

Working of Panchayats in PESA Areas of Odisha- A Study of Two Districts

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Abstract

This paper presents the empirical findings of implementation of the Provisions of Panchayat (Extension to Scheduled Areas) Act, 1996 (PESA) and its implications for making decentralised governance effective in scheduled areas of Odisha. It highlights how the Panchayats, the Palli Sabhas and the Gram Sabhas as unit of decentralised governance are functioning under the provision of the PESA Act based on field level evidences. In this context, a main objective of this paper was to understand how the Panchayats are institutionalised and made functional in these areas based on the field data collected from two tribal (scheduled area) districts (Sundargarh and Koraput). The main research questions of this paper are (i) what are the evidences of the implementation of this Act in Odisha and how it is implemented?, and (ii) how the Panchayats are functioning in these areas under the PESA Act? Based on the quantitative data collected from 300 households (244 ST Households and 56 others) from the two districts and qualitative data through the process of Focus Group Discussions (FGDs) and in-depth discussions, this paper tries to address the above key research questions.

The key findings of the paper shows that in the scheduled areas, the enactment of the PESA Act has been emerged as an important landmark for making Panchayats effective and inclusive. In the case of two districts (Sundargarh and Koraput) the Panchayats under the legal framework of the PESA Act have become instrumental in strengthening the local polity and economy through promoting peoples' participation, formulating local development plans and implementing socio-economic development programmes. The Palli Sabhas (Village Assembly) and the Gram Sabhas (Panchayat Assembly) have emerged as two grassroots institutions. The nature and extent of

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participation of people (tribals and non-tribals) have been observed in two ways such as participating in the process of elections and attending various meetings of the Panchayats (*Political Participation*) and participating in the process of planning and implementation of various development programmes (*Economic Participation*).

This paper suggests that (I) there is a need of fostering better integration between traditional village councils and Panchayats, as it is observed that in many cases the traditional councils reinforcing the functioning of the Panchayats in many ways, (II) the institutional arrangement and functioning of Panchayats, including the Palli Sabhas and the Gram Sabhas needs to be more inclusive in nature so that it can facilitate better participation of the tribals, (III) the overall functioning of the Panchayats, the Palli Sabhas and the Gram Sabhas should be based on the provisions of the PESA Act, (IV) and, the participation of tribals in the overall process of functioning (including designing plans, and implementing development programmes) should be accorded priority considering the true spirit of the PESA Act. It further suggests that a time has come to make the effective implementation of the Act. The state should progress further for giving a finishing touch to the draft PESA Rules which has been waiting to get the legislative consent since 2010. There is a need of a constitutionally backed, operationally easy, legally sound framework which is transparent, fair and equitable and which caters to the most vulnerable and most marginalised tribal communities.

Key Words: Panchayat, PESA Act, Scheduled Area, Tribals, Odisha.

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1. Introduction: The increasing focus on democratic decentralisation has been expanded the debate regarding effects of the decentralisation initiatives on strengthening local governance and reinforcing local development. Advocates of decentralisation in developing countries argue that 'bringing government closer to the people will make it more responsive and hence more likely to develop policies and outputs which meets the needs of the ordinary citizens the majority of whom are the poor' (Crook and Sverrisson,2001:1). The process of democratic decentralisation helps to create such institutions which are more amenable to people, in particular people of the weaker sections such as the Scheduled Tribes (STs). Hadenius (2003:1) argues that 'a decentralised system is also more accessible to new political movements and minority groups in their attempts to influence politics. This is particularly important in ethnically divided societies, where political exclusion can have seriously polarising effects'. The most fundamental aspects of decentralisation are that it is expected to improve governance (Litvack et.al.1998:4; Francies and James 2003:325) which may have positive impact on development.

In the case of India, the process of democratic decentralisation attained prominence since the pre-independence era. The evolution of the Panchayati Raj Institutions (PRIs) in the rural areas can be considered as positive outcomes of democratic decentralisation reforms. The country has been witnessing the process of the evolution and institutionalisation of the PRIs since the pre-independence period. The PRIs as institutions of democratic decentralisation has attained prominence since the 1990s in the context of the enactment of the 73rd Amendment Act. In the case of scheduled areas (tribal areas), these institutions have emerged as institutions of self-government as per the enactment of the Provisions of Panchayats (Extension to Scheduled Areas) Act (PESA Act) in 1996.

The case of the Panchayats (Gram Panchayats or GPs) in scheduled areas presents that these institutions have been playing a major role in the case of promoting peoples' participation and implementing socio-economic development programmes at the village level. The institutional arrangement and functioning of Panchayats in tribal villages in India in general and Odisha in particular show that in many cases these institutions have been successfully able to deepen the roots of local democracy through promoting participation of weaker sections such as the tribals, formulating local development plans and identifying beneficiaries of various schemes and

programmes. The institutional arrangement of the Panchayats and the Gram Sabhas under the framework of the PESA Act and functioning of these institutions has created space for political and economic inclusion of the tribals.

Odisha since the last few decades has also been taken-up extensive efforts of institutionalising the PRIs in the scheduled areas. The evolution of the PRIs is strongly linked with the political history of the state. Starting from the ancient era to the present period, the evolution of these institutions has been proceeded through various stages while fostering institutional arrangements and strengthening the functioning of these institutions. The Palli Sabhas³ and the Gram Sabhas are emerged as two key grassroots institutions with enjoying powers of fostering peoples' participation in local democracy and socio-economic development. In the context of the enactment of the PESA Act, these institutions have also been enjoying powers of managing natural resources, controlling land alienation, controlling the selling of intoxicants, controlling money lending and above all planning for and implementation of the development programmes. Such process has been contributed to a great extent towards the effective functioning of the Panchayats as per the provisions of the PESA Act, though there are field level variances observed in various villages and Panchayats.

