



Integrating Tradition and Law: A Conceptual Framework for Tribal Self-Governance in Scheduled Areas of Jharkhand

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Abstract: This research paper delves into the concept of tribal self-governance in Scheduled Areas, as mandated in the Fifth Schedule of the Constitution of India, with special provisions to ensure tribal rights and autonomy, particularly in the State of Jharkhand. The discourse of the paper draws on historical contexts of indigenous governance systems from their pre-colonial roots and disruptions under colonial administration to the post-independence safeguards provided under constitutional and legal frameworks, institutional arrangements, to protect tribal autonomy and contemporary challenges related to tribal self-governance. Key legislative instruments, most notably the Panchayats Extension to Scheduled Areas Act, 1996 (PESA) and the Forest Rights Act, 2006 (FRA), are analysed to empower Gram Sabhas, safeguard land rights, and preserve cultural heritage.

The paper highlights that despite these safeguards, implementation remains inconsistent, undermined by the persistent challenges, structural and operational barriers, such as political marginalisation, land alienation, bureaucratic inertia, socio-cultural erosion, and economic exploitation that hinder the practical realisation of tribal autonomy. The analysis underscores that legal authority alone is insufficient; genuine political will, administrative commitment, and community engagement are essential for transformative governance.

It proposes a multi-dimensional, comprehensive conceptual framework that integrates traditional governance structures with constitutional mandates, strengthens local institutions, enhances political participation, preserves indigenous cultural identity, promotes sustainable economic development, and fosters effective institutional coordination between tribal bodies, state agencies, and civil society organisations. By situating Jharkhand's tribal governance within broader socio-political and economic contexts, the paper contributes to debates on decentralisation, indigenous rights, and sustainable development in resource-rich but marginalised regions. The proposed framework offers a pathway for policymakers, practitioners, and scholars to reimagine governance in Scheduled Areas, ensuring that tribal communities can exercise meaningful control over their lands, resources, and cultural values.

Keywords: Gram Sabha, Jharkhand, PESA, FRA, Fifth Schedule, Scheduled Areas, Scheduled Tribes, Tribal Advisory Council (TAC), Tribal self-governance.

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Introduction

The tribal communities in India, particularly in the Scheduled Areas, represent some of the most historically marginalised groups in the country. These communities have distinct cultural identities, self-governance structures, and economic systems that have evolved over centuries. Tribal self-governance refers to the ability of indigenous communities to manage their own affairs, both culturally and administratively, while being within the broader national legal and political framework. The Constitution's Fifth Schedule and related provisions were intended to shield tribal society from external domination by recognising its distinct customs and governance.

The Scheduled Areas, as mentioned under the Fifth Schedule of the Indian Constitution, are areas the President may declare as Scheduled Areas by order (Constitution of India, 1950). The tribal population predominantly inhabits these areas (Dhebar Commission, 1960-61; Xaxa Committee, 2014). In response to the demands for tribal autonomy, the Indian Constitution provides specific safeguards for tribal communities in Scheduled Areas through the Fifth Schedule and other legal provisions, such as the Panchayats Extension to Scheduled Areas Act (PESA) of 1996 (Burman, 2006) and the Forest Rights Act (FRA) of 2006. Under the Fifth Schedule, special provisions aimed at safeguarding the rights, interests and autonomy of tribal communities in Scheduled Areas have been ensured by granting special regulatory powers to State Governors (including the Constitution of Tribal Advisory Councils or TACs).

Jharkhand, one of the key states in eastern India, created on 15 November 2000 from the southern part of Bihar (Govt. of India, 2000a; Govt. of India, 2000b) has a substantial tribal population (26.21%) of its total population (Census of India, 2011) that is primarily concentrated in rural and forested regions of the State. As a state with a significant tribal population, its unique demographic and socio-economic context, Jharkhand, represents the intersection of historical, socio-political, economic, and cultural factors which play a crucial role in shaping tribal self-governance. The State has witnessed increasing political and economic tension surrounding tribal land, resources, and governance. The latest list of Scheduled Tribes in Jharkhand (MoTA, GoI, 2024) has 33 entries consisting of diverse indigenous communities that continue to face significant challenges, including displacement, cultural erosion, economic underdevelopment, and the marginalisation of their political voices in asserting their rights and autonomy within the broader national framework.

