

No. N-11012/1/2007-PESA (Pt)
Government of India
Ministry of Panchayati Raj

Krishi Bhavan, New Delhi-110001.
Dated: 21st May, 2010

From: A.N.P. Sinha,
Secretary.

To: Chief Secretary,
PESA States.

Subject: Effective implementation of PESA particularly in the context of prevailing Extremism.

Sir,

Kindly refer to our earlier letters on the subject. In view of the prevailing Extremism in the PESA Areas & vicinity, following consolidated guidelines are suggested for effective implementation of PESA.

Schedule V of the Constitution

2. As you are aware, the Schedule V Areas of 9 States are characterized by poverty, illiteracy, weak infrastructure and deprivations in general. Given the vulnerability of the people, Schedule V of the Constitution makes special provisions such as: (a) Report by Governor to the President regarding the administration of these Areas, (b) Tribes Advisory Council to advise Governor on matters pertaining to the welfare and advancement of the STs, (c) Direction by Governor through public notification that any particular Act of parliament or of the State Legislature shall or shall not apply to a Scheduled Area or any part thereof, (d) Governor to make regulations for the peace and good government, (e) Union Government to give direction to the State as to the administration of these Areas.

Need for PESA

3. Nevertheless, pressure on natural resources in these Areas continued due to the large projects being set up therein and unscrupulous elements indulging in illegal mining & forest felling. Land alienation and exploitation also continued. This led to dislocation of the communities and loss of major sources of livelihood. It was, therefore, critical that customs, rights and livelihoods of these people are protected through their empowerment. Accordingly, PESA (Annex I) was enacted in 1996 which extended Part IX of the Constitution to the Schedule V Areas and provided for people-centric governance and people's control over community resources and their life, with central role to the Gram Sabhas.

Powers of the Gram Sabha under PESA

4. The Gram Sabhas under PESA are deemed to be ‘competent’ to safeguard and preserve the traditions of their people, community resources and customary mode of dispute resolution. The Gram Sabhas further have:

- (a) mandatory executive functions to approve plans of the Village Panchayats, identify beneficiaries for schemes, issue certificates of utilization of funds,
- (b) right to mandatory consultation in matters of land acquisition, resettlement and rehabilitation, and prospecting licenses/mining leases for minor minerals,
- (c) power to prevent alienation of land and restore alienated land;
- (d) power to regulate and restrict sale/consumption of liquor;
- (e) power to manage village markets, control money lending to STs;
- (f) ownership of minor forest produce;
- (g) power to control institutions and functionaries in all social sectors;
- (h) power to control local plans and resources for such plans including TSP, etc.

Role of PESA in containing Extremism

5. It was expected that PESA would lead to self-governance and empowerment of the people. However, implementation of the Act has not been satisfactory. The rights, livelihood and habitat of the people in these Areas, therefore, continue to be under stress, leading to disaffection with the system. Of 94 PESA districts, 32 have been identified as Extremist Affected Districts (EADs). Of 76 EADs, 32 are PESA districts. Of 34 Most Extremist Affected Districts, 19 are PESA districts. Not surprisingly, various Expert Committees (Annex-II) have recommended implementation of PESA in letter & spirit. There is evidently, an urgency in the implementation of PESA.

Steps to be taken for implementation of PESA

6. The State wise status of PESA compliance of various State laws is given at Annex III. **Further, a note based on the PESA Act and Model PESA Rules on “Compliance with key provisions of PESA” is given at Annex- IV.** This note details essential features of PESA that need to be complied with in relevant statutes/rules/guidelines and covers (a) Delimitation of Villages and Gram Sabhas, (b) Procedure to be followed for consultation with Gram Sabha for land acquisition and defining minor minerals and securing recommendation of Gram Sabha [Section 4 (k) and (l)], and (c) Endowing Gram Sabhas with powers and authority under Section 4m (i) to 4m (v) relating to Excise, MFP, Land alienation, Village markets and Money lending.

7. In the aforesaid background, the States may take the following steps to operationalise PESA. MoPR is separately examining the Central laws and policies related to Forest, Mining, R&R etc. for PESA compliance.

Acts & Rules

- (i) Adopt Model PESA Rules (available at panchayat.gov.in) circulated by MoPR with suitable modifications so that the field functionaries have a clear framework for implementing PESA. In the meantime, use the note at Annex-IV for issuing executive instructions in regard to the key issues.

- (ii) Amend State Panchayati Raj Acts for consonance with PESA. Particularly important here is the definition of ‘village’ and powers of the Gram Sabha. State Election Commission (SEC) could be given the responsibility of delimitation of ‘Villages’ as suggested in Annex IV.
- (iii) Amend laws, rules and executive instructions on Mines & Minerals, Minor Forest Produce, Excise, Money Lending etc. on the lines of Annex IV.
- (iv) Expedite comments on the amendments to PESA proposed by MoPR for removing certain infirmities (Annex V).

Effective Functioning of the Gram Sabha

- (v) Empower the Gram Sabha as above and ensure its effective functioning. Follow the guidelines issued by MoPR on 2nd Oct., 09 in this regard. Undertake special programmes to acquaint the Gram Sabhas of their rights and duties. Develop appropriate training and informative material in the regional language. Identify, train and deploy a social mobilizer in each Gram Sabha for activating the Gram Sabha.
- (vi) Conduct regular training programmes on PESA for State and Panchayat functionaries (both elected and officials) to sensitize and educate them on PESA with focus on the role and conduct of the Gram Sabha.

Administrative Measures

- (vii) Since implementation of PESA involves several departments, constitute a Committee headed by the Chief Secretary with membership of the relevant departments to review it every three months. Involve reputed Experts for getting another perspective. Form similar committees in the districts.
- (viii) Activate Tribes Advisory Councils & Tribal Research Institutes.
- (ix) Include a prominent section on the implementation of PESA in the Annual Governor’s Report, as mandated in Schedule V.
- (x) Strengthen Administrative machinery in the PESA Areas through filling up all vacancies, creation of separate cadres, hardship allowance, preference in education, accommodation etc.
- (xi) Create Information-cum-grievance redressal mechanisms at various levels where persons dissatisfied with the implementation of PESA may register their grievances and obtain advice/justice.

Issues requiring urgent action

8. I would urge you to urgently review the position particularly on the following issues in the light of note at Annex-IV for ensuring that the most important needs and concerns of the people are addressed:

- (a) Mandate SEC to delimit ‘villages’.
- (b) Activate Gram Sabhas in a Mission Mode and enable it to exercise its powers & functions including in relation to planning & implementation of Central/State schemes, grant of UCs and dispute resolution.

- (c) Ensure that complete information about the land to be acquired and impact of the proposed project, is placed before the Gram Sabha and its recommendations are generally followed.
- (d) Incorporate definition of MFP, as provided in the Forest Rights Act, 2005, in all laws and rules. Undertake management of MFP with the consent of the Gram Sabha and in case MFP is collected by a para-statal organization, the net income should go to the people.
- (e) Enable the Gram Sabha, particularly women, to take decisions regarding the opening and continuance of liquor shops, sale of intoxicants, etc.
- (f) Furnish information as per the questionnaire (Annex-VI) for ascertaining the current status of implementation of PESA and taking follow up action.

