



# A Legal Analysis Of Tribal Governance And Welfare Frameworks In Andaman And Nicobar Islands

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**Abstract:** The indigenous tribes of the Andaman and Nicobar Islands, classified as Particularly Vulnerable Tribal Groups (PVTGs) under Article 342 of the Constitution of India, embody a unique socio-cultural heritage intertwined with their ancestral lands. Governed by statutory frameworks such as the Andaman and Nicobar Islands (Tribal Councils) Regulation, 2009, and protected under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (FRA), these communities face existential threats from developmental encroachments, ecological disruptions, and policy ambiguities. This study undertakes a doctrinal legal analysis of the Tribal and Village Councils' institutional efficacy in Nicobar District and the Andaman and Nicobar Administration's welfare mechanisms, including the Andaman Adim Janjati Vikas Samiti (AAJVS) and PM-JANMAN scheme. Drawing on legislative texts, judicial precedents, and administrative reports from provided sources, it evaluates compliance with constitutional mandates under Articles 244 and 275, and international obligations under the UN Declaration on the Rights of Indigenous Peoples (UNDRIP), 2007. Findings indicate robust statutory safeguards for self-governance but persistent implementation gaps, particularly in consent-based land diversion under FRA. The analysis proposes amendments to enhance participatory jurisprudence, ensuring tribal autonomy and sustainable welfare. As a law student's inquiry, this work underscores the judiciary's pivotal role in reconciling development with indigenous rights, advocating for a rights-based paradigm in tribal administration.

**Index Terms** - Tribal Councils, PVTGs, FRA, AAJVS, PM-JANMAN, UNDRIP, FPIC, Andaman and Nicobar Islands.

## I. Introduction

The Andaman and Nicobar Islands, a Union Territory under Article 239 of the Constitution, host six PVTGs—Great Andamanese, Jarawa, Onge, Sentinelese, Shompen, and Nicobarese—whose pre-colonial habitation predates modern Indian jurisprudence, rendering them bearers of inalienable customary rights. The Nicobarese exemplify matrilineal governance through Tribal and Village Councils, statutorily empowered under the Andaman and Nicobar Islands (Tribal Councils) Regulation, 2009, to administer justice and regulate land use. However, post-independence settler influxes have precipitated conflicts, invoking FRA's gram sabha consent requirements and the Andaman and Nicobar Protection of Aboriginal Tribes Regulation, 1956 (ANPATR).

The Tribal Welfare Department, operationalized via the Directorate of Tribal Welfare and AAJVS, implements welfare under Article 275(1) grants. The 2004 Jarawa Policy is under review due to increased contact, as noted in [repository.tribal.gov.in](http://repository.tribal.gov.in). AAJVS extends full financial support for Onge and Andamanese education ([sansad.in](http://sansad.in)). PM-JANMAN targets PVTGs across 18 states and Andaman & Nicobar UT for housing, water, and livelihoods ([pib.gov.in](http://pib.gov.in)). This article dissects these frameworks' alignment with constitutional protections, highlighting the need for judicial intervention to uphold indigenous sovereignty.

## II. Conceptual Framework

This study is anchored in a tripartite legal-theoretical paradigm: Constitutional Indigeneity under Articles 244 and 342, mandating special provisions for scheduled tribes; Participatory Federalism, drawing from PESA principles emphasizing gram sabha autonomy; and International Human Rights Epistemology, informed by UNDRIP Articles 18-32 on self-determination and FPIC. These lenses critique tensions between welfare schemes like PM-JANMAN and indigenous rights, advocating reconciliation where Article 46's upliftment directive avoids assimilation.

## III. Objective of the Study

1. To delineate the statutory architecture of Tribal and Village Councils under the 2009 Regulation and their interface with constitutional safeguards.
2. To assess the legal efficacy of welfare initiatives like AAJVS and PM-JANMAN in upholding FRA and ANPATR protections.
3. To analyze judicial and administrative challenges in PVTG rights enforcement.
4. To recommend legislative reforms for FPIC integration and judicial oversight.

## IV. Literature Review

1. Statutory analyses of ANPATR, 1956, and Tribal Councils Regulation, 2009.
2. Judicial interpretations of FRA in Supreme Court rulings like *Orissa Mining Corporation v. Ministry of Environment & Forests* (2013).
3. Scholarly critiques of PVTG policies in Minority Rights Group and Survival International reports.
4. Doctrinal studies on Article 275(1) grants and AAJVS per Ministry report.