In Jharkhand, out of the 24 administrative divisions at the district level, the notified Scheduled Areas fully cover 12 districts (viz. Ranchi, Khunti, Lohardagga, Gumla,

Simdega, Latehar, West Singhbhum, East Singhbhum, Saraikela Kharsawan, Dumka, Jamtara, Sahebganj, Pakur, Palamu, Garhwa, Godda) and partially cover three districts (Palamu, Garhwa, Godda). The Scheduled Area districts in Jharkhand are marked by a higher concentration of the scheduled tribes population, maintaining distinct cultural, social, and economic practices. Jharkhand, being a tribal dominated state, these provisions of the Fifth Schedule interact with laws like the Panchayats (Extension to the Scheduled Areas) Act 1996 (PESA) and the Forest Rights Act 2006 (FRA) to shape local governance. The effectiveness of these frameworks is often questioned due to systemic governance challenges, including political marginalisation, economic exploitation, and administrative inertia.

In this paper, a conceptual framework for understanding tribal self-governance in the Scheduled Areas of Jharkhand is discussed through a multifaceted lens by examining the historical legacy and patterns of tribal autonomy (pre-colonial and colonial governance systems) with relevant constitutional and legal frameworks, governance structures, and socio-political dynamics, and the contemporary efforts for tribal self-governance within the State in the post-independence period. The aim is to identify how constitutional and statutory mechanisms can bolster tribal self-governance, and to highlight the challenges (political marginalisation, economic exploitation, bureaucratic resistance, and socio-cultural preservation) that must be addressed to make tribal self-governance more effective within the context of tribal autonomy.

Historical and Constitutional Background of Tribal Governance

Tribal communities in India, including those in Jharkhand, have historically maintained a self-governance system where leadership was often in the hands of elders, chiefs, or councils, and operated within their community's customs and traditions. This system remained intact until the advent of the British. After the independence, special provisions have been made in the Constitution of India (1950a, 1950b) for the administration of the Scheduled Areas. The historical and constitutional background of Tribal Self-governance is pre-colonial, colonial, and post-independence periods, as follows:

Pre-Colonial and Colonial Governance Systems: Traditionally, the pre-colonial governance structures in tribal societies were centred around decentralised governance systems based on community participation, customary laws, communal decision-making, and egalitarian principles. In the Panchayat system, led by elders or tribal chiefs, decision-making was communal, involving deliberation and consensus-building. These traditional systems were closely tied to the community's land, resources, and culture,

with an emphasis on collective well-being and sustainability. Prior to colonial rule, Adivasi communities (such as the Munda, Oraon, Santhal and Ho) were organised in village councils or *panchayats* (e.g. the Parha Raja system) that handled administration, justice and community affairs by customary law (Kumari, 2016). These systems were often democratic within the community (though exclusionary in some respects) and reflected a social fabric deeply tied to the land (Kumari, 2016).

The advent of British colonial rule in India, however, had a significant impact on tribal governance structures. The British colonial administration began either to dismantle or co-opt these indigenous institutions. The British introduced the concepts of “*Scheduled Tribes*” and “*Scheduled Areas*”, designating certain regions (including parts of present-day Jharkhand) as special administrative units under the Fifth Schedule with distinct legal provisions (Kumari, 2016; Govt. of India, 1950). The British introduced new forms of governance that were often exploitative and disconnected from local customs. The British imposed centralised administrative systems that marginalised indigenous institutions and restricted the tribes’ access to their traditional lands and resources. The British also introduced laws that undermined tribal autonomy, such as the Forest Acts, which restricted tribal access to forest resources (Sahoo, 2017).

Colonial policies often bypass traditional Councils by imposing forest laws and land tenures (e.g., the Chotanagpur Tenancy Act, 1908), favouring outside interests. Though some acts (like the tenancy laws and the 1949 Santhal Pargana Tenancy Act) were meant to protect tribal land rights, enforcement was weak, and many tribal lands were alienated for mining, industry, or plantations (Kumari, 2018). Over time, these pressures and persistent poverty and land dispossession fuelled tribal movements (such as the Santhal and Birsa Munda revolts) demanding rights and autonomy. Conclusively, these policies contributed to the alienation of tribal communities from their land and cultural heritage, setting the stage for future struggles over autonomy and self-governance. The post-independence period saw the continuation of this marginalisation and led to the adoption of significant constitutional provisions aimed at safeguarding tribal rights.