9. You would appreciate that the deepening and widening of Extremism in PESA Areas and vicinity, requires urgent action as proposed above. We had earlier requested for dates for holding State workshops on implementation of PESA for State Officers, experts etc. to take the matter forward. Please advise your officer concerned to fix such a date in consultation with our Joint Secretary, Mrs. Rashmi S. Sharma (Tel. 011-23747913).

Yours faithfully,



(A.N.P. Sinha)

- Copy to:1. Principal Secretary to the Governor.
2. Principal Secretary, Deptt. of Panchayati Raj /Tribal Affairs/ Forest/ Mines/
Excise/ Planning/Revenue, 9 PESA States.

PESA Act

**THE PROVISIONS OF THE PANCHAYATS (EXTENSION TO THE SCHEDULED AREAS)
ACT, 1996 No.40 OF 1996 (24th December, 1996)**

An Act to provide for the extension of the provisions of Part IX of the Constitution relating to the Panchayats to the Scheduled Areas.

Be it enacted by Parliament in the Forty-seventh Year of the Republic of India as follows:-

Short title

1. This Act may be called the Provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996

Definition

2. In this Act, unless the context otherwise requires, “Scheduled Areas” means the Scheduled Areas as referred to in Clause (1) of Article 244 of the Constitution.

Extension of part IX of The Constitution

3. The provision of Part IX of the Constitution relating to Panchayats are hereby extended to the Scheduled Areas subject to such exceptions and modifications as are provided in section 4.

Exceptions and modifications to part IX of The Constitution

4. Notwithstanding anything contained under Part IX of the Constitution, the Legislature of a State shall not make any law under that Part which is inconsistent with any of the following features, namely:-

- (a) a State legislation on the Panchayats that may be made shall be in consonance with the customary law, social and religious practices and traditional management practices of community resources;
- (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;
- (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;
- (d) every Gram Sabha shall be competent to safeguard and preserve the traditions and customs of the people, their cultural identity, community resources and the customary mode of dispute resolution;
- (e) every Gram Sabha shall-

- 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. be responsible for the identification or selection of persons as beneficiaries under the poverty alleviation and other programmes;
- (f) every Panchayat at the village level shall be required to obtain from the Gram Sabha a certification of utilisation of funds by that Panchayat for the plans, programmes and projects referred to in clause(e);
 - (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 for whom reservation is sought to be given under Part IX of the Constitution;
 Provided that the reservation for the Scheduled Tribes shall not be less than one-half of the total number of seats;
 Provided further that all seats of Chairpersons of Panchayats at all levels shall be reserved for the Scheduled Tribes;
 - (h) the State Government may nominate persons belonging to such Scheduled Tribes as have no representation in the Panchayat at the intermediate level or the Panchayat at the district level:
 Provided that such nomination shall not exceed one-tenth of the total members to be elected in that Panchayat;
 - (i) the Gram Sabha or the Panchayats at the appropriate level shall be consulted before making the acquisition of land in the Scheduled Areas for development projects and before re-settling or rehabilitating persons affected by such projects in the Scheduled Areas; the actual planning and implementation of the projects in the Scheduled Areas shall be coordinated at the State level;
 - (j) planning and management of minor water bodies in the Scheduled Areas shall be entrusted to Panchayats at the appropriate level;
 - (k) the recommendations of the Gram Sabha or the Panchayats at the appropriate level shall be made mandatory prior to grant of prospecting licence or mining lease for minor minerals in the Scheduled Areas;
 - (l) the prior recommendation of the Gram Sabha or the Panchayats at the appropriate level shall be made mandatory for grant of concession for the exploitation of minor minerals by auction;
 - (m) while endowing Panchayats in the Scheduled Areas with such powers and authority as may be necessary to enable them to function as institutions of self-government, a State Legislature shall ensure that the Panchayats at the appropriate level and the Gram Sabha are endowed specifically with-
 - (i) the power to enforce prohibition or to regulate or restrict the sale and consumption of any intoxicant;
 - (ii) the ownership of minor forest produce;
 - (iii) the power to prevent alienation of land in the Scheduled Areas and to take appropriate action to restore any unlawfully alienated land of a Scheduled Tribe;

- (iv) the power to manage village markets by whatever name called;
 - (v) the power to exercise control over money lending to the Scheduled Tribes;
 - (vi) the power to exercise control over institutions and functionaries in all social sectors;
 - (vii) the power to control over local plans and resources for such plans including tribal sub-plans;
- (n) the State Legislations that may endow Panchayats with powers and authority as may be necessary to enable them to function as institutions of self-government shall contain safeguards to ensure that Panchayats at the higher level do not assume the powers and authority of any Panchayat at the lower level or of the Gram Sabha;
- (o) the State Legislature shall endeavor to follow the pattern of the Sixth Schedule to the Constitution while designing the administrative arrangements in the Panchayats at district levels in the Scheduled Areas.

Continuance of existing laws on Panchayats:

5. Notwithstanding anything in Part IX of the Constitution with exceptions and modifications made by this Act, any provision of any law relating to Panchayats in force in the Scheduled Areas, immediately before the date on which this Act receives the assent of the President, which is inconsistent with the provisions of Part IX with such exceptions and modifications shall continue to be in force until amended or repealed by a competent Legislature or other competent authority or until the expiration of one year from the date on which this Act receives the assent of the President;

Provided that all the Panchayats existing immediately before such date shall continue till the expiration of their duration unless sooner dissolved by a resolution passed to that effect by the Legislative Assembly of that State or, in the case of a State having Legislative Council, by each House of the Legislature of that State.

K.L. MOHANPURIA,
Secy. To the Govt. of India

Expert Recommendations regarding PESA

- (a) The Seventh Report of the Second Administrative Reforms Commission, (2nd ARC) ‘Capacity Building for Conflict Resolution’;
- (b) the Report of the Expert group constituted by the Planning Commission on ‘Development Challenges in Extremist Affected Areas’;
- (c) the Standing Committee on Inter Sectoral Issues relating to Tribal Development on Raising Standards of Administration in Tribal Areas (known as Mungekar Committee);
- (d) The 2nd ARC in its Sixth Report entitled ‘Local Governance, : An Inspiring Journey into the Future’;
- (e) B.D. Sharma Sub-Committee to draft guidelines to vest Gram Sabhas with powers envisaged in PESA;
- (f) A.K. Sharma Committee on ‘Issues relating to Minor Forest Produce in PESA States’;
- (g) Raghav Chandra Committee on ‘Land Alienation, Displacement, Rehabilitation and Resettlement’. Their report available at our website. www.panchayat.gov.in.