It is on this basis, the present paper tries to understand the nature of institutional arrangement and functioning of Panchayats (GPs) in two tribal districts of Odisha in the context of the enactment of the PESA Act. As the post-PESA enactment period has contributed in various ways towards the strengthening of Panchayats in the scheduled areas of the state, this paper also tries to capture these trends as well as the bottlenecks associated with this process. The functioning of Panchayats, the Palli Sabhas and the Gram Sabhas have highlighted while focusing on how the functioning of these institutions gradually progressed towards strengthening the local (village) democracy in the study areas for strengthening the era of political and economic participation in the study area. It further presents the empirical findings of the functioning of the traditional self-governing institutions and their nature of interfaces with the Panchayats in the two study districts through examining the data collected from 300 households.

³ The Palli Sabhas are the Village level unit of local governments established and functioning in Odisha as per the Odisha Gram Panchayat Act, 1964.

This paper focuses on the four broad aspects of the functioning of Panchayats in the scheduled areas in the state and enactment of various legal provisions including the PESA Act. Section 1 discusses the objectives and database of the paper while Section 2 examines the legal provisions and functional status of the PRIs in general and the Panchayats (GPs) in particular in the Scheduled Areas of Odisha. The evolution, institutional arrangement and functioning of the Panchayats in the two tribal districts in the context of the PESA Act are discussed in Section 3 (findings section) while Section 4 offers reflections and conclusion. The paper in the findings section discusses only the case of the Gram Panchayats/Panchayats while the legal provisions and institutional arrangement section highlights the case of three-tier PRIs in Odisha.

2. Objectives, Data Base and Methodology: The broad objective of the paper is to shed light on the working of Panchayats in the scheduled areas of Odisha and how the enactment of the PESA Act, 1996 has reinforced the institutional arrangement and functioning of these institutions. More specifically, the study tries to uncover the various legal provisions of the Panchayats starting from the pre-independence period to the post-PESA period in the state while highlighting the case of the scheduled areas. It further tries to uncover the changes happened in the case of functioning of Panchayats in the two sampled districts and how the enactment of the PESA Act has contributed towards such process. The broad objective of this research is linked with three essential attributes of the decentralised governance and institutional arrangement such as (i) prevailing Panchayati Raj System and institutional arrangement in the scheduled areas, (ii) status of the PESA Act and position of the tribals in such process (iii) and status of the interaction between the traditional governing institutions and the Panchayats and their overall implications of strengthening the Panchayata under the PESA Act in these areas.

The main research questions of this paper are (i) what are the evidences of the implementation of this Act in Odisha and how it is implemented?, (ii) and how the Panchayats are functioning in these areas under the PESA Act and what are the implications of this issue on the overall polity and economy of the tribals of the study area?

The study was carried out through employing three key research methods such as (i) household survey method, (ii) in-depth interview, (iii) and focus group discussion. The data base of the study was generated through employing both the quantitative and the qualitative data tools. The study captured the scenario of the 300 households from the two tribal districts (PESA

districts) such as Sundargarh and Koraput. The data collection process was carried out from the period of October 2014 to February, 2015. A semi-structured interview schedule was used to collect quantitative information from 300 sampled households while the qualitative survey tools such as the in-depth interview and the FGDs were used for gathering data from various persons and institutions other than the 300 sampled households.

3. Profile of the study area and socio-economic features: Sundargarh district is located in the northern part of the state which is surrounded by the state of Jharkhand and Chhatisgarh, apart from the districts of Jharsuguda, Sambalpur, Angul and Keonjhar of the state. The administrative structure of the district reveals that, it is the second largest district of the state with a landmass of 9712 sq.km. (6.24 percent of the state’s territory) that spreads from the northern part to the western part of the state. The district has three administrative sub-divisions (Sundargarh, Panposh and Bonai), eighteen Tahasils, Seventeen CD Blocks and 262 GPs. The district has 1727 number of revenue villages and 394060 households. As per 2011 census, the total population of the district is 2,080,664 (4.96 percent of the state’s total population) out of which the percentage of urban population is 34.4 percent.

The district of Koraput is located in the southern part of Odisha. The district is surrounded by the states of Andhra Pradesh and Chhatisgarh apart from the districts of Rayagada, Nawrangpur and Malkangiri of the state. Insofar as the administrative set up of the district is concerned, the district spreads over an area of 8379 sq.km which is 5.66 percent of the total state’s territory, with having two administrative sub-divisions (Koraput and Jeypore), fourteen tahasils, fourteen blocks and 226 GPs. The district has 2028 revenue villages and 284876 households. As per 2011 census, the population of the district is 1,376,934 (3.28 percent of the state’s total population) out of which the percentage of the urban population is only 16.8 percent of the total population of the district.

Table 1. Profile of two sampled Districts

Key Components	Sundargarh	Koraput
Location	North	South
Landmass	9712 sq.km	8379 sq.km

Subdivisions	3	2
Tahasils	18	14
CD Blocks	17	14
Gram Panchayats	262	226
Villages	1727	2028

Source: (i) District Statistical Handbooks, Sundargarh and Koraput, 2007, (ii) Odisha Economic Survey, 2013-14.