Post-Independence Constitutional Provisions: The Constitutional Assembly sought to protect the rights of tribal communities through constitutional provisions in the post-independence period. Accordingly, the Indian Constitution, adopted in 1950, provided safeguards for their cultural, economic, and social welfare, recognising the special needs that tribal communities and tribal areas in certain states should be governed by laws that consider their distinct cultural and administrative needs. Article 244 of the Indian Constitution has provisions for the administration of Scheduled Areas and Tribal Areas that lay the foundation for decentralised tribal self-governance.

Article 244 (1) states that the provisions of the Fifth Schedule shall apply to the administration and control of the Scheduled Areas (Constitution of India, 1950a) and the Scheduled Tribes in any State other than the States of Assam, Meghalaya, Tripura and Mizoram. Article 244 (2) states that the provisions of the Sixth Schedule shall apply to the administration of the tribal areas in the States of Assam, Meghalaya, Tripura and Mizoram (Constitution of India, 1950b).

The Indian Constitution, through its Fifth Schedule, addressed the need for special administration and governance mechanisms in Scheduled Areas predominantly inhabited by tribal communities, incorporating provisions for the protection of their land rights, promotion of their culture, and the autonomy of their local governance systems. However, the implementation of these provisions has often been inconsistent and inadequately enforced, particularly in regions like Jharkhand. Further, while the Sixth Schedule primarily applies to the north-eastern states, it offers an alternative model for autonomous tribal governance, including the formation of autonomous district councils with legislative powers. This model influenced the development of self-governance structures in other tribal regions, including Jharkhand (Sharma, 2015).

Even after independence (especially after Jharkhand's creation), the legacy of colonial disruption persisted. The post-independence Panchayati Raj system (e.g. the Bihar Panchayat Raj Act) largely replicated the non-tribal governance model, sidelining traditional councils (Kumari, 2016). This led to political marginalisation of tribal communities: their customary decision-making bodies were not recognised, and often resettlement and development schemes proceeded without tribal consent (Kumari, 2016, 2018). By the late 20th century, policymakers acknowledged these historical injustices, leading to landmark reforms like PESA (1996) and the Forest Rights Act (2006) aimed at restoring tribal self-rule (Kumari, 2016; Govt. of India, 2006). Though the formation of Jharkhand as a separate state in 2000 was seen as an opportunity for improved governance for the tribal population, but the challenges remain. In the case of Jharkhand, the constitutional provisions have provided a framework for self-governance, but their implementation has been uneven, with tribal communities often struggling to exercise their rights fully (NIRDPR, 2016).

Constitutional and Legal Frameworks

As part of the governance mechanisms, the State is supposed to be more attuned to tribal customs and traditions in Scheduled Areas. The creation of local bodies and institutions that reflect tribal autonomy should be emphasised. The Indian Constitution provides several constitutional and legal provisions aimed at protecting the rights and autonomy

of tribal communities, particularly in Scheduled Areas. The key constitutional and legal provisions relevant to tribal governance that apply to scheduled areas include the Fifth Schedule, the Panchayats (Extension to Scheduled Areas) Act (PESA) 1996, and the Forest Rights Act (FRA) 2006. These constitutional and legal frameworks play an important role in shaping the tribal self-governance in the scheduled areas of Jharkhand, as discussed below.

The Fifth Schedule and Tribal Governance: The Fifth Schedule of the Constitution of India is central to the governance of tribal regions declared as Scheduled Areas in India, including Jharkhand. The Fifth Schedule (Constitution of India, 1950a; UNDP, 2021) lays down the framework for administering and controlling Scheduled Areas and Scheduled Tribes (STs). The provisions of the Fifth Schedule aim to prevent exploitation of tribal communities, ensure land rights, promote local self-governance, and promote tribal welfare through community-centric policies. In practice, this means state governments (like Jharkhand's) are required to respect tribal customs and grant the Gram Sabha (village assembly) a key role in local governance.

Under this Schedule, the President of India has the authority to declare certain regions as Scheduled Areas. The fifth Schedule empowers the Governor to make regulations to prohibit or restrict land transfers to non-tribals and money-lending to Scheduled Tribes, and to ensure application of customary law and traditional resource management. It mandates a special provision that the Governor of a State with Scheduled areas shall constitute a Tribal Advisory Council (TAC) to advise the state government on matters concerning the welfare, development and other issues affecting tribal communities (Constitution of India, 1950a). By virtue of this special provision, the state governments are required to consult Tribal Advisory Councils (TAC) before making decisions on issues affecting tribal communities.