States	Comments Received on Report			Conformity of State Panchayati Raj Acts and Subject laws with PESA																			
	Minor Forest Produce	Gram Sabha	Land Alienation	State Panchayati Raj Act whether compliant with (Section 4 of PESA)												Compliance of Important Subject Laws with PESA							
				d	e	f	h	i	j	k	l	m						Land Acquisit	Excise	Forest Produce	Mines & Mineral	Agri. Produce Market	Money Lender
												i	ii	iii	iv	v	vi						
AP	N	N	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N	N	Y	N	N
Chattisgarh	N	N	Y	Y	Y	Y	Y	Y	Y	N	N	Y	N	Y	Y	N	Y	Y	Y	Y	N	Y	Y
Gujarat	N	N	N	Y	Y	Y	Y	Y	Y	N	N	N	Y	N	Y	Y	N	N	N	N	N	N	N
HP	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	Y	Y	Y	N	N	N	N	N	N
Jharkhand	N	N	N	Y	Y	Y	Y	N	N	N	N	N	N	N	Y	N	Y	N	N	N	N	N	N
Orissa	Y	N	Y	Y	Y	Y	Y	Y	Y	Y	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N	Y
Maharashtra	N	N	N	Y	Y	Y	N	Y	Y	Y	Y	Y	Y	Y	N	Y	Y	N	N	N	N	N	N
MP	N	N	N	Y	Y	Y	Y	Y	Y	Y	Y	N	N	N	Y	N	Y	Y	Y	N	Y	Y	N
Rajasthan	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N	N	Y	N	Y

Compliance with key Provisions of PESA

I Delimitation of Villages and Gram Sabhas as per PESA

1. As per Section 4(b) of PESA Act, a village shall 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 its traditions and customs. As per Section 4(c), every village shall have a Gram Sabha consisting of persons whose names are included in the electoral rolls for the Panchayats at the village level. However, this connotation of the Gram Sabha, which is specific to PESA has not been implemented in several States, and the existing definition of the revenue village is being used to convene Gram Sabhas.
2. It is suggested that State Election Commissions (SECs) be entrusted with examination and identification of villages as per PESA in Scheduled Areas, based on community demand. A time period may be designated for members of a Gram Sabha of any habitation/hamlet to apply to constitute a separate village, after passing a resolution to that effect either by consensus or three fourth majority. This exercise should be preceded by provision of information of the process and discussion regarding the same in the Gram Sabhas. State Election Commissioners may enquire into these applications examining records, public hearing etc. and in case of a favorable outcome of the inquiry, the habitation may be notified as a village.

II. Consultation with Gram Sabha for Land-Acquisition and Recommendations regarding Minor Minerals.

1. Land Acquisition

The following procedure should be followed for consultation with Gram Sabha before acquisition of land in Scheduled Areas and for relief and rehabilitation (R & R) and sustainable livelihood plan of persons affected as a result of such acquisition:

- All Gram Sabhas that have persons affected by a proposed project should be consulted before acquisition proceedings are initiated. Persons affected would include all persons whose livelihoods and / or habitats are affected by the project.
- Where persons affected by the proposed project belong to more than one Gram Sabha, the appropriate level of Panchayat should also be consulted in addition to the Gram Sabhas.
- The following information shall be furnished by the acquisition authority to the Gram Sabhas and the Panchayats at the appropriate level:
 - i) Full details of project for which land is proposed to be acquired;
 - ii) Full particulars of the land proposed to be acquired;
 - iii) Justification as regards the area of land required;
 - iv) Full details of the possible impact of project including land likely to be affected, social and environmental impact, new people likely to settle in village;

- v) Proposed compensation, job opportunities likely to be created for people in the village
 - vi) R & R and sustainable livelihood plan.
- After getting complete information, the Gram Sabhas concerned will be competent to ask for information from or to summon the representatives of the authorities concerned to examine them either individually or collectively. It will be mandatory for all such persons to furnish clear and correct information.
 - The Gram Sabha after considering all the facts, shall make recommendations regarding the proposed land acquisition, R&R and sustainable livelihood plan of persons displaced.
 - The recommendations of the Gram Sabha shall be considered by the the authorities concerned with land acquisition, R & R and sustainable livelihoods.
 - In case the authority concerned is not in agreement with the recommendations of the Gram Sabha, he will send the case again to the Gram Sabha for reconsideration.
 - If after a second consultation, the authority concerned passes an order against the recommendations of the Gram Sabha, he shall record the reasons for doing so in writing.
 - The progress of rehabilitation and sustainable livelihood plan shall be placed before the Gram Sabha after every 3 months from the date of notification for land acquisition.
 - If in the opinion of the Gram Sabha, suggested measures regarding rehabilitation and sustainable livelihood are not followed, the Gram Sabha may inform the State Government in writing regarding the same, and it will be mandatory for the State Government to take appropriate action.

2. **Minor Minerals**

- For purpose of PESA, the term “minor minerals” shall mean building stones, gravel, ordinary clay, ordinary sand and any other minerals which the Central Government has declared as minor minerals through notifications.
- The Gram Sabha and, if necessary, Panchayats at appropriate level shall be consulted while planning for the excavation and use of all the minor minerals including soil, stones, sands, etc to be found in its area. The plan for exploitation of minor minerals may include excavation area, the type of area, and management of ill effects of identification of excavation such as existence of pits, water shortage, reduction in vegetation, effect of ash or smoke on fields, etc;
- The villagers may use minor minerals for their individual needs as per the traditional practice with the permission of Gram Sabha. The Gram Sabha may make regulations in this regard.
- The Gram Sabha may fix the responsibilities such as filling up pits, planting trees, constructing ponds etc. by persons undertaking excavation to compensate for the ill effects of excavation.
- The following procedure shall be followed for securing recommendations of Gram Sabha for grant of prospecting license or mining lease for minor minerals and grant of concession for the exploitation of the minor minerals by auction:-
 - Any authority may award prospecting license, mining lease for or concession for exploitation of minor minerals by auction only in consultation with Gram Sabha.
 - The authority concerned that proposes to sanction a prospecting license or mining lease or grant of concession for minor minerals by auction should compulsorily

make available to the Gram Sabhas within whose jurisdiction the proposed mining area falls, all relevant information prior to grant of prospecting license/mining lease/ concession. This information should, among others, contain:

- (i) The manner in which the interests of the village community will be affected;
- (ii) Measures to safeguard the livelihoods of the persons in the affected zone;
- (iii) Measures to augment the resources of the community through a stake in the revenue; and
- (iv) A careful assessment of the economic, environmental and social impact on the affected persons.

- After considering the above information, the Gram Sabha may make its recommendations.
- The Gram Sabha may impose conditions for protecting the environment, employment, etc in all cases.
- The recommendations of the Gram Sabha shall be binding unless they are reversed by a competent authority for reasons to be recorded in writing and approved by the State Government.

