



P.L.RAJ IAS & IPS ACADEMY

Building Bureaucrats Since 2006

2. FRA And PESA Implementation – Polity

The constitution of a task force in Chhattisgarh to fast-track implementation of the Forest Rights Act (FRA) 2006 and Panchayats (Extension to Scheduled Areas) Act (PESA) 1996 has triggered significant controversy. Critics argue these task forces subvert the basic democratic structure of FRA and PESA implementation by moving decision-making power away from village institutions toward administrative and technical mechanisms. Adivasi and forest rights groups have called for dissolution of task forces on FRA and PESA in both Chhattisgarh and Madhya Pradesh, asserting they undermine Gram Sabha centrality that both laws deliberately establish.

1. About the Task Force

Constitution and Purpose

1. Task force constituted to –
 1. Map potential areas for community forest resource rights claims under FRA
 2. Review pending claims
 3. Design strategies for PESA-related matters
 4. Assist district authorities with FRA implementation

Controversy

1. Critics argue task forces subvert basic democratic structure of FRA, PESA implementation
2. Decision-making power moving away from village institutions toward administrative, technical mechanisms
3. Adivasi, forest rights groups calling for dissolution in Chhattisgarh, Madhya Pradesh

2. Forest Rights Act (FRA), 2006

Full Name and Purpose

1. Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006
2. Introduced to recognize rights of forest-dwelling communities over forest resources traditionally used

Recognition of Rights

1. **Individual rights** – Self-cultivation, habitation, grazing, fishing, access to water bodies in forests
2. **Community rights** – Habitat rights for PVTGs (Particularly Vulnerable Tribal Groups), traditional seasonal resource access for nomadic-pastoral communities, access to biodiversity, community intellectual property, traditional knowledge

Allocation of Forest Land

1. Provides rights to allocation of forest land for developmental purposes
2. Fulfilling basic infrastructural needs of community
3. In conjunction with Right to Fair Compensation Act 2013 – Protects tribal population from eviction without rehabilitation, settlement

Role of Gram Sabha

1. Act enjoins Gram Sabha and rights holders with responsibility of conservation, protection of forests
2. **Gram Sabha = highly empowered body** under Act
3. Enables tribal population to have decisive say in determination of local policies, schemes impacting them

4. Central democratic institution in FRA framework

3. PESA Act, 1996

Definition

1. Provisions of the Panchayats (Extension to Scheduled Areas) Act, 1996
2. Extends provisions of Part IX of Constitution (relating to Panchayats) to 5th Scheduled Areas in modified form
3. **Fifth Schedule** – Regions with predominantly tribal populations categorized as 'Scheduled Areas' recognizing customary rights of Scheduled Tribes

How PESA Boosts Forest Conservation

1. **Control over natural resources** – Grants tribal communities' control over management, utilization of land, water, forests
2. **Decentralized decision-making** – Decentralizes to Gram Sabha, Panchayats enabling localized, contextually relevant governance
3. **Land rights and preventing alienation** – Any transfer of land in Scheduled Areas must be approved by Gram Sabha providing legal safeguards against tribal land alienation

Other PESA Provisions

1. Gram Sabha's consent mandatory for mining, acquisition, displacement
2. Traditional practices governing community resources recognized
3. Tribal communities' customary law preserved

4. Why Task Forces Are Controversial

Undermining Constitutional Intent

1. Both FRA and PESA deliberately place decision-making authority in Gram Sabhas
2. Task forces shifting power to administrative bodies contradicts legislative design
3. Technocratic governance replacing participatory democracy

Accountability Deficit

1. Task forces accountable to state administration, not tribal communities
2. Bypasses organic, bottom-up implementation envisioned by laws
3. Creates parallel structure diluting Gram Sabha authority

Historical Context

1. Forest rights in India historically denied to tribal communities (colonial forest laws)
2. FRA and PESA enacted precisely to correct this historical injustice
3. Task forces risk perpetuating administrative dominance over tribal rights

5. Way Forward

Strengthen Gram Sabha-Centric Governance

1. FRA, PESA implementation must remain rooted in Gram Sabha authority
2. Task forces playing facilitative role rather than decision-making role
3. Administrative support without administrative dominance

Institutionalize Participatory Decision-Making

1. Include tribal community representatives, traditional forest dwellers, women's groups, civil society in advisory, monitoring mechanisms
2. Meaningful participation beyond tokenism

Enhance Transparency and Accountability

1. Publish regular reports on claims processed, rights recognized, implementation status
2. Establish independent grievance redressal mechanisms accessible to tribal communities

Cooperative Federal and Constitutional Approaches

1. States framing rules, implementation strategies consistent with Fifth Schedule constitutional protections
2. Respecting spirit of tribal self-governance
3. Centre monitoring state compliance with FRA, PESA provisions

6. Conclusion

Effective implementation of FRA and PESA requires balancing administrative efficiency with constitutional principles of tribal self-governance. Strengthening Gram Sabhas, ensuring community participation, and making task forces accountable to local institutions can achieve both development and democratic empowerment in Scheduled Areas.

Source - <https://www.thehindu.com/news/national/congress-slams-rss-linked-task-forces-for-pesa-fra-implementation-in-mp-chhattisgarh/article71052300.ece>