Profile of the Sampled Households: In the case of selecting households for the study, all together 300 households were covered from the 16 sample villages from the two districts. The sample households were taken as pro-rata of the total households and households from each social category (STs and Non-STs) in order to avoid sample biasness. But from each district 150 numbers of households and from each block 75 numbers of households were covered under this study. With regard to the coverage of households, from Sundargarh district 123 (82.0%) tribal households and 27 (18.0%) non-tribal households were covered under the process of household data collection. Similarly from Koraput district, 121 (80.7%) tribal households and 29 (19.3%) non-tribal households were covered under the process of household data collection.

Table-2; Profile of the Sampled Villages and Households

Districts	Blocks	Panchayat	Villages	Households		
				ST	Non-ST	Total
Sundargarh	02	04	08	123 (82.0%)	27 (18.0%)	150 (100.0%)
Koraput	02	04	08	121 (80.7%)	29 (19.3%)	150 (100.0%)
Total	4	8	16	244 (81.3%)	56 (18.7%)	300 (100.0%)

Source: Field Survey (Field Survey), 2014

4. Panchayats in PESA areas of Odisha: Legal Provisions and Institutional Arrangement:

The scheduled area which is defined under the Article 244(I) of the Indian Constitution spreads among the central part of the country. In the case of Odisha, the state has a vast scheduled area which is situated in the southern and northern parts in the state mainly in the 13 districts out of which seven districts are fully and six districts are partly covered under the provision of the scheduled areas as referred to clause (1) of Article 244 of the Indian Constitution.

Table-3; Profile of the Scheduled Areas of Odisha

Sl	District	Coverage of Area under Scheduled Area	Area(in Sq.km)		Blocks		Gram Panchayats	
			Total	Scheduled Areas	Total	Scheduled Areas	Total	Scheduled Areas
1	Sundargarh	Whole District	9712	9712	17	17	262	262
2	Mayurbhanj	Whole District	10418	10418	26	26	382	382
3	Koraput	Whole District	8379	8379	14	14	226	226
4	Rayagada	Whole District	7585	7584.7	11	11	171	171
5	Nobarangpur	Whole District	5294	5294	10	10	169	169
6	Malkangiri	Whole District	5791	5791	7	7	108	108
7	Kendujhar	Part of District	8303	6935.60	13	10	287	218
8	Sambalpur	Part of District	6702	2367.30	9	3	148	55
9	Balasore	Part of District	3634	223.60	12	1	257	25
10	Kandhamal	Whole District	7649	7649	12	12	153	153
11	Kalahandi	Part of District	7920	1323.30	13	2	273	37
12	Ganjam	Part of District	8071	912.00	22	2	475	39
13	Gajapati	Part of District	3850	3574.40	7	5	129	96
Total	13	7 Fully and 6 Partly	93307	58402.1	173	120	3040	1941

Source: (i) District Statistical Handbooks of the Districts, 2007 (ii) Odisha Economic Survey, 2013-14.

Odisha is one among the few states in India which has institutionalised the Panchayats in 1948 through the Orissa Panchayati Raj Act of 1948. The Panchayati Raj System was existed in the state through different legal provisions even before the enactment of this Act in 1948. Since last 60 years, the Panchayats in Odisha have become *sine qua non* of strengthening local democracy in rural areas, addressing rural poverty while providing equity and social-justice to the socio-economically backward people such as the STs. These institutions have been emerged as the institution of self-government while promoting socio-economic and political transformation in the scheduled areas. Promoting participation of people in the local democracy and implementing a number of socio-economic development programmes have also become major works of these institutions. The enactment of the PESA Act in 1997 in the State and extension of the provisions of this Act to the scheduled areas have also empowered the PRIs in these areas.

However, despite these efforts, the functioning of the Panchayats in scheduled areas faced multiple challenges with regard to institutionalising democratic governance, planning for and implementation of the development programmes. The scenario of governance in scheduled area and process of strengthening democracy in these areas have faced many challenges. A number of tribal social movements are going on for the protection of their human rights, in particular from the local money lenders, globalised forces and trauma of state run major development projects. The emergence of the Left Wing Extremism (LWE) has also affected a lot on the governance and development in these areas. The sustainable development approach through the process of equity and inclusion has not been achieved the desired result. Despite facing these challenges, the PRIs in these areas have been playing a key role in the matters of strengthening local democracy and promoting socio-economic development of the tribals in post-PESA period.

In this context, it is important to explore the nature of various legal provisions that have enacted in the state for making Panchayats effective in the scheduled areas of State.

(a) Early Phase or Phase of Evolution: During the ancient period, the Self-Governing Institutions were existed in the State. Ever since the Vedic period, local villagers participated in the collective decision making. The Sabhas (gatherings) were the popular platforms through

which the common people had a direct say and control over the local affairs. The village was always a more or less self-dependent unit (Dash, 2011:41). It generated its own resources, had its own functionaries and its own functional domain. The panchayats had both the executive and judicial powers, including the powers to decide land revenue, village administration and providing taxes to higher administrative bodies. Mathew (1994:34) summarises “that the important characteristics of these panchayats were (during ancient period) that they had been the pivot of administration, the centre of social life, an important economic force and, above all, a focus of social solidarity”.

(b) Pre-Independence Period: The emergence of the British rule in Odisha in 1803 witnessed marked a new era in the functioning of the traditional village self-governance. The era was started with the decline of the traditional local self-governance system in the state.

During this period, the scheduled areas of Odisha were kept under the provision of the ‘partially excluded areas’ as per the provisions of the Government of India Act, 1935. The administrative and fiscal centralisation was a colonial necessity which was reflected through various legal provisions. Apart from the Government of India Act, 1935, the Government of India Acts of 1919 (Montagu-Chelmsford Reforms) and 1929 were enacted to vest more powers to the local governments in the state.