III. Endowing Gram Sabhas with Powers and Authority under Section 4m (i) to 4m(v)

1. Intoxicants

- The Gram Sabha is to have full control over all the aspects related to any type of intoxicant within its jurisdiction. It means that the Gram Sabha may:
 - (a) completely stop the relaxation of allowing members of Scheduled Tribes to make local liquor for their own use or impose any type of ban on it in the village.
 - (b) give instructions to stop the sale of any type of intoxicant from a shop or in any other manner.
 - (c) impose a ban on bringing in any type of intoxicant or taking it outside the village territory.
 - (d) prohibit or impose a limit on the storage of intoxicants at any place.
 - (e) completely stop the use of liquor or other intoxicants in its village territory or impose any restriction.
 - (f) prohibit the sale of Mahua, Jaggrey etc. which are used in making liquor in the village or in the market.
 - (g) regulate the use of Taadi, Sulphi etc.
- Without the concurrence of the Gram Sabha, no new factory for manufacturing liquor or other intoxicants or shop for the sale of the same may be established.
- In order to continue a liquor shop for any year, a proposal would have to be presented by the Excise Department to the Gram Sabha. A liquor shop may continue only if a resolution is passed in the Gram Sabha to allow continuing the sale of liquor.
- The views of the women in the Gram Sabha will be given primacy in the matter. This may be ensured by forming an 'Intoxication Control Committee' of the Gram Sabha with adequate membership of women.

2. **Minor Forest Produce**

- MFP should be defined as per the Forest Rights Act, 2005 in all laws regulations.
- Before chalking out the departmental programme for forests and exploitation of MFP it will be compulsory for the Forest Department to consult the Gram Sabha.
- The management of forests will be done to protect the right of ownership, access to collect, use and dispose of MFP as per the Forest Rights Act, 2006.
- The Gram Sabha may chalk out an action plan about the use or exploitation of MFP in consultation with the Forest Officer concerned.
- One or more Gram Sabhas together, in consultation with the Forest Department, may decide the minimum price for the purchase or exchange rates of MFP.
- Gram Sabha may determine the royalty payable by the collector or the trader on MFP.
- It will be mandatory for all departments and institutions to give details to Gram Sabha before taking any MFP collected on the basis of any Act, rule or administrative instructions, outside the area of the Gram Sabha and obtain clearance from it for the same.
- If the State Government organizes the trade of any MFP in order to protect the interests of the people, that trade will be treated as trade carried out on behalf of people. But prior approval of the Gram Sabha will be needed for the proposed arrangement. On the basis of suggestions of the Gram Sabha, necessary changes may be carried out. Gram Sabha and the collectors will have complete rights over profits.
- For meeting the villagers' requirements such as grazing, fuel wood making houses and ploughs, Gram Sabha may chalk out a minor forest scheme for the use of forest resources used traditionally by the people in consultation with the concerned Forest Officers. Under this scheme every person will be able to use the resources after getting permission from the Gram Sabha.

3. **Land alienation**

(a) Land records

- The Gram Sabha should be empowered to review records of the village land to ensure that the farmers' names are correctly recorded and records are properly maintained
- Powers regarding mutation and partition of land in undisputed cases may be transferred to the Gram Panchayat, under to overall supervision of the Gram Sabha.
- It should be made mandatory for village officials to take permission from Gram Sabha prior to recording any kind of transfer of land.

(b) Prevention of land alienation

- The Gram Sabha should be empowered to ensure that no land belonging to STs is transferred to non ST persons.
- The Gram Sabha should be authorized to enquire into any land transactions, on the basis of complaints or suo- motto.
- If the Gram Sabha is of the opinion that attempts are being made to alienate lands belonging to STs, it should be empowered to issue instructions to prohibit the transaction.

(c) Restoration of alienated land

If the Gram Sabha finds that any person other than an ST is in possession of any land belonging to an ST without any lawful authority, it should be empowered to restore the possession of such land to that person to whom it originally belonged and if that person is dead to his legal heirs.

4. Money Lending

- The Gram Sabha should be empowered to take action to protect interests of people in relation to money lending.
- Gram Sabha should be empowered to decide the condition of maximum interest and repayment in the matters of private transaction.
- Gram Sabha may ask for any information regarding the loan extended by any person or institution to the villagers, its conditions, repayment status etc. and enquire into any complaints and given instructions to any person institution in case of injustice.

5. Management of markets

- Gram Sabha should be competent to manage and regulate any market in its jurisdiction. This would cover all aspects of management of markets including
 - (a) opening of shops and setting up of facilities,
 - (b) imposing restriction on sale of harmful products,
 - (c) ensure fair market price for products traded,
 - (d) ensuring use of correct weight and measures,
 - (e) fixing area of the operation of market,
 - (f) placing restriction on sale and purchase activity outside the market area, and
 - (h) other activities for the development of markets.
- All revenues from market operations shall flow to the concerned Gram Sabha to improve the facilities available for marketing.

Amendments proposed in the PESA Act

S.No.	Reason for amendment	Proposed amendment
1.	Some terms used in the Act have not been defined in Section 2, which has resulted in lack of implementation in keeping with the spirit of the Act.	The following definitions may be added to Section 2 of the Act: (ii) Community resources: Community resources include land, water, forest, minerals and other resources located in the territorial domain of the community. (iii) Consultation: Consultation means mandatory consultation on the basis of requisite information and transparency that shall be binding on the authorities concerned unless modified or rejected for reasons to be recorded in writing. (iv) Panchayat at appropriate level: Panchayat at appropriate level means the lowest tier of Panchayat which can perform a particular function or in whose area a particular resource is situated.
2.	Section 4 stipulates that the Legislature of a State shall not make any law which is inconsistent with the features of PESA. This formulation does not clearly state the rights of the Gram Sabha and Panchayats. It needs to be made explicit, to remove ambiguity.	It is proposed that rights, duties and powers under PESA may be stated in the Act itself. The wordings in Section 4 of the Act may be changed to: ‘Notwithstanding anything in the Constitution or any other law in force, (i) the following shall be rights, duties and powers entrusted to the Gram Sabha and Panchayat at the appropriate level; and (ii) the Legislature of a State shall not make any law under that Part which is inconsistent with any of them, namely :-
3.	The definition of village in Section 4 (b) can be interpreted so that the ‘village’ specifies only the residential area.	The following may be added to Section 4 (b) : The geographical jurisdiction of the village shall be deemed to extend to the physical boundaries that may have been so accepted by communities concerned according to their tradition.
4.	Section 4 (b) does not suggest a modality for notifying a village as per the definition.	The following provisions may be added to Section 4 (b) : (i) if members of a Gram Sabha of any habitation/hamlet desire to constitute a separate village, the members of that habitation/hamlet may pass a resolution to that effect either by consensus or three fourths majority. All such application shall be enquired into and decided by the State Election Commissioner. (ii) the Gram Sabhas of a group of villages may, if so supported by at least two third majority of each Gram Sabha, either constitute a Pargana Parishad, or if already existing, inform the District Magistrate in writing about its existence. The Pargana Parishad shall comprise of at least two representatives of each village elected by the Gram Sabha.