In the States having Scheduled Areas like Jharkhand, the TAC is supposed to serve as a bridge between the tribal communities and the state government, ensuring that tribal interests are represented in policy-making processes. While the Fifth Schedule provides for tribal autonomy, the implementation of its provisions has faced significant challenges. One of the main issues is that the TAC often lacks real political power, and the state government frequently ignores its recommendations. Furthermore, the absence of effective monitoring mechanisms has hindered the ability of tribal communities to hold the government accountable for its actions (Nair, 2018). Despite the Fifth Schedule providing a legal framework for self-governance, its implementation remains uneven, especially in states like Jharkhand, where tribal populations often feel disconnected from formal governance structures.

The Panchayats (Extension to Scheduled Areas) Act, 1996 (PESA): Beyond the Constitution of India, specific laws extend decentralised governance to tribal areas. The 73rd and 74th Amendments to the Indian Constitution (Part IX) introduced the system of local governance through Panchayats and Municipalities (Prasad, 2019). While these amendments were designed to strengthen democratic participation, they had limited applicability in Scheduled Areas. To address this gap, the Panchayats (Extension to Scheduled Areas) Act, 1996, popularly called PESA, was enacted to extend the Panchayati Raj System to the Scheduled Areas (Constitution of India, 1950; UNDP, 2021), where traditional tribal governance structures are more entrenched.

PESA is a crucial legislation designed to strengthen tribal self-governance at the grassroots level. This law recognises the primacy of traditional tribal governance structures and customs of tribal communities, incorporating provisions that state that tribal communities have a decisive role in decision-making in local governance. PESA imposes “exceptions and modifications” ensuring that any state legislation on Panchayats in these areas “*shall be in consonance with the customary law, social and religious practices and traditional management practices of community resources*” (Govt. of India, 1996). Under PESA, the local bodies, such as Gram Sabhas (village councils), have been empowered to make decisions for managing the local resources, social welfare, and the cultural preservation of tribal communities, ensuring the development of their areas.

The Act has provisions to ensure that traditional decision-making practices, such as Gram Sabhas (village councils), and Janadhikar (rights of people) are respected and incorporated into the governance framework. The Act provides autonomy for the tribal communities. This decentralisation is intended to ensure that tribal communities have control over their own governance and development. The tribal communities are expected to have control over land, water, forests, and other local resources, with Gram Sabhas having the authority to approve or reject development projects under the provisions of this Act. The Act also grants the Gram Sabha enhanced powers, such as the Gram Sabha must be consulted on land allocations, mining, and government projects, approve local development plans, and certify the utilisation of funds. In essence, PESA seeks to institutionalise the democratic norms of tribal communities by making the Gram Sabha the basic unit of governance in Scheduled Areas (Kumari, 2016; Govt. of India, 1996).

In the context of Jharkhand, the main PESA provisions that are viewed as most relevant are the empowerment of Gram Sabhas. The Act has been seen as a tool to empower tribal communities, giving them control over local resources and decision-

making processes, particularly in matters related to land, water, and forest resources in the State. PESA has been hailed as a significant step toward strengthening tribal self-governance. However, its implementation has been uneven, particularly in Jharkhand, where bureaucratic inertia, lack of awareness, and political interference have undermined its potential. Local governance structures have often been bypassed, and tribal communities have difficulty asserting control over their resources (Sundar, 2019). Despite its potential, the implementation of PESA has faced challenges such as bureaucratic hurdles, lack of political will, and resistance from mainstream political parties that view it as a challenge to centralised control. The State of Jharkhand took a long time to frame the PESA rules, which have hindered the effective implementation of the law in the State, undermining its impact.

The Forest Rights Act (FRA), 2006: The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, popularly called the Forest Rights Act (FRA), passed in 2006, is another crucial legislation aimed at empowering tribal communities. FRA addresses historical injustices in forest policy. The Act aims to ensure that the tribal communities have the legal authority to use and manage forest resources sustainably with forest land ownership and Community Forest Management.

The Forest Rights Act, 2006, was enacted to recognise and vest forest rights in scheduled tribes and other traditional forest-dwelling communities (Govt. of India, 2012; Ministry of Tribal Affairs & UNDP, n.d.), who have historically depended on forests for their livelihood. FRA grants the right to hold ownership of forest lands cultivated or used for generations by ancestors and to access, use, manage and conserve forest resources at individual and community levels, through their own traditional practices, subject to sustainability. However, the full realisation of forest rights remains an ongoing struggle, with tribal communities facing resistance from state authorities and commercial interests.

While the law provides a legal basis for resource governance, its implementation in Jharkhand has been slow and fraught with challenges, including legal battles and conflicts with state authorities. In Jharkhand, where a number of tribal communities are primarily dependent on forest resources for their livelihood, the FRA is a particularly significant law as a crucial part of the governance framework. However, the implementation of the FRA has faced obstacles, including bureaucratic resistance, delayed land titles, and conflicts with corporate interests in the State. As a result, tribal communities have often been denied their rightful access to forest resources, undermining their autonomy and self-governance (Gupta & Kumar, 2018).

FRA thus complements PESA by legally empowering tribal communities over land and forest management, which are crucial for their economic autonomy. These constitutional and legal provisions are intended to establish a pluralistic governance framework that blends statutory Panchayati Raj bodies with traditional councils and recognises tribal customary practices in resource management. In Jharkhand, the *Tribal Advisory Council* (mandated by Article 244) and the State's legislation on PESA and FRA form the institutional basis for tribal self-governance. However, as Sundar (2001) and others noted, much depends on faithful implementation: merely providing legal authority is insufficient without political will and community engagement.

Challenges to Tribal Self-Governance in Jharkhand

Traditional governance structures still play a significant role in many tribal communities in Jharkhand. These structures often consist of Jana Sabhas (people's assemblies) or Panchayats (village councils) or Gram Sabhas (village assemblies) led by respected elders. These traditional bodies, which have been in place for centuries, provide governance rooted in indigenous knowledge systems and community-based decision-making processes. While these traditional systems are respected within tribal communities, the formal state governance system often ignores or undermines them. The challenge, therefore, lies in reconciling the formal state framework with the traditional governance practices of tribal communities. Despite the legal and institutional frameworks aimed at promoting tribal self-governance, several challenges persist in exercising self-governance in scheduled areas (including Jharkhand), undermining the autonomy of tribal communities, which are discussed as follows.

Political Marginalisation: Tribal communities in Jharkhand have faced political marginalisation for a long. The tribal concerns often get sidelined by mainstream political parties despite the presence of tribal leaders in the state legislature. While the State has a significant tribal population, political power is concentrated in the hands of non-tribal elites, who frequently prioritise their interests over those of the tribal communities. This political marginalisation has prevented tribal communities from effectively asserting their rights and shaping policies that affect their lives (Dandekar, 2017).

Moreover, tribal communities often lack adequate representation in mainstream political structures in local and State governance, leading to decisions being made without proper consultation with the people who are directly affected by those decisions. Tribal communities are frequently excluded from important political and economic decisions. Traditional Councils have no statutory powers, and many elected

panchayat members (even if tribal) defer to bureaucrats or political parties rather than community assemblies. Due to weak rule enforcement, gram sabhas and district councils often lack absolute authority. The slow notification of the Gram Sabha Areas and frequent postponement of meetings mean that development schemes are often approved on paper without proper Gram Sabha Meetings. This undermines tribal agencies and fuels disillusionment. Such political disconnect weakens the capacity of local governance institutions and undermines the autonomy of tribal communities. The political marginalisation is further exacerbated by the growing influence of non-tribal communities in scheduled areas that are traditionally dominated by tribals.

Land Alienation, Displacement, and Economic Exploitation: Land is central to tribal identity and autonomy, yet land alienation, displacement, and economic exploitation have been significant issues for tribal communities in the scheduled area of Jharkhand. Historically, colonial and post-colonial land laws, such as the Land Acquisition Act 1894, have dispossessed tribals. Even today, illegal encroachments and inadequate land records perpetuate socio-economic exploitation. As the State is rich in natural resources, including coal, iron ore, and other minerals (Government of Jharkhand, Department of Mines & Geology, n.d.), and large-scale land acquisition for industrial projects, mining activities, and infrastructure development activities continue to displace tribal communities in Jharkhand. These land acquisitions for mining and infrastructure development projects often take place without adequate consultation or compensation with tribal communities, violating their rights under the constitutional and legal provisions, such as the Fifth Schedule, PESA (1996), and FRA (2006), etc.

The displacement of tribal communities has not only led to the loss of their land but also disrupted their traditional livelihoods, exacerbating poverty and marginalisation and leading to economic exploitation. Many tribal communities are displaced by projects with little compensation, forcing them into precarious labour or migration. The persistent cycles of land grabbing and marginalisation reflect a failure to protect indigenous property rights. The exploitation of natural resources has also resulted in environmental degradation, further affecting the tribes' ability to maintain their sustainable way of life (Khan, 2018). Furthermore, tribal communities remain economically disadvantaged, with limited access to education, healthcare, and employment opportunities.

Bureaucratic Control and Inertia: Implementing laws such as PESA (1996) and the FRA (2006) is often undermined by bureaucratic resistance at various levels of government. The implementation of these laws usually struggles with encroachment by the state apparatus. The capacity of Gram Sabhas to exercise the powers given in

the above laws is often hampered by the lack of awareness, bureaucratic Obstacles, and political manipulation.

Local administrative officers, who may lack sensitivity toward tribal customs, frequently override community decisions, limiting the effectiveness of tribal governance systems. Many government officials lack awareness and training of the legal provisions designed to protect tribal rights, and there is often a lack of political will to enforce these laws. Furthermore, local bureaucrats are often reluctant to devolve power to tribal communities, as it threatens their control over resources and decision-making processes (Kumar, 2016). Local administration frequently interferes with Gram Sabhas' decision-making process, especially when State or corporate interests are at stake. The concentration of power within the state machinery continues to undermine the autonomy of tribal communities. Politicians too often undermine the autonomy of Gram Sabhas by bypassing or co-opting tribal leaders.

Studies highlight that even when laws exist, state officials often resist empowering tribes. Bureaucratic apathy, lack of clarity in legal provisions, and vested interests impede reforms. For example, in Jharkhand, the State Panchayat Act amendment to incorporate PESA's features and framing of PESA Rules was delayed for years. Forest rights claims under the FRA are frequently rejected or stalled; as a result, many eligible tribal families have not received recognition of their lands. Scholars have observed that "bureaucratic apathy, lack of clarity in legal provisions, and resistance to change have impeded the effective enforcement of PESA". Corruption and inadequate capacity-building further weaken the institutional functioning of Gram Sabhas and Panchayats.

Socio-cultural and Economic Challenges: Tribal communities in Jharkhand are facing growing threats to their social and cultural identity. The influx of non-tribal populations into tribal areas, the spread of mainstream Indian culture, growing urbanisation, and the dominance of Hindi as the primary language of communication are eroding tribal/ indigenous languages, customs, traditions, and ways of life. The marginalisation of tribal culture has further contributed to the social alienation of tribal communities, making it harder for them to assert their identity and autonomy (Sharma, 2020). It is exacerbated by the lack of effective measures to promote and preserve indigenous knowledge systems.

Further, tribal communities in Jharkhand remain economically disadvantaged, facing high levels of poverty, illiteracy, and underemployment. The lack of access to modern education, healthcare, and skill development exacerbates the challenge of self-governance by limiting the capacity of tribal communities to engage with the State and assert their rights effectively.

Within tribal society, there are also internal challenges. Traditional governance was often patriarchal or based on the exclusion of certain groups (e.g. women or lower clans). Modern Panchayats introduce reservations for women, but social norms sometimes prevent women's effective participation. Moreover, social fragmentation among tribes can reduce collective action. Addressing these issues requires legal change, education, and mobilisation (as noted in anthropological studies). Collectively, these challenges mean that constitutional promises of tribal autonomy remain only partially realised in Jharkhand. A critical review by Sundar (2018) and others emphasises that the "full implementation" of PESA and FRA is key to revitalising tribal self-governance; without it, formal institutions continue to diverge from on-ground tribal realities.

Towards Strengthening Tribal Self-Governance

To enhance tribal self-governance in Jharkhand, the complexity of governance within the Scheduled Areas must be recognised. While acknowledging special constitutional provisions for Scheduled Areas and Scheduled Tribes, it is required to equally emphasise protecting the customary law and tribal autonomy through legal channels such as the Fifth Schedule, PESA (1996), and FRA (2006). To overcome these challenges and enhance tribal self-governance, several measures emerge from literature and policy discourses. A multi-dimensional conceptual framework is required to be adopted for enhancing tribal self-governance, which should integrate the following points :

Integrating Traditional Governance with Modern Legal Systems: A key component of the conceptual framework proposed by experts is the integration of traditional governance structures with modern legal systems, i.e. hybrid governance where formal institutions (Panchayats, TACs, ADCs) and traditional bodies (Gram Sabha, Parha Councils, Manki-Munda Panchayat in Jharkhand) complement each other. This means recognising the legitimacy of traditional tribal councils and assemblies, such as Gram Sabhas, etc. and ensuring that they are empowered to make decisions on land, resources, and development matters.