(c) Evolution of Panchayats during Post-Independence Period: The functioning of the PRIs in the scheduled areas of the State began with the two major developments such as declaration of a number of constitutional provisions for the administration of the scheduled areas and economic development programmes designed for the STs under Article 244 (I) of 5th Schedule of the Indian Constitution. For this purpose, a number of initiatives were taken by the State government through formulating the state specific legal provisions.

The Orissa Gram Panchayat Act, 1948; The Government of Odisha enacted the Orissa Gram Panchayat Act in 1948 which was made specific provisions for the STs. The seat reservations provision was made to ensure their participation in the Panchayat politics. Provisions were made to promote politico-economic inclusion of the STs through ensuring their participation in the local democratic system, governance processes and the economic development programmes.

The Orissa Panchayat Samiti and the Orissa Zilla Parishad Acts, 1959; In 1959, the Orissa Panchayat Samiti and the Orissa Zilla Parishad Acts were enacted in the State for the strengthening of local self-governance system at the intermediary level and at the district level. These two historic Acts laid the foundation stone for the introduction of the three tier local self-governments in the state which became a reality in 1961. The Orissa Panchayat Samiti Act was extended to the whole state of Odisha while providing specific provisions for the weaker sections, particularly the STs in the form of seat reservations in the different tiers. Similarly, the Orissa Zilla Parishad Act was also provided special attention for the STs with an objective to ensure their political and economic participation. The most enduring features of these Acts were that for the first time the three tier PR system was implemented in the entire State.

The Orissa Gram Panchayat Act, 1964; The Orissa Gram Panchayat Act of 1964 was a major initiative which included specific provisions considering the constitutional mandate of the fifth schedule of the Indian Constitution. The original Act, while enacted in 1964 extended the application of the provisions of the Act to the entire State including the areas comes under the clause(I) of the 244 of the 5th Schedule of the Indian Constitution. However, the amendment made in 1994 became applicable to the scheduled areas with a separate notification dated 21st April, 1994 as per the Government Order no 438.

The Zilla Parishad Act of 1991 was enacted in the State with an objective to revive the Zilla Parishads which were abolished in 1969. The Section 1 of para 5 of this Act mentioned that “Nothing in this act shall apply to the scheduled areas referred to in clause (1) of Article 244 of the Constitution”. However, the provisions of this Act extended to the scheduled areas in 1993 based on a separate notification⁴. Similar provisions were also added into the Orissa Panchayat Samiti (Amendment) Act in 1994 following the mandates of the 73rd amendment of the Indian constitution.

Table 4: Evolution of the Three-Tier Panchayats in Odisha

Sl.	Year	Status of the Panchayati Raj Institutions		
		Gram Panchayats	Panchayat Samities	Zilla Parishads

⁴ Notification No.26701, December 1993 published in E.O. No. 1664 dated the 23rd December, 1993.

1	1961	2350	214	13
2	1963	2350	307	13
3	1966-67	3826	307	13
4	1983-84	4391	314	13
5	1991-92	5263	314	13
6	1997-98	5263	314	30
7	2002-03	6234	314	30

Source: Panchayati Raj Department, Govt. of Odisha, 2013-14.

The 73rd Amendment Act, 1992 and the PESA Act, 1996: With the enactment of the 73rd Amendment Act, the institutionalisation of the Panchayats in the scheduled areas received a fresh impetus, which led into the enactment of the PESA Act in 1996. The implementation of the provisions of the PESA Act was a historic step for the people of the state at large, particularly the tribals, who are traditionally associated with the democratic form of governance through the *sabhas* and *samajs*. The provision of Panchayats (Extension to the Scheduled Areas) Act, 1996 came into force on the 24th December, 1996 (Dash, 2011:42). As per the provision of the PESA Act of 1996, the Orissa Gram Panchayat Act, 1964, the Orissa Panchayat Samiti Act, 1959 and the Orissa Zilla Parishad Act, 1991 were amended to ensure the process of extension of this Act to the scheduled areas of Odisha. With regard to the scheduled areas, the provisions of this Act were extended with a separate notification in 1997. Further, seat reservations for the STs were made in accordance to their population. One-third seats were also reserved for the women of the STs.

The Orissa Panchayati Raj Amendment Acts 1997 were significant step towards promoting governance and implementing socio-economic development programmes in scheduled areas of the state. The acts spelt out the role of the PRIs in general and the Gram Sabhas in particular for preparing development plans in the tribal areas, considering the magnitude of poverty, inequality and the nature and extent of underdevelopment. The Orissa Amendment Act has granted powers to the Gram Sabhas to approve of plans, programs and projects for social and economic development. The Gram Sabhas and Gram Panchayats are also entrusted with the responsibility of identification of the beneficiaries under the poverty alleviation and other programs, providing certificates to the Gram Panchayats for utilisation of funds, ownership over natural resources-

especially the minor forest produces and the power to control local plans and the resources for such plans including the Tribal Sub-Plans (TSP).

Amendments in the State Subject Acts: The enactment of the PESA Act in the state has also paved towards the amendments of the state subject Acts. The Orissa Schedule Areas Transfer of Immovable Property (by Scheduled Tribes) Regulation of 1956 has been amended by regulation of 2002 (Regulation 1 of 2002). The Orissa Scheduled Areas Money-lenders' Regulations, 1967 (Regulation of 1968) has been amended. A Watch dog role has been given to Gram Panchayats under the amended money lending regulation to enable the community to protect the individual tribal from exploitation by money lenders. The Orissa Government has also enacted the Orissa Minor Forest Product Administration Rules in 2002 with an objective to vest the rights of ownership of the minor forests products in the PRIs in the State. The Bihar and Orissa Excise act, 1915 has been amended while vesting the powers to the Gram Panchayats in the scheduled areas regarding the issuance of license. These amendments in some cases have also influenced the functioning of the local self-governments in the Scheduled Areas.

The Government of Odisha has also framed the PESA Rule (Orissa PESA Rule, 2010) which is under the process of receiving the legislative approval. Further, development programmes such as Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA), Housing Schemes, and Social Security Programmes have been implementing in the scheduled areas through the Panchayats. Special financial assistance has also been provided to the Gram Panchayats in the scheduled areas for the implementation of the development programmes.

Table-5; Profiles of the Three-Tier PRIs in the Scheduled Areas in Odisha

Three-Tier PRIs	Total in the State		In Scheduled Areas	
	Number	Percent	Number	Percent
Zilla Parishads	30	100.0	13	43.3
Panchayat Samities	314	100.0	120	39.1
Gram Panchayats	6234	100.0	1941	31.1
Wards	87542	100.0	24734	28.2

Source: Department of Panchayati Raj, Govt. of Odisha, 2014-15.

Institutional Arrangement and Devolution of Powers: With regard to institutional arrangements, the three-tier PRIs such as the Gram Panchayats (at Village level), the Panchayat Samities or the Block Panchayats (Intermediary level) and the Zilla Parishads (at District level) have been institutionalised in the state as per the provisions of the 73rd Amendment Act and Orissa Panchayati Raj amendment Acts. The Gram Sabhas have been recognised as institutions of promoting local level plans for socio-economic development, identification of beneficiaries for poverty alleviation and other programs and management of community resources. The PESA Act has given legislative powers to the Gram Sabhas and the Gram Panchayats on various matters. The powers of the Gram Sabhas have been carefully underlined with a noble objective of ensuring peoples' participation in the decision making and implementation processes for the effective implementation of development programs. The institutionalisation process has also made necessary arrangements for the various other institutions such as the Standing Committees, the District Planning Committees (at District level), the State Planning Commission/Board, the State Finance Commission, and the State Elections Commission. However, it is observed that the institutionalisation of the PRIs are faced multiple challenges in the State in the form of poor coordination among different tiers, bureaucratic control, and political interference which hampered the functioning of these institutions in letter and spirit.

5. Findings from the Field: Data collected from the two study districts, Sundargarh and Koraput reveals that the Panchayats, the Palli Sabhas and the Gram Sabhas are functioning in these districts as per the provision of the PESA Act, through there are some variances observed in the case of the institutional arrangement and functioning. The enactment of the PESA Act and its extension to these areas has influenced the functioning of these institutions. This section highlights the summary of the field data collected from the various villages of the tribal districts.

5.1. Implementation of the PESA Act in the State and Issues of Conformity

The case of implementation of the Act and politics of implementation found that many provisions of this Act are implemented otherwise which are neither politically sound nor economically viable of strengthening decentralised governance in the scheduled areas of the state. Many provisions are implemented presuming the fact that 'effective democratic governance can automatically produce better economic development' which is seems to be quite difficult to achieve under the present legal framework. Instead of linking political goals with

economic ends, the state government since last two decades has been attempted to subvert the true spirit of the Act through frequently changing the rule of the games. The political dimensions of the Act and its process of implementation have reflected though the process of making legal provisions, holding regular elections for the panchayats and seat reservations for the tribals at the various levels of the panchayats. But the economic aspects of the Act have not been reflected much which has widened the gap between the political empowerment and economic outcomes under the provision of the Act. No separate schemes, programmes and projects are formulated and implemented in the scheduled areas of the state which shows abject failure of the state to create economic opportunity for tribals as per the provision of this Act.

5.2. Functioning of Traditional Governance and their Interface with Panchayats

5.2.1, Institutional Arrangement and Leadership Pattern: The institutional arrangements of the traditional tribal self-governance system shows that the traditional village councils and the caste councils are the two major institutions functioning in the sampled villages though there are functional variances. It further shows that the ‘caste councils’ (*the Samaj*) are quite visible in the villages in Sundargarh district and the ‘Village Councils’ (under a village headman) are quite visible in all the villages in Koraput district. In the matter of functioning of these councils, it was observed that the participation of people form an important part of the functioning of these institutions.. In the councils’ meetings, the discussion usually takes place on the socio-cultural issues such as organisation of festivals, celebration of various rituals, settlement of disputes related to caste such as inter-caste marriage, inter and intra caste conflicts, and performing of various religious practices.

However, in the recent period, the meetings of these councils and issues that used to be discussed in these councils witnessed a change. The issues related to the functioning of the Panchayats also discussed in the council meetings in various villages. The issues such as planning for villages through the *Palli Sabhas* and the *Gram Sabhas*, selection of beneficiaries, management of village forests, issues related to liquor, related to migration and issues related to implementation of various schemes and programmes of Panchayats sometimes discussed in these meetings considering importance of such issues. But the issues related to Panchayats have not been discussed frequently in these meetings.