5.	There is need to explicitly state that the Gram Panchayat or any other village level committee will function under the overall superintendence and control of the Gram Sabha.	The following may be added to Section 4(c):- (i)The Gram Sabha may constitute Standing/ad hoc Committees for discharging their respective responsibilities from amongst their members. (ii)The members of such Committees of the Gram Sabha shall be elected in an open meeting of the Gram Sabha from among members of the Gram Sabha. (iii)The Gram Panchayat or any village level committee constituted under any statute or executive instruction by any government department or any other authority for any purpose, shall function under the superintendence, control and direction of the Gram Sabha.
6	Section 4 (d) deems the Gram Sabha to be competent to safeguard the traditions and customs of the people, their cultural identity, community resources and the customary mode of dispute resolution but it has no enabling provision for how a Gram Sabha may exercise this competence. There is no provision for appeal against the decisions of the Gram Sabha, which goes against the principle of checks and balances over all authority.	The following may be added to Section 4 (d): Provided that any person aggrieved by any decision of the Gram Sabha, or inaction on its part, or irregularity in the conduct of meetings or such like, can after inviting attention of the Gram Sabha in that regard and remaining dissatisfied with its conduct, make an appeal before the Pargana Parishad if constituted or the Sub-Divisional Magistrate, in case the Pargana Parishad is not constituted, whose decision in that regard shall be final and binding on the Gram Sabha. Provided that a second appeal shall lie to the District Magistrate regarding the decision of Pargana Parishad or the Sub-Divisional Magistrate as the case may be in case there is an infringement of law.
7.	The role of the Gram Sabha in scrutiny of activities of various agencies including Panchayats, government departments and corporate bodies through social audit needs to be defined explicitly.	The following may be added to Section 4 (e): iii. conduct regular social audit of works and programmes taken up in the village by any Panchayat State, corporate or private agency whatsoever;
8.	The words ‘be required to’ in Section 4(f) are unnecessary.	Words “be required to” in Section 4 of Clause (f) be deleted.
9	Section 4 (i) does not articulate clearly that the Gram Sabha as	Section 4(i) needs to be amended as: (i) the Gram Sabhas and, if necessary, the Panchayats at the

	<p>well as Panchayats at the appropriate level have to be consulted before land acquisition and the consent of the Gram Sabha is mandatory.</p> <p>Further, it also needs to be clarified that all Gram Sabhas affected by land acquisition projects need to be consulted and all facts regarding displacement and rehabilitation programmes, especially sustainable livelihoods of displaced people, have to be placed before the Gram Sabha.</p>	<p>appropriate level depending on the geographical spread of the proposed activity, in the zone influence of any land acquisition project, shall be consulted before taking a decision for issuing any notification for the acquisition of land in the Scheduled Areas for any purpose and regarding the rehabilitation and sustainable livelihood plan. Full facts about the project, its zone of influence, its economic impact and rehabilitation and sustainable livelihood plans shall be placed before the Gram Sabha.</p> <p>Explanation: The recommendations of the Gram Sabhas shall be binding on all authorities unless it is decided otherwise by the State Government for reasons to be recorded in writing.</p> <p>(ii) it will be mandatory for the agency acquiring land to place the progress of the rehabilitation and sustainable livelihood plan before the Gram Sabha after every 3 months from the date of notification for land acquisition.</p> <p>(iii) If the Gram Sabha is of the view that appropriate steps for the rehabilitation and sustainable livelihood are not taken, the Gram Sabha may recommend suitable measures.</p> <p>Provided that if in the opinion of the Gram Sabha, suggested measures are not followed, the Gram Sabha may inform the State Government in writing regarding the same, and it will be mandatory for the State Government to take appropriate action.</p>
10	<p>Section 4(j) provides that the planning and management of minor water bodies in the Scheduled Areas shall be entrusted to Panchayats at the appropriate level. It needs to be clarified that these shall vest with the Gram Sabha, and if necessary, with the Panchayats at the appropriate level.</p>	<p>Section 4(j) be replaced as:</p> <p>planning and management of minor water bodies in the Scheduled Areas shall vest in Gram Sabha and, if necessary, the Panchayats at the appropriate level depending on the spread of the water body;</p>
11.	<p>In Section 4(k) and 4(l) provide that the recommendations of the Gram Sabha or the Panchayats at the appropriate level shall be made mandatory prior to grant of prospecting license or mining lease for minor minerals, and</p>	<p>Section 4(k) may be amended as:</p> <p>the recommendation of Gram Sabha and, if necessary, the Panchayats at the appropriate level depending on the spread of the proposed project shall be mandatory prior to grant of prospecting license or mining lease for minor minerals in the Scheduled Areas;</p> <p>Provided that the recommendations of Gram Sabha shall be binding unless they are reversed by a competent authority for</p>

	<p>concession for exploitation of minor minerals respectively.</p> <p>It needs to be clarified that the Gram Sabha has to be consulted, and its recommendations are mandatory unless there are sufficient reasons to do otherwise.</p>	<p>reasons to be recorded in writing and approved by the State Government.</p> <p>Section 4(l) may be amended as:</p> <p>the prior recommendation of the Gram Sabha and, <u>if necessary</u>, the Panchayats at the appropriate level shall be mandatory for grant of concession for exploitation of minor minerals by auction;</p> <p>Provided that the recommendations of Gram Sabha shall be binding unless they are reversed by a competent authority for reasons to be recorded in writing and approved by the State Government.</p>
12.	<p>In Section 4 (m) (v), the words ‘control over money lending’ are too general.</p>	<p>In Section 4 (m) (v), the words ‘control over money lending’ may be substituted by ‘take action to protect the interests of tribals in relation to money lending’.</p>
13.	<p>An important issue in Schedule V areas in the lack of protection of the rights of people who migrate for work.</p>	<p>A right of the Gram Sabha to be kept informed about migrating workers may be created by adding [section (m) (a)] as follows:</p> <p>The Gram Sabha shall be kept informed by the concerned about workers, including unmarried women and minors, taken out of their home district by any person for employment about the nature of work, wages and other working conditions;</p>
14.	<p>Section 5 needs to indicate a time line whereby all Acts inconsistent with this amendment Act shall cease to be valid.</p>	<p>In Section 5 the following clause may be inserted after the proviso:</p> <p>Provided further that the provision of any law relating to Panchayats in force in the Scheduled Areas, immediately before the date on which this amendment Act receives the assent of the President, which is inconsistent with this amendment Act, shall continue to be in force until amended or repealed by a competent Legislature or other competent authority or until the expiration of one year from the date on which this amendment Act receives the assent of the President;</p>
15.	<p>PESA does not confer rule making powers to the State Governments. Since a major problem in implementation of the Act has been that such rules have not been framed, and subject laws have not been amended, this needs to be made mandatory.</p>	<p>Section 6 may be added to the Act as follows:</p> <p>It shall be mandatory for State Governments to frame rules as per this Act and for the Central and State Governments to amend subject laws as per the provisions of this Act within six months of this Amendment. If rules are not framed by the State Government within six months of the passing of this Act, the model rules framed under PESA by the Central Government Annex – IV shall apply.</p>

