

The Annual Survey of State Laws in India

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ASSAM

Pritam Baruah¹ and Manash Pratim Dutta²

Introduction

Surprisingly for a year struck by the pandemic, 2020 witnessed unusually hectic activity in the Assam state legislative assembly (the Assembly) during its fourteenth meeting. A total of 44 bills were introduced and passed over four sessions. Thirty-nine bills were passed as Acts. The sessions commenced with a special meeting on January 13, followed by the budget session in March, the autumn session in August, and the winter session in December. Though the sessions were held in their usual period during the year, they were significantly short and had very low functioning hours.

Compared with earlier years, in 2019, only 21 bills were passed. In contrast to the non-pandemic year of 2018 too, 2020 stands out: only 26 bills were passed in 2018. One would presume that, having passed almost double the number of bills in 2020, the Assembly would have witnessed increased working hours. However, the number of functioning days of the Assembly was less than in other years. In 2020, the Assembly had a total of 17 functioning days with an average of 19 functioning hours per session. In 2019, the number of functioning days stood at 27 with an average of 39.5 working hours per session, while in 2018 and in 2017, it was 33 days with 77 hours per session, and 31 days with 45.6 hours per session respectively. The number of sittings and reports presented in committees in 2020 stood at 12.³ Figure 1.1 depicts tabular and graphical representation of information.

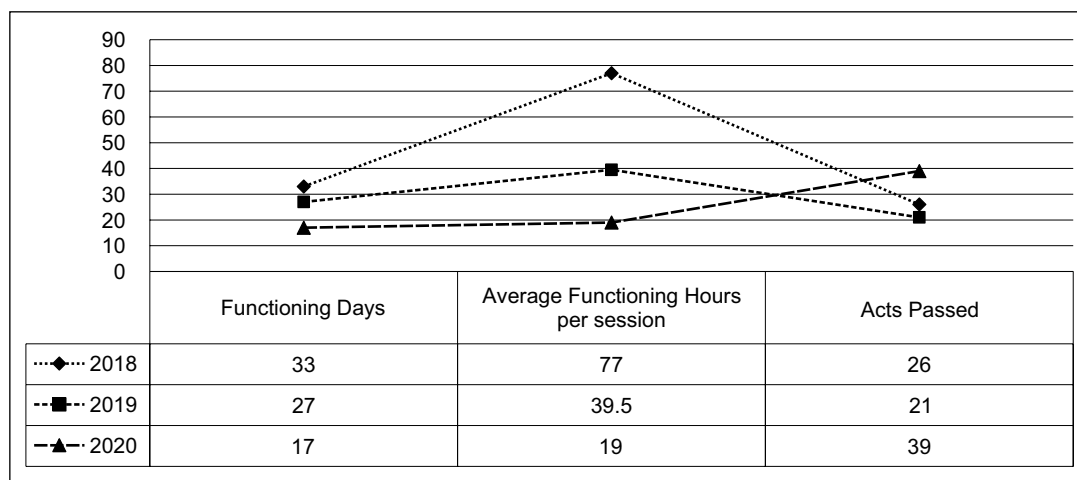


Figure 1.1

1. Professor and Dean, School of Law, BML Munjal University, Gurugram, Delhi NCR.
2. Research Associate, OKD Institute of Social Change and Development, Guwahati.
3. Information from the website of PRS Legislative Research and the Journal of Parliamentary Studies, Vol. LXVI, available at: <https://prsindia.org/legislatures/states/functioning-of-assam-14th-assembly-2016-2021> (last visited on Jan. 31, 2022).

Therefore, 2020 was, indeed, quantitatively exceptional: the Assembly passed a higher number of Acts in fewer functioning hours than it did in the last three years.

Thirty five percent of the Acts passed in 2020 involved social welfare measures and 35 percent involved law and order regulations. Legislations relating to socio-cultural, educational and state-financial affairs were 13 percent, 20 percent and 25 percent respectively. These categories are not entirely independent-as there are significant overlaps. At least 14 of the bills could be considered to be related to public demands for legislation⁴.