Table-6; Perception of the respondents on the village leadership

Respondents	Sundargarh							Koraput					
	Traditional Leader	Ward Member	Sarpanch	Elder Person of the villages	Other PRI Members	Others	Total	Traditional Leader	Ward Member	Sarpanch	Elder Person of the villages	Others	Total
ST	77	34	7	1	2	2	123	95	26	0	0	0	121
	62.6	27.6	5.7	0.8	1.6	1.6	100.0	78.6	21.4	0.0	0.0	0.0	100.0
NST	10	12	2	1	1	1	27	18	9	0	1	1	29
	37.0	44.4	7.4	3.7	3.7	3.7	100.0	62.0	31.2	0.0	3.4	3.4	100.0
Total	87	46	9	2	3	3	150	113	35	0	1	1	150
	58.0	30.7	6.0	1.3	2.0	2.0	100.0	75.3	23.3	0.0	0.7	0.7	100.0

Key: ST-Respondents from the Scheduled Tribes, NST-Respondents from other than ST categories (SC, OBC and General); *Note;* (I) Figures in parentheses are the percentage of the respective counts, (II) Others-Village level formal and informal groups' leaders

Source; Field Survey (Household Data)

Data collected from 300 households presents that in Sundargarh district 58.0 percent of the respondents and in Koraput district 75.3 percent of the respondents observed that the traditional leaders (council head and the head of the *Samaj*) are the actual leader of the village, despite the existence of the Panchayat leaders, in particular the Ward Members at the sampled villages. Further, in the case of Sundargarh 30.7 percent of respondents feel that the Ward Member is the actual leader of village; while in the case of Koraput 23.3 percent of the respondents feel the same (Ward Member is the actual leader of the village).

The overall trend shows that the introduction of the Panchayats has not been diluted the importance of the traditional leaders as majority of the respondents acknowledged the importance of these leaders in the villages. Further, some traditional tribal leaders have also become part of the Panchayats. In this case the provision of seat reservations for Tribals at the

various tiers of the Panchayats has also contributed positively towards enhancing their degree of political participation and leadership quality. (FGD Note).

5.2.2. Interfaces of the Tribal Councils with the Panchayats: A main aspect of interface that was observed through this study is nature and degree of the participation of the traditional tribal councils and the caste councils in the functioning of the Panchayats. The nature of participation of these councils in general and leaders of the councils in particular in the various matters of the functioning of the Panchayats in sampled villages was observed positive as well as negative, collaborative as well as contesting and individualistic oriented as well as institution oriented. The traditional tribal village councils and the caste councils have become instrumental in promoting peoples' participation in the functioning of the Palli Sabhas and the Gram Sabhas in the study area.

The degree of interface between the two institutions was observed through measuring the degree of the participation of the council leaders in the Palli Sabha meetings and issues raised by these leaders in these meetings. On this issue 48.6 percent of the respondents have observed the participation (physical presence) of the council leaders in the Palli Sabhas and issues raised by them which are linked with their villages and their castes. In this context it is worth to be mentioned that the nature of participation of these leaders in Palli Sabhas was based on various socio-political attributes such as availability of the these persons at the time of Palli Sabhas (timing factor), nature of their relationship with the PRI Members (social relation), and understanding the overall socio-economic issues of their respective village and how those issues can be channelised through Palli Sabhas (level of awareness and personal interest).

However, in some sampled villages (5 of the 16 villages) there was a tension observed between the traditional leaders and Panchayat members because of rapidly changing role of both the categories of leaders and increasing competition among them to control the political-economy of the villages. While discussing with the various traditional leaders in Koraput, it was revealed that because of the presence of the Panchayats and elected members such as Sarpanch and Ward Member, many traditional leaders have lost their importance as leader of village. Earlier (before the introduction of the Panchayats) the traditional leaders used to manage the overall affairs of the villages. During the Princely rule, they were part of the revenue collection system. Even they

were also part of the village justice system. But now things have been changed. The functions and importance of these leaders are observed to be diluted in the course of emergence of the modern Panchayat. (Field Note, Koraput).

5.2.3. Functioning of Panchayats as per the PESA Act in Two Districts: The enactment of the PESA Act and its extension to the scheduled areas of Odisha has influenced the functioning of Panchayats in these areas which was observed from the case of two districts. The field reality from the two districts shows that institutionalisation of Panchayats has been taken place under the framework of PESA Act despite many differences that are prevailed at the functional level. In many cases, the process of institutionalisation and functioning of Panchayats provided positive results in the process of establishing democratic governance and deepening local democracy in the study area. The level of awareness among the various social categories of people, in particular among the tribals regarding functioning of Panchayats as per the PESA Act varies from place to place, person to person and from one community to other. The tribal people are in many cases involved with the functioning of Panchayats which is categorised under this study as (i) political participation and (ii) economic participation. The structural and functional aspects of the Panchayats in the scheduled areas observed many changes in which there is an impact of the PESA Act in bringing such changes. Such changes also affected the polity and economy of the scheduled areas in many ways.