**QUESTIONNAIRE FOR PANCHAYAT EXTENSION TO SCHEUDLED AEREAS ACT
1996**

Name of the State _____

I. GENERAL INFORMATION

S.No		No. of Districts	No. of Blocks
1	Total in the State		
2	Fully covered in PESA(V Schedule)		
3	Partially Covered in PESA		

4. No. of Intermediate Panchayats in PESA / V Schedule Areas (Please indicate Block or Mandal)
 5. No. of Gram Panchayats in PESA or V Schedule Areas
 6. No. of Villages under PESA or V Schedule Areas

II. DEMOGRAPHIC INFORMATION (As per census 2001)

1. For Districts Fully Covered By PESA

Name of District	Population			ST Population (% of total population)			Literacy Rate (%)		
	M	F	Total	M	F	Total	M	F	Total

2. For Districts partly covered by PESA

Name of District	Name of Block	Population			ST Population (% of Total Population)			Literacy Rate (%)		
		M	F	Total	M	F	Total	M	F	Total

III. OVERVIEW

Note: States may like to fill part IV of the questionnaire before making an overview, as it will help in assessing the situation.

1. What initiatives has the State taken to bring amendments in Panchayat and subjects Acts to make these complaint with PESA? Please give details, including where the State has been successful in making needed amendments and where it has not, with reasons.
2. Have rules have been framed under PESA? If yes, have these been notified? If no, what is the progress? Please give details.
3. What initiatives have been taken by the State for inclusion of chapter on PESA implementation in the Governor's annual report? What has been the outcome? Please give details.
4. Has your State organized training programmes regarding PESA of:
 - (a) State Functionaries
 - (b) Gram Sabha(Please give details)
5. How does the State monitor the implementation of PESA?
6. What are the main problems in the compliance of PESA?
7. How are issues of non-compliance of PESA addressed?
8. What are the future plans of your State for implementation of PESA?

IV. COMPLIENCE OF PROVISIONS OF PANCHAYAT (EXTENSION TO THE SCHEDULED AREAS) ACT, 1996

Note: A copy of all relevant Acts / documents may be provided.

1. Section 4(a)

(a) Whether State legislation on Panchayats for Scheduled Areas is in consonance with customary law, social and religious practices and traditional management practices of community resources? Yes/No

Please give details:

(i) Name of the State Panchayati Raj Act/s:

(ii) Section no.:

(iii) Please reproduce the Section/s:

(iv) In the view of the State is this PESA compliant: Yes/No

(b) Whether any other State subject Act has been amended in consonance with this provision?

Yes/No

Please give details

- Name of the Act/s:

- Section no.:
 - Please reproduce the Section/s:
- (c) Whether any other State subject Act needs to be amended to bring it in consonance with this provision? Yes/No

Please give details

- Name of Act/s:
- Section no.:
- Please reproduce the Section/s:

2. Section 4(b)

(a) What is the definition of the 'village' for Schedule V Areas?

(i) Name of the State Panchayati Raj Act/s in which definition is given:

(ii) Section no.:

(iii) Please reproduce definition of village as in the Panchayati Raj Act for Schedule V areas:

(iv) In the view of the State is this PESA compliant: Yes/No

(b) Whether any other State subject Act has been amended in consonance with this provision?

Yes/No

- Name of the Act/s amended:
- Section no.:
- Please reproduce the Section/s:

(c) Whether any other State subject Act needs to be amended to bring it in consonance with this provision? Yes/No

Please give details:

- Name of Act/s:
- Section no.:
- Please reproduce Section/s:

3. Section 4(c)

(a) What is the definition of Gram Sabha in State Panchayati Raj Act/s?

(i) Name of the State Panchayati Raj Act/s:

(ii) Section no.:

(iii) Please reproduce the Section/s:

(iv) In the view of the State is this PESA compliant: Yes/No

(b) What are the functions of Gram Sabha in State Act?

(i) Name of the State Panchayati Raj Act/s:

(ii) Section no.:

(iii) Please reproduce the Section/s:

(iv) In the view of the State is this PESA compliant: Yes/No

4. Section 4(d)

(a) How does the State Panchayati Raj Act empower the Gram Sabha to safeguard and preserve the traditions and customs recognize competence of the people, their cultural identity?

(i) Name of the State Panchayati Raj Act/s:

(ii) Section no.:

(iii) Please reproduce the Section/s:

(iv) In the view of the State is this PESA compliant: Yes/No

(b) Are there any provisions in the State Panchayati Raj Act to empower/recognize competence of Gram Sabha for management of community resources?

(i) Name of the State Panchayati Raj Act/s:

(ii) Section no.:

(iii) Please reproduce the Section/s:

(iv) In the view of the State is this PESA compliant: Yes/No

(c) Has the Gram Sabha been empowered in the State Panchayati Raj Act or any other Act to solve local disputes in a customary mode?

(i) Name of the Act/s:

(ii) Section no.:

(iii) Please reproduce the Section/s:

(iv) In the view of the State is this PESA compliant: Yes/No

(d) With respect to Section 4(d) of PESA, has any other State subject Act has been amended?

(i) Name of the Act/s:

(ii) Section no.:

(iii) Please reproduce the Section/s:

(e) Whether any other State subject Act needs to be amended to bring it in consonance with this provision? Yes/No

Please give details:

- Name of Act/s:
- Section no.:
- Please reproduce section:

4. Section 4(e)

(a) What is the provision in State Panchayati Raj Act for approval of the plans, programmes and projects for social and economic development of the village level?

(i) Name of the State Panchayati Raj Act/s:

(ii) Section no.:

- (iii) Name of the body authorized for approval:
- (iv) Please reproduce the Section/s:
- (v) In the view of the State is this PESA compliant: Yes/No

(b) What is the provision for the identification or selection of persons as beneficiaries under the poverty alleviation and other programmes?

- (i) Name of the State Panchayati Raj Act/s:
- (ii) Section no.:
- (iii) Name of the body:
- (iv) Please reproduce the Section/s:
- (v) In the view of the State is this PESA compliant: Yes/No

5. Section 4(f)

(a) Has the Gram Sabha been empowered as per State Panchayati Raj Act to issue certification of utilization for expenditure of programme funds? If not, then which is the competent authority?

- (i) Name of the State Panchayati Raj Act/s:
- (ii) Section no.:
- (iii) Authority competent to issue certification of utilization of expenditure by Village Panchayats:
- (iv) Please reproduce the Section/s:
- (v) In the view of the State is this PESA compliant: Yes/No

6. Section 4(g)

(a) Whether 50% seats are reserved for STs in the Scheduled Areas?