Ordinances

Out of 44 bills, 39 became Acts in 2020. However, there were five bills that were introduced in the Assembly in 2020 but were not passed due to time-constraints. Four bills that were not passed through the Assembly became ordinances through the exercise of power by the governor: the Factories (Assam Amendment) Ordinance, 2020; the Factories Assam Second Amendment Ordinance, 2020; the Assam Agricultural Produce and Livestock Marketing Promotion and Facilitation Ordinance, 2020; and the Assam Contract Labour (Regulation & Abolition) Act, 2020. The Assam Motor Vehicle Taxation (Amendment) Bill, 2020 was re-introduced in 2021 and become an Act in 2021.

An Election Dominated Year

Two thousand and twenty was the year prior to the fifteenth Assam quinquennial legislative assembly election. The incumbent government was expected to roll out electorally relevant policies and bills. The Acts passed in 2020 underscore this expectation. In this article, we provide an analysis to the effect that roughly 44 percent of the Acts passed in 2020 were aimed at addressing electorally relevant issues primarily through the lenses of ethnic identity, linguistic nationalism, and religious polarisation. For example, the Assam Heritage (Tangible) Protection, Preservation, Conservation and Maintenance Act, 2020 and the Assamese Language Learning Act, 2020 were aimed at addressing longstanding demands promised in the Assam Accord and demands of regionalist/Assamese-nationalist groups respectively. Similarly, the Kamatapur Autonomous Council Act, 2020, the Matak Autonomous Council Act, 2020, the Moran Autonomous Council Act, 2020 and their subsequent Amendment Acts were passed for providing autonomy and sixth-schedule benefits to electorally relevant ethnic groups. These legislative initiatives also came in with the agenda of controlling the simmering discontent over the Citizenship Amendment Act, 2019 (CAA), which benefitted the government in the 2021 elections.

Electoral motivation for legislative activity is additionally demonstrated by the Assam Repealing Act, 2020, enacted to withdraw state support and regulation of madrassas, that invited allegations of religious polarisation. Even Acts setting up new universities such as the Birangana Sati Sadhani Rajyik

4. The Assam Heritage (Tangible) Protection, Preservation, Conservation and Maintenance Act, 2020; the Assam Skill University Act, 2020; the Assamese Language Learning Act, 2020; the Birangana Sati Sadhani Rajyik Vishwavidyalaya Act, 2020; the Kamatapur Autonomous Council Act, 2020; the Matak Autonomous Council Act, 2020; the Moran Autonomous Council Act, 2020; the Assam Inland Water Transport Regulatory Authority Amendment Act, 2020; the Assam Non-Government Educational Institutions (Regulation of Fees) (Amendment) Act, 2020; the Bodo Kachari Welfare Autonomous Council Act, 2020; the Assam Micro Finance Institutions (Regulation of Moneylending) Act, 2020; the Assam Ease of Doing Business (Amendment) Act, 2020; the Assam Education (Provincialisation of Services of Non-Teaching Staff of Venture Educational Institutions) (Amendment) Act, 2020 and the Assam Official Language (Amendment) Act, 2020.

Vishwavidyalaya Act, 2020 was underscored by explicit messaging towards the Chutia community. Though several pre-poll promises were followed up through legislative activity, some key demands and promises were dropped due to disagreement between social groups. The electoral focus of legislative activity was also visible in education and social welfare. Important legislative initiatives on these fronts were packaged with signals of majority appeasement as is seen in the Assam Repealing Act, 2020 in which electoral promises included repealing of government support to madrasahs as well as support to *Sanskrit Tols*. The bills passed were, however, limited to the repealing of madrasahs.

Apart from considering the spectre of the elections to be held in 2021, several bills specifically responded to the COVID-19 pandemic and the ensuing lockdown. A total of four Assam Appropriation Acts were passed in 2020 that amended the ways government can borrow or spend capital.

In what follows, we provide a brief qualitative analysis of the Acts under the following categories: creation of autonomous district councils, the Repealing Acts, laws relating to education and social welfare.

Creation of Autonomous District Councils: Social Factionalism for Political Control

The Assembly passed three Acts constituting three new autonomous district councils (Councils) for Moran, Matak and Koch-Rajbongshi communities in the state.⁵ Councils are unique governmental arrangements under the sixth schedule to the Constitution of India and reflect several elements of asymmetric federal arