legally subordinates a constitutional body (the
108 Gram Sabha) to a mid-level executive bureaucrat, fundamentally undermining the principle of
109 self-governance.

110 **Institutional Challenges and Administrative Bottlenecks**

111 Beyond the text of the laws, the implementation of PESA in Chhattisgarh is hampered by deep-
112 seated institutional challenges and administrative resistance. A pervasive challenge is the
113 reduction of the Gram Sabha to a “rubber stamp” for state decisions. Administrative officials,
114 such as the Panchayat Secretary, often control the logistics of meetings, drafting agendas and
115 minutes that align with state interests rather than community will. There are widespread reports
116 of manipulation where signatures of tribal attendees, collected on blank papers or attendance
117 registers, are later attached to resolutions granting consent for mining or land acquisition. This
118 fraud is facilitated by low literacy rates and the lack of independent resources for the Gram
119 Sabha, which has no secretariat or funds of its own.

120 PESA implementation is also obstructed by conflicting central and state legislation. The *Coal*
121 *Bearing Areas (Acquisition and Development) Act, 1957* (CBA Act) is frequently used to bypass
122 PESA provisions entirely. The state argues that because the CBA Act is a specific central act for
123 coal, it overrides the general provisions of PESA regarding consultation and consent. Similarly,
124 the distinction between “major” and “minor” minerals allows the state to retain exclusive control
125 over coal and iron ore, leaving Gram Sabhas with powers only over less significant minerals like
126 sand and stones. This legal maneuvering ensures that the most lucrative and destructive extractive
127 industries operate outside the effective control of the tribal communities they impact (NewsClick,
128 2022).

129 **Resource Governance: Land, Forest, and Minerals**

130 The litmus test for PESA in Chhattisgarh is the governance of natural resources. The state’s
131 political economy is heavily dependent on mining revenue and forest produce, creating a direct
132 conflict of interest with the PESA mandate of tribal autonomy. In the context of Minor Forest
133 Produce (MFP), particularly the lucrative Tendu leaf trade, the Gram Sabha is theoretically the
134 “owner.” However, the trade remains nationalized in practice. While the 2022 Rules allow Gram
135 Sabhas to trade, bureaucratic hurdles such as the requirement for transit permits and adherence to
136 forest department “working plans” effectively block autonomy. Unlike in Maharashtra’s
137 Gadchiroli district, where Gram Sabhas have successfully conducted independent auctions and
138 earned significant revenue, Chhattisgarh’s villages largely remain dependent on the state
139 federation’s bonus system due to these structural impediments (Putul, 2022).

140 **Case Studies of Conflict and Resistance**

141 The theoretical challenges of PESA are starkly visible in specific conflicts across the state. In the
142 Hasdeo Arand forest region, rich in biodiversity and coal, villagers have been protesting against
143 mining for over a decade. The conflict centers on the allegation that the “consent” of the Gram
144 Sabha required for the Phase II expansion of the Parsa East Kete Basan (PEKB) mine was
145 fabricated. Villagers claim meetings were never held or attendance registers were forged. In a
146 significant blow to tribal rights, the Community Forest Rights (CFR) title granted to Ghatbarra
147 village was cancelled by the district administration in 2016, a decision upheld by the
148 Chhattisgarh High Court in 2025. This judgment effectively ruled that executive allocation of
149 resources to corporations could retrospectively annul statutory rights recognized under the Forest

150 Rights Act and PESA (The Hindu, 2025).

151 In the insurgency-affected Bastar region, the implementation of PESA is heavily securitized. The
152 Silger protest in 2021 highlighted the conflict between security narratives and tribal autonomy.
153 Villagers protested the establishment of a CRPF security camp on community land, arguing it
154 was set up without the Gram Sabha's consultation or consent as mandated by PESA. The state
155 justified the camp as necessary for anti-Naxal operations and development, leading to a police
156 firing that killed three tribals. This case demonstrates how, in "disturbed areas," security
157 imperatives are used to suspend the constitutional rights of the Gram Sabha, treating assertions of
158 autonomy as "anti-national" activities (Land Conflict Watch, 2021).

159 Similarly, the Rowghat Iron Ore project in Kanker and Narayanpur districts has been a flashpoint
160 for decades. Designed to supply the Bhilai Steel Plant, the project involves mining and railway
161 construction in sensitive tribal areas. Local communities allege that environmental clearances and
162 forest diversions were processed without genuine Gram Sabha resolutions. Reports indicate that
163 consent is often obtained through coercion, with "Vikas Samitis" (Development Committees)
164 funded by mining companies set up to bypass the statutory Gram Sabha and manufacture
165 compliant leadership structures (The Quint, 2022).

166 **The Pathalgadi Movement and Assertions of Sovereignty**

167 The failure of the state to implement PESA in letter and spirit gave rise to the radical Pathalgadi
168 movement, which spread from Jharkhand to the tribal districts of Chhattisgarh (Jashpur, Sarguja)
169 around 2017-18. Tribals erected large stone slabs (*Pathals*) at village entrances inscribed with
170 provisions of the Constitution and PESA, declaring the Gram Sabha as the sovereign authority
171 and prohibiting the entry of "outsiders," including government officials and police, without
172 permission. The state criminalized the movement, labeling leaders as seditious. However, the
173 movement fundamentally represented a desperate assertion of the "Constitution within the
174 Constitution" that PESA promised but failed to deliver, highlighting the deep alienation caused
175 by the state's disregard for tribal self-rule (Singh, 2019).

176 **Conclusion**

177 The implementation of the PESA Act in Chhattisgarh represents a profound paradox of Indian

178 democracy. On paper, the notification of the 2022 Rules signifies the operationalization of a
179 revolutionary democratic experiment. In practice, however, the governance of Scheduled Areas
180 remains characterized by “controlled decentralization,” where the state devolves responsibilities
181 without devolving power. The analysis reveals a deliberate design to retain bureaucratic control
182 over high-value resources like land and minerals, while permitting Gram Sabhas to manage
183 lower-stakes social issues.

184 There are, however, pockets of hope. In villages like Chainpur (Sarguja), Gram Sabhas have
185 utilized the new rules to successfully ban liquor and tobacco, managing the ban through women’s
186 committees and fines (Kaiser, 2024). Such examples demonstrate that PESA can be an effective
187 tool for social reform when not in direct conflict with the state’s heavy industrial interests. Yet,
188 for PESA to transition from a “paper tiger” to a genuine instrument of self-rule, Chhattisgarh
189 must move beyond the colonial mindset of “administering” tribal areas. Structural reforms are
190 urgently needed, including the legal harmonization of state laws with PESA, ensuring binding
191 consent for all land acquisitions, and dismantling the bureaucratic monopolies over forest
192 produce. Until these shifts occur, the promise of decentralized governance in the Fifth Schedule
193 areas will remain unfulfilled.

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