## V. Methodology

This study employs a doctrinal research methodology, entailing systematic exposition and critical examination of primary legal sources—statutes, case law—and secondary materials like departmental reports. The approach focuses on black-letter law interpretation to evaluate compliance and gaps.

### 3.1 Research Design

A doctrinal case-study design centers on Nicobar's Tribal Councils and Andaman's welfare apparatus.

### 3.2 Study Area

The inquiry encompasses Nicobar District with Tribal Councils and PVTG habitats, juxtaposed against Andaman's reserves.

### 3.3 Sampling

Purposive sampling of legal texts: core statutes (ANPATR, FRA, 2009 Regulation), landmark judgments, and administrative notifications from Tribal Welfare Department.

### 3.4 Data Collection Methods

1. Archival Review: Gazettes, parliamentary questions (sansad.in on AAJVS), PIB press notes on PM-JANMAN.
2. Doctrinal Synthesis: Comparative analysis of UNDRIP with domestic law.
3. Policy Document Scrutiny: ANTRI reports, FRA data.

### 3.5 Data Analysis

Thematic content analysis categorizes data into governance autonomy, welfare entitlements, and rights enforcement, employing hermeneutic interpretation.

## VI. The Role of the Tribal Welfare Department

The Directorate of Tribal Welfare functions as the nodal agency for PVTG upliftment under Article 275(1). It oversees AAJVS, providing rations, healthcare, and education. Nodal officer Sandeep Sachdev facilitates coordination. The Department implements PM-JANMAN for PVTG saturation and reviews Jarawa Policy.

## VII. Key Initiatives in Cultural Preservation

1. Language and Customary Law: ANTRI workshops document oral traditions for council resolution.
2. Land Rights Safeguards: FRA-mandated gram sabha consents.
3. Welfare Schemes: AAJVS scholarships; DULARI incentives; Disability Allowance. PM-JANMAN's Van Dhan Yojana.
4. Sustainable Development: Dharti Aaba Abhiyan.
5. Policy Reviews: Jarawa Policy revision.

## VIII. Challenges and Limitations

1. Consent Deficiencies: FRA violations in land diversions.
2. Judicial Gaps: Delayed enforcement in non-Scheduled Areas.
3. Assimilation Pressures: UNDRIP non-binding status.
4. Implementation Hurdles: Bureaucratic delays.
5. Ecological Conflicts: Forest diversion issues.

## IX. Community Perspective

Tribal Councils demand FRA compliance; elders invoke customary law.

## X. Recommendations

1. Legislative Amendments: Extend PESA via Sixth Schedule.
2. Judicial Mechanisms: Establish PVTG benches.
3. Participatory Protocols: Mandate FPIC.
4. Capacity Building: Train councils in litigation.
5. Monitoring Reforms: Independent audits.

## XI. Conclusion

Tribal Councils and Welfare Department provide safeguards, but gaps persist. A rights-based jurisprudence rooted in Articles 244 and UNDRIP is essential for indigenous sovereignty.

## V. Acknowledgment

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## References

- [1] Andaman and Nicobar Islands (Tribal Councils) Regulation, 2009.
- [2] Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006.
- [3] Orissa Mining Corporation v. Ministry of Environment & Forests, (2013) 6 SCC 476.
- [4] Samatha v. State of A.P., (1997) 8 SCC 191.
- [5] Ministry of Tribal Affairs Reports.
- [6] PIB Releases on PM-JANMAN.
- [7] Survival International Reports.
- [8] UN Declaration on the Rights of Indigenous Peoples, 2007.
- [9] The Hindu (various).
- [10] India Today.

- [11] <https://nicobars.andaman.nic.in/tribal-council/>
- [12] <https://www.india.gov.in/tribal-welfare-department-andaman-and-nicobar-administration>
- [13] <https://southandaman.nic.in/people-and-culture/>
- [14] <https://andssw1.and.nic.in>
- [15] <https://dbttribal.gov.in>
- [16] <https://pib.gov.in>
- [17] <https://www.tribal.nic.in>
- [18] <https://myscheme.gov.in>
- [19] <https://repository.tribal.gov.in>
- [20] <https://www.survivalinternational.org>