- (i) Name of the Act/s:
- (ii) Section no.:
- (iii) Please reproduce the Section/s:
- (iv) In the view of the State is this PESA compliant: Yes/No

(b) Are 100% seats of Chairpersons at all level are reserved for STs?

- (i) Name of the Act/s:
- (ii) Section no.:
- (iii) Please reproduce the Section/s:
- (iv) In the view of the State is this PESA compliant: Yes/No

7. Section 4(h)

(a) Whether there is legislative provision for the State Government to nominate to Panchayats persons belonging to Scheduled Tribes which have no representation in the Panchayat at the intermediate level or the Panchayat at the district level?

- (i) Name of the Act/s:
- (ii) Section no.:

(iii) Please reproduce the Section/s:

(iv) In the view of the State is this PESA compliant: Yes/No

(b) At present how many such persons have been nominated at which level?
Please give details.

8. Section 4(i)

(a) Whether there is any provision in the State Panchayati Raj Act for consultation with Gram Sabhas/Gram Panchayats before making the acquisition of land in Scheduled Areas and before resettling and rehabilitating persons affected by such projects in the Scheduled Areas? If so, which level?

(i) Name of the State Panchayati Raj Act/s:

(ii) Section no.:

(iii) Name of the body to be consulted:

(iv) Please reproduce the Section/s:

(v) In the view of the State is this PESA compliant: Yes/No

(b) Whether any other State subject Act has been amended in consonance with this provision?

- Name of the Act/s:
- Section no.:
- Please reproduce the Section/s:
- In the view of the State, in this PESA complaint: Yes/No

(c) Have any executive instructions being issued? If so, please reproduce or attach.

(d) Is Section 4 (i) of PESA actually being implemented? Please give details.

(e) Whether any other State subject Act needs to be amended to bring it in consonance with this provision? Please give details.

- Name of the Act/s:
- Section no.:
- Please reproduce the Section/s:

9. Section 4(j)

(a) Whether the planning and management of minor water bodies is entrusted to Gram Sabha or Panchayats? If so, which level?

(i) Name of the State Panchayati Raj Act/s:

(ii) Section no.:

(iii) Name of the body:

(iv) Please reproduce the Section/s:

(v) In the view of the State is this PESA compliant: Yes/No

(b) Whether any other State subject Act has been amended in consonance with this provision?

- Name of the Act/s:

- Section no.:
- Please reproduce the Section/s:
- In the view of the State, in this PESA complaint: Yes/No

(c) Have any executive instructions being issued? If so, please reproduce or attach.

(d) Is Section 4 (j) of PESA actually being implemented? Please give details.

(e) Whether any other State subject Act needs to be amended to bring it in consonance with this provision? Please give details.

- Name of the Act/s:
- Section no.:
- Please reproduce the Section/s:

10. Section 4(k)

(a) What are the legislative provisions made in State Acts about grant of prospecting license or mining lease for minor minerals? Is the prior recommendation of Gram Sabha or Panchayats at appropriate mandatory?

(i) Name of the State Panchayati Raj Act/s:

(ii) Section no.:

(iii) Name of the body whose prior recommendation is mandatory:

(iv) Please reproduce the Section/s:

(v) In the view of the State is this PESA compliant: Yes/No

(b) Whether any other State subject Act has been amended in consonance with this provision?

- Name of the Act/s:
- Section no.:
- Please reproduce the Section/s:
- In the view of the State is this PESA compliant: Yes/No

(c) Have any executive instructions being issued? If so, please reproduce or attach.

(d) Is Section 4 (k) of PESA actually being implemented? Please give details.

(e) Whether any other State subject Act needs to be amended to bring it in consonance with this provision? Please give details.

- Name of the Act/s:
- Section no.:
- Please reproduce the Section/s:

11. Section 4(l)

(a) What are the legislative provisions made in State Acts about grant of concessions for the exploitation of minor minerals by auction? Is the prior recommendation of Gram Sabha or Panchayats at appropriate level mandatory?

(i) Name of the State Panchayati Raj Act/s:

(ii) Section no.:

(iii) Name of the body whose prior recommendation is mandatory:

(iv) Please reproduce the Section/s:

(v) In the view of the State is this PESA compliant: Yes/No

(b) Whether any other State subject Act has been amended in consonance with this provision?

- Name of the Act/s:
- Section no.:
- Please reproduce the Section/s:
- In the view of the State is this PESA compliant: Yes/No

(c) Have any executive instructions being issued? If so, please reproduce or attach.

(d) Is Section 4 (l) of PESA actually being implemented? Please give details.

(e) Whether any other State subject Act needs to be amended to bring it in consonance with this provision? Please give details.

- Name of the Act/s:
- Section no.:
- Please reproduce the Section/s:

12. Section 4(m)(i)

(a) Have legislative provisions been made in State Acts to endow Gram Sabha and Panchayats at the appropriate level with power to enforce prohibition, regulate / restrict the sale and consumption of intoxicants?

Please give details.

(i) Name of the State Panchayati Raj Act/s:

(ii) Section no.:

(iii) Name of the body:

(iv) Please reproduce the Section/s:

(v) In the view of the State is this PESA compliant: Yes/No

(b) Whether any other State subject Act has been amended in consonance with this provision?

- Name of the Act/s:
- Section no.:
- Please reproduce the Section/s:
- In the view of the State is this PESA compliant: Yes/No

(c) Have any executive instructions being issued? If so, please reproduce or attach.

(d) Is Section 4 (m) (i) of PESA actually being implemented? Please give details.

(e) Whether any other State subject Act needs to be amended to bring it in consonance with this provision? Please give details.

- Name of the Act/s:
- Section no.:
- Please reproduce the Section/s:

13. Section 4(m)(ii)

(a) Have legislative provisions been made in the State Acts for endowing the Gram Sabha and Panchayats at appropriate level with ownership of minor forest produce?

(i) Name of the State Panchayati Raj Act/s:

(ii) Section no.:

(iii) Name of the body:

(iv) Please reproduce the Section/s:

(v) In the view of the State is this PESA compliant: Yes/No

(b) Whether any other State subject Act has been amended in consonance with this provision?

Please give details.

- Name of the Act/s:

- Section no.:

- Please reproduce the Section/s:

- In the view of the State is this PESA compliant: Yes/No

(c) Have any executive instructions being issued? If so, please reproduce or attach. (Details about MFP federation etc. may be given).

(d) Is Section 4 (m) (ii) of PESA actually being implemented? Please give details.

(e) Whether any other State subject Act needs to be amended to bring it in consonance with this provision? Please give details.

- Name of the Act/s:

- Section no.:

- Please reproduce the Section/s:

14. Section 4(m)(iii)

(a) What are the legislative provisions made in State Acts for endowing the Gram Sabha and Panchayats at appropriate level with power for prevention of alienation of land in the Scheduled Areas?