Legal recognition of customary laws (as PESA mandates) must be ensured to preserve cultural autonomy. For example, traditional dispute-resolution mechanisms could be incorporated under the Gram Sabha's oversight, rather than ignored. This approach respects tribal identity while integrating it with state systems.

Strict Enforcement of Laws: The State should provide the necessary legal and institutional support to strengthen these local governance structures in Scheduled Areas. The first step is to fully implement legal and constitutional safeguards such as the Fifth Schedule, PESA (1996), and the FRA (2006). The spirit of PESA should not

be undermined by arbitrary transfers of land or appointment of non-tribal officials, recognising that “tribals are face-to-face communities” with their own consensus-driven governance. The State governments must enforce the provisions of PESA (e.g. Gram Sabha approval for land acquisition) and FRA to protect forest rights. This may involve public interest litigation or civil society vigilance.

Many tribal communities are unaware of their legal rights under PESA and the FRA. The State should strengthen the enforcement of these laws, ensuring better training for bureaucrats, and enhancing the capacity of tribal communities to claim their legal rights. Strengthening monitoring mechanisms (such as mandated social audits) may help ensure that statutory bodies heed these laws.

Strengthening Local Institutions: To enhance tribal self-governance, local institutions like Gram Sabhas and traditional governance structures need to be strengthened. The legal mandates must translate into actual powers for local institutions such as the Gram Sabha. This can be achieved by ensuring that these bodies have both the legal authority and the technical capacity to manage local resources and governance. The regular, well-publicised Gram Sabha meetings with genuine decision-making on land, natural resources, and development plans must be ensured. It is also crucial to develop capacity-building by giving training to Gram Sabha members to help them understand legal rights (under PESA and FRA) and to manage local affairs transparently. Additionally, state institutions should be made accountable to tribal communities through regular consultation and active participation in decision-making processes. The TAC and Panchayat bodies should proactively engage with Gram Sabhas (rather than bypassing them) to co-create development programs.

The fifth Schedule mandates the establishment of Tribal Advisory Councils (TACs) in Scheduled Areas to advise the state government on matters relating to the welfare and advancement of tribal communities (Constitution of India, 1950a & UNDP, 2021). TACs serve as an institutional mechanism which provides a platform for tribal representatives to engage with the state government, influencing policy decisions that directly affect their communities. The TAC may play a critical role in representing tribal voices on issues such as land acquisition, resource rights, and cultural preservation to ensure that tribal interests are represented at the state level. However, the TAC often lacks executive power and its recommendations are not always followed by the government, limiting its effectiveness in ensuring tribal autonomy. It is recommended that the role of TACs be made more substantive, with a focus on ensuring that the state government implements their recommendations.

In the State of Jharkhand, the role of both customary institutions, such as Gram Sabhas and constitutional bodies like the Tribal Advisory Council, needs to be strengthened. The State should ensure that Gram Sabhas are adequately trained and informed about their rights under PESA and the FRA and provide the resources required to manage local governance effectively.

Ensuring Political Empowerment and Inclusive Participation: Political empowerment is crucial for ensuring that tribal communities have a voice in the decision-making processes that affect their lives. For this, the tribal communities must be politically empowered through greater political representation and active participation in governance decision-making processes at local, State and national levels. This includes providing more opportunities for tribal candidates to hold political offices and ensuring that tribal voices are included in key political decisions. It must also be ensured that tribal candidates have access to resources and platforms for political participation. Additionally, political parties should be held accountable for prioritising the concerns of tribal communities in their manifestos and governance agendas.

Future efforts should focus on inclusive representation. This includes empowering women and marginalised sub-groups in tribal councils, and ensuring that reservations for Scheduled Tribes in Panchayats (as PESA requires) are honoured in letter and spirit. Awareness campaigns can help tribals understand their rights under PESA and FRA, reducing dependence on intermediaries. Researchers and civil society organisations emphasise the need to “foster *civil society engagement*” so that communities are active participants in policy execution.

Socio-Cultural Preservation, Identity, and Empowerment: The role of traditional tribal institutions, customs, and practices in ensuring the cultural integrity and social cohesion of tribal communities is often underscored in present political and development frameworks. A concerted effort must be made to preserve and promote the cultural heritage of tribal communities. This can be done by integrating indigenous knowledge systems into mainstream education, protecting tribal languages, and promoting traditional arts and crafts.