Table-7; Awareness of Respondents on functioning of Panchayats as per PESA Act

Respondents	Sundargarh				Koraput				Overall			
	Fully Aware	Partly Aware	Unaware	Total	Fully Aware	Partly Aware	Unaware	Total	Fully Aware	Partly Aware	Unaware	Total
ST	21	44	58	123	22	37	62	121	43	81	120	244
	17.1	35.8	47.1	100.0	18.1	30.6	51.3	100.0	17.7	33.2	49.1	100.0
NST	6	8	13	27	5	8	16	29	11	16	29	56
	22.2	29.7	48.1	100.0	17.2	27.6	55.2	100.0	19.7	28.6	51.7	100.0
Total	27	52	71	150	27	45	78	150	54	97	149	300
	18.0	34.7	47.3	100.0	18.0	30.0	52.0	100.0	18.0	32.3	49.7	100.0

Key: ST-Scheduled Tribes' Respondents, NST-Respondents other than STs, **Note;** Figures in parentheses are the percentage of the respective counts

Source: Field Survey (Household Data)

However, it is observed that the institutionalisation of the Panchayats are being faced with multiple challenges in the study areas in the form of actual institutionalisation as per the Act which has affected overall process of institutionalisation and functioning. Further, prevailing gaps between the legal framework and the issues of conformity and operational mechanism have also hampered the functioning of these institutions in letter and spirit. The overall trend shows that though the tribals in many cases are aware about the functions of the Panchayats, but they are not aware about the functioning of these institutions as per the PESA Act. Functions related to management of natural resources (land, water bodies and forests) and implementation of the Forest Rights Act (FRA), 2006 have observed as the two main works of the Panchayats which are linked with the PESA Act.(Field Observation and In-depth discussion notes)

5.2.4; The Palli Sabhas and the Gram Sabhas in the Study Area: The institutions of the Palli Sabhas⁵ and the Gram Sabhas are emerged as two grassroots institutions with enjoying powers of fostering peoples' participation in local democracy and in the process of socio-economic development. In the context of the enactment of the PESA Act, these institutions have also been enjoying powers of managing natural resources, controlling land alienation, controlling the selling of intoxicants, controlling money lending and above all planning for and implementation of the development various programmes.

Though under the provision of the PESA Act, the role of the Gram Sabhas have received prominence, but in the case of Odisha, the institutionalisation and functioning of the Palli Sabhas have been attained importance as per various state specific legal provisions. With regard to the meetings of the Palli Sabhas it is mentioned in the Act that “the Palli Sabhas shall meet annually in every year and may also meet at other times in the manner prescribed”.

The information collected from two tribal districts reveals that the Palli Sabhas are institutionalised and functioning in all the villages. The Palli Sabha has become a forum of addressing the overall socio-economic development needs of the people, in particular the poor people among whom a majority them are tribals. The Palli Sabha meetings are taking place twice

⁵ The Palli Sabhas are the Village level unit of local governments established and functioning in Odisha as per the Odisha Gram Panchayat Act, 1964.

in a year. These Sabhas have become instrumental in promoting participatory democracy in the villages while discussing a number of issues related to Health, Education, functioning of Anganwadi Centers, Socio-economic development, Agriculture, and Management of Forests. In the context of the enactment of the PESA Act, it is revealed that many aspects of the PESA Act such as protection of customs, traditions and cultural matters of the tribals, protection and management of natural resources such as village forests and water bodies, controlling the selling of liquor in the villages, management of Non-Timber Forest Products (NTFPs), identification of beneficiaries under Forest Rights Act (FRA) have come for discussion.

The Gram Sabhas have been recognised as institutions of promoting local level plans for socio-economic development, identification of beneficiaries for poverty alleviation and other programs and management of community resources. These institutions (the Palli Sabhas and the Gram Sabhas) have been provided a promising role in addressing the overall socio-economic development needs of the people, in particular the tribal people. In the context of the enactment of the PESA Act, it was observed that many key issues related to PESA have been discussed in the meetings of these institutions.

Table-8; Observation of the Respondents about Functioning of the Gram Sabhas under the PESA Act

Issues	Sundargarh			Koraput			Overall		
	ST	NST	Total	ST	NST	Total	ST	NST	Total
Institutionalisation of Gram Sabha as per PESA Act	64	15	79	42	15	57	106	30	136
	52.0	55.5	52.7	34.7	51.7	38.0	44.4	53.6	45.3
Functions of Gram Sabhas as per the Provisions of PESA Act	40	12	52	27	10	37	67	22	89
	32.5	44.4	34.7	22.3	34.5	24.7	27.4	39.3	29.7
Special Power of Gram Sabhas on Planning and Economic Development	49	10	59	13	4	17	62	14	76
	39.8	37.0	39.3	10.8	13.8	11.3	25.4	25.0	25.3
Total	123	27	150	121	29	150	244	56	300
	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0

Key: ST-Scheduled Tribes of Respondents, NST-Respondents other than ST. **Note;** Figures in parentheses are the percentage of the respective counts

Source: Field Survey (Household Data), 2014

With regard to the issues that have discussed in the Gram Sabha meetings during one year (2014), it is observed that Planning for the Gram Panchayats is a major that has been discussed during this period. Further, issues such as identification of the beneficiaries for various anti-poverty schemes and programmes, selection of the Village Level Leaders (VLLs) for the execution of various works of the Panchayats, social auditing and review of the various projects, management of natural resources, management of NTFPs, issuance of utilisation certificate of the funds being spent by the Panchayats and finances of the Gram Panchayats have discussed in the Gram Sabhas in the various villages of the two districts.(In-depth discussion and field visit note)

Table-9; Problems faced by the Respondents in participating Gram Sabha Meetings.