(i) Name of the State Panchayati Raj Act/s:

(ii) Section no.:

(iii) Name of the body:

(iv) Please reproduce the Section/s:

(v) In the view of the State is this PESA compliant: Yes/No

(b) Whether any other State subject Act has been amended in consonance with this provision?

- Name of the Act/s:

- Section no.:

- Please reproduce the Section/s:

- In the view of the State is this PESA compliant: Yes/No

(c) Have any executive instructions being issued? If so, please reproduce or attach.

- (d) Is this provision of 4 (m) (iii) of PESA actually being implemented? Please give details.
- (e) Whether any other State subject Act needs to be amended to bring it in consonance with this provision? Please give details.
- Name of the Act/s:
 - Section no.:
 - Please reproduce the Section/s:
- (f) What are the legislative provisions made in State Acts endowing the Gram Sabha and Panchayats at appropriate level with powers of to take action for restoration of unlawfully alienated land?
- (i) Name of the State Panchayati Raj Act/s:
- (ii) Section no.:
- (iii) Name of the body:
- (iv) Please reproduce the Section/s:
- (v) In the view of the State is this PESA compliant: Yes/No
- (g) Whether any other State subject Act has been amended in consonance with this provision?
- Name of the Act/s:
 - Section no.:
 - Please reproduce the Section/s:
 - In the view of the State is this PESA compliant: Yes/No
- (h) Have any executive instructions being issued? If so, please reproduce or attach.
- (i) Whether this provision of 4 (m) (iii) of PESA actually being implemented? Please give details.
- (j) Whether any other State subject Act needs to be amended to bring it in consonance with this provision? Please give details.
- Name of the Act/s:
 - Section no.:
 - Please reproduce the Section/s:

15. Section 4(m)(iv)

- (a) What are the legislative provisions made in State Acts for endowing Gram Sabha and Panchayats at appropriate level with powers of management of village markets?
- (i) Name of the State Panchayati Raj Act/s:
- (ii) Section no.:
- (iii) Name of the body:
- (iv) Please reproduce the Section/s:
- (v) In the view of the State is this PESA compliant: Yes/No
- (b) Whether any other State subject Act has been amended in consonance with this provision?
- Name of the Act/s:
 - Section no.:
 - Please reproduce the Section/s:

- In the view of the State is this PESA compliant: Yes/No
- (c) Have any executive instructions being issued? If so, please reproduce or attach.
- (d) Is Section 4 (m) (iv) of PESA actually being implemented? Please give details.
- (e) Whether any other State subject Act needs to be amended to bring it in consonance with this provision? Please give details.
- Name of the Act/s:
 - Section no.:
 - Please reproduce the Section/s:

16. Section 4(m)(v)

- (a) What are the legislative made in State Acts for endowing Gram Sabha and Panchayats at appropriate level to exercise control over money lending to the Scheduled Tribes?
- (i) Name of the State Panchayati Raj Act/s:
- (ii) Section no.:
- (iii) Name of the body:
- (iv) Please reproduce the Section/s:
- (v) In the view of the State is this PESA compliant: Yes/No
- (b) Whether any other State subject Act has been amended in consonance with this provision?
- Name of the Act/s:
 - Section no.:
 - Please reproduce the Section/s:
 - In the view of the State is this PESA compliant: Yes/No
- (c) Have any executive instructions being issued? If so, please reproduce or attach.
- (d) Is Section 4 (m) (v) actually being implemented? Please give details.
- (e) Whether any other State subject Act needs to be amended to bring it in consonance with this provision? Please give details.
- Name of the Act/s:
 - Section no.:
 - Please, reproduce the Section/s:

17. Section 4(m)(vi)

- (a) What are the legislative provisions made in State Acts for endowing Gram Sabha and Panchayats at the appropriate level with powers for exercising control over institutions and functionaries in all social sectors?
- (i) Name of the State Panchayati Raj Act/s:
- (ii) Section no.:
- (iii) Name of the body:
- (iv) Please reproduce the Section/s:
- (v) In the view of the State is this PESA compliant: Yes/No

(b) Whether any other State subject Act has been amended in consonance with this provision?

- Name of the Act/s:
- Section no.:
- Please reproduce the Section/s:
- In the view of the State is this PESA compliant: Yes/No

(c) Have any executive instructions being issued? If so, please reproduce or attach.

(d) Is Section 4 (m) (vi) of PESA actually being implemented? Please give details.

(e) Whether any other State subject Act needs to be amended to bring it in consonance with this provision? Please give details.

- Name of the Act/s:
- Section no.:
- Please reproduce the Section/s:

19. Section 4(m)(vii)

(a) What are the legislative made in State Acts for endowing Gram Sabha and Gram Panchayats at appropriate level with powers of control over local plans and resources for such plans including tribal sub-plans?

(i) Name of the State Panchayati Raj Act/s:

(ii) Section no.:

(iii) Name of the body:

(iv) Please reproduce the Section/s:

(v) In the view of the State is this PESA compliant: Yes/No

(b) Whether any other State subject Act has been amended in consonance with this provision?

- Name of the Act/s:
- Section no.:
- Please reproduce the Section/s:
- In the view of the State is this PESA compliant: Yes/No

(c) Have any executive instructions being issued? If so, please reproduce or attach.

(d) Is Section 4 (m) (vii) of PESA actually being implemented? Please give details.

(e) Whether any other State subject Act needs to be amended to bring it in consonance with this provision? Please give details.

- Name of the Act/s:
- Section no.:
- Please reproduce the Section/s:

19. Section 4(n)

(a) Whether there is legislative provision in to ensure that Panchayats at higher levels do not interfere in the power of the lower levels?

(i) Name of the Act/s:

(ii) Section no.:

(iii) Name of the body:

(iv) Please reproduce the Section/s:

(v) In the view of the State is this PESA compliant: Yes/No

(b) Have any executive instructions being issued? If so, please reproduce or attach.

(c) Please comment on the implementation of this provision.

20. Section 4(o)

Whether the State has made any attempt to follow the pattern of Sixth Schedule of the Constitution in designating the administrative arrangements in Panchayat at district levels in the scheduled Areas? Please give details.

V. EMPOWERING & STRENGTHENING GRAM SABHA

1. Please provide the position of provisions of State Panchayati Raj Act, rules and executive instructions regarding the following:
 - a) Number of meetings of Gram Sabha to be held per year.
 - b) Process of organizing the meetings.
 - c) Process of conducting the meeting, including who chairs.
 - d) Preparation of minutes of the meeting
2. What special initiatives has the State Government taken to strengthen the Gram Sabha in Schedule V areas? Please give details.
3. How does the State Government monitor the functioning of Gram Sabhas in Schedule V Areas? Please give details.
4. If a monitoring mechanism is in place, what are the main findings regarding the functioning of the Gram Sabha in Schedule V areas?
5. Are the Gram Sabhas conducting the social audit of various programmes? Please give details.
6. What are the future plans of the States to empower and strengthen the Gram Sabha in Schedule V areas?