It must be understood that preserving and promoting tribal culture is essential for ensuring the survival and autonomy of tribal communities. Educational programs that integrate indigenous knowledge systems should be developed to ensure that tribal youth are aware of their cultural heritage. Efforts should be made to document and promote indigenous languages, arts, and traditions, both within tribal communities and in the broader public sphere.

Promoting Sustainable Economic Development: In the scheduled areas, the economic development of tribal communities must focus on sustainable, community-driven models that respect their tribal cultural values and their rights to land and resources. It must be ensured that tribal communities retain control over their land and resources while having access to modern technologies and economic opportunities for self-reliance.

To combat economic exploitation and land alienation in Jharkhand, a sustainable development model that prioritises the welfare of tribal communities should be adopted. This model should focus on community-led development, including protecting forest rights, promoting indigenous livelihoods, and establishing community-based resource management systems. Furthermore, the State should ensure that any industrial development projects are carried out with the full consent of tribal communities and that the scheduled tribes benefit from the economic gains generated by these projects.

Inclusivity and Participation: Tribal self-governance in Scheduled Areas is rooted in the constitutional promise of autonomy, cultural preservation, and participatory democracy. To make this vision effective, robust institutional coordination and inclusive participation are essential. It refers to the harmonised interaction of different governmental and non-governmental institutions, ensuring policy coherence, resource optimisation, and effective implementation of self-governance mechanisms tailored to tribal needs.

The constitutional and legal mechanism in the Scheduled Areas mandate the devolution of powers to Gram Sabhas and recognise traditional governance systems. However, their successful implementation requires participation and coordination across central, State, and local institutions, including ministries, tribal development departments, forest departments, district administration, and Panchayati Raj institutions. Thus, effective participation with coordination between state agencies, tribal institutions, and civil society organisations is necessary to overcome the fragmentation of governance mechanisms and promote comprehensive tribal self-governance.

Coordination between Government and Tribal Communities: Finally, sustainable self-governance requires dialogue. Government programs must be planned with tribal input. The Tribal Advisory Council should meet regularly (it often meets sporadically) and genuinely consider tribal proposals on subjects like land acquisition, education, and health. The Jharkhand High Court recently observed that the State's tribal policies should be aligned with the Fifth Schedule and PESA (Prasad & Sole, 2023). Strengthening institutions like the Jharkhand Tribal Advisory Council and State Livelihood Promotion Society (Mukhya Mantri Vanbasi Kalyan Yojana) can provide

institutional support for tribal development, provided they operate transparently and in consultation with Gram Sabhas.

Conclusion

Tribal self-governance in the Scheduled Areas is a complex and multifaceted issue shaped by a range of historical, political, legal, and socio-economic factors, particularly in the State of Jharkhand. While legal and constitutional frameworks such as the Fifth Schedule, PESA, and FRA provide a foundation for autonomy, the real challenge lies in their implementation and the political will to support tribal communities.

A comprehensive conceptual framework that integrates legal safeguards, local institutional empowerment, political participation, economic development, and cultural preservation is essential for ensuring that tribal communities in Jharkhand can exercise genuine self-governance. Addressing these challenges will require a concerted effort from both the state and tribal communities and the active involvement of civil society organisations. The effective implementation of an integrated conceptual framework will not only aid policymakers, tribal leaders, and civil society organisations in addressing these challenges but also ensure that tribal communities can exercise genuine autonomy over their lands, resources, and cultural heritage. Only through such an integrated approach can tribal self-governance be meaningfully enhanced in Jharkhand, ensuring that tribal communities exercise their constitutional and legal rights to chart their own developmental path.

In summary, the conceptual framework of tribal self-governance hinges on activating the Gram Sabha as the grassroots authority (per PESA), recognising forest rights (per FRA), and bridging these with tribal customs. Promoting tribal self-governance in Jharkhand requires legal rigour, institutional change, and social empowerment. Empirical studies argue that “*strengthening Gram Sabha institutions, promoting transparency and accountability, and fostering civil society engagement*” are essential steps. The comprehensive framework proposed in this paper seeks to promote a balanced model of governance that respects tribal autonomy and fosters sustainable development. If implemented, such measures could transform Jharkhand’s Scheduled Areas into vibrant arenas of tribal democracy, where local communities truly manage their lands and lives.

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