Nature of Problems	Sundargarh			Koraput			Over All		
	ST	NST	Total	ST	NST	Total	ST	NST	Total
Distance of Gram Sabha Venue	16	2	18	20	12	32	36	14	50
	13.0	7.4	12.0	16.5	41.4	21.3	14.8	25.0	16.6
Unsuitable Timing of the Meeting	4	1	5	23	1	24	27	2	29
	3.2	3.7	3.3	19.0	3.4	16.0	11.0	3.6	9.6
Dominance of Elite Groups	10	1	11	6	0	6	16	1	17
	8.1	3.7	7.3	5.0	0.0	4.0	6.6	1.8	5.7
No discussion on Tribal Issues	24	2	26	9	3	12	33	5	38
	19.6	7.4	17.4	7.4	10.3	8.0	13.5	8.9	12.7
No discussion on customs of tribal	6	5	11	9	4	13	15	9	24
	4.9	18.6	7.3	7.4	13.8	8.7	6.1	16.1	8.0
Biasness and political interference	12	4	16	19	4	23	31	8	39
	9.8	14.8	10.7	15.7	13.8	15.3	12.8	14.3	13.0
Official interference	51	12	63	35	5	40	86	17	103
	41.4	44.4	42.0	29.0	17.3	26.7	35.2	30.3	34.3
Total	123	27	150	121	29	150	244	56	300
	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0

Key: ST-Scheduled Tribes of Respondents, NST-Respondents other than ST *Note;* Figures in parentheses are the percentage of the respective counts

Source: Field Survey (Household Data), 2014

The Gram Sabhas have created space for the people, particularly for the tribals to participate in the different process of decision making and implementation of development programmes. However, the functioning of this institution in the two districts encountered many challenges. The functioning of Gram Sabhas as per the provision of the PESA Act in these districts reveals that many aspects of the Act has not been integrated with the functioning of the Gram Sabhas which shows the poor nature of implementation of this Act. There are several instances of the violation of the Act which has been acknowledged by many people in particular the Panchayat officials and the elected members of the Panchayats.

6. Policy Suggestions:

The functioning of the Panchayats in the state and their role in the scheduled areas in the post-PESA enactment era has been increasingly changed over the period of time. They have occupied a prominent place in the polity and economy of the scheduled areas which was observed from the field study as well as the review of secondary data and various literatures. The findings of this study from the two districts provided various dimensions related to the functioning of these institutions and their gradual progress in creating political empowerment and economic transformation in the scheduled areas in post-PESA enactment era. Considering this, it is therefore imperative to draw some lessons on the basis of findings from the field and review of various literatures.

The implementation of the PESA Act in the case of Odisha since last two decades has become a major debate in the case of strengthening decentralised governance in the scheduled areas. A major discourse associated with this Act is its actual implementation. Though the state government has notified the implementation of the Act but the field reality is different. A major factor that has deterred the actual implementation of this Act is absence of a State PESA

So a time has come to make the effective implementation of the Act. The state should progress further for giving a finishing touch to the draft PESA Rules which has been waiting to get the legislative consent since 2010. There is a need of a constitutionally backed, operationally easy, legally sound framework which is transparent, fair and equitable and which caters to the most vulnerable, most marginalised tribal communities. Apart from the making a state rules, the state

government should embark to review the existing legal framework and operational guidelines in order to clear legal hurdles.

The functioning of Panchayats in many cases provided a model for promoting self-governance and fostering of socio-economic development in the scheduled areas. However, these institutions have faced many challenges despite their institutional arrangement and functioning in the scheduled areas in the post-PESA period. In this context, the state government and the line departments that are operating at the district levels must have a greater conformity with the Panchayats. In this context, there is a need for strengthening the functioning of Panchayats in two ways such as (i) resolving the unfinished power devolution agenda, and (ii) creating more space for Panchayats through making synergy between the PRIs and the other line departments.

The institutional arrangement of the *Gram Sabhas* and the *Palli Sabhas* are no doubt contributed towards the effective functioning of Panchayats in the scheduled areas. However weak institutional framework, incomplete power devolution agenda and overlapping in discharging role and responsibilities have affected the overall functioning of these institutions. The powers devolved to these institutions are inadequate. So, in this context, there is a need of recognizing the constitutional validity of the Gram Sabhas and the Palli Sabhas. Can the state government make it mandatory for every line departments to have acknowledged the validity of these institutions through issuing a fresh government order?

There is a need of acknowledging traditional governance. The traditional institutions have contributed in many ways in making Panchayats effective. They are occupying a prominent place in the polity and economy of the tribal areas. However, they are in many cases enjoying lukewarm importance because of ineffective integration with Panchayats. So, there is a need of making better convergence between the traditional institutions and Panchayats. This can be done through (i) recognising the existing traditional institutions as part of tribal area governance, (ii) respecting the leaders of these institutions, and (iii) providing importance to these institutions and leaders in the decision making and implementation processes.

6. Conclusion: It is evident from the above discussion that the institutional arrangements and functioning of Panchayats in the two study districts in Odisha observed many changes over the period of time. The emergence of the Panchayats in the context of the post-PESA period has

created a new era of empowerment and inclusion of the tribal people in the local democracy and decision making processes. The enactment of the various legal provisions including the PESA Act has no doubt provided impetus towards the functioning of the Panchayats in the scheduled areas and strengthening the roots of local democracy. But there is a need of further policy reforms and amendment in the legal provisions. The redesigning of the Panchayat institutions for strengthening the implementation of the PESA Act and actualising the functioning of the Panchayats as per the provision of this Act should be attained focus in the policy process. Apart from policy level change, there is also need of change at the level of implementation (practice level). This paper argues that effective implementation of the Act and functioning of Panchayats as per the provisions of this Act can strengthen grassroots democracy and promote healthy development in the tribal areas. There is no doubt that the PESA Act is an important instrument of fostering the inclusion of the tribals in the process of local decision making and implementation of development programmes. So effective institutionalisation and functioning of Panchayats as per the provision of the PESA Act can enhance the degree of participation of tribals which is believed to be addressed the issue of exclusion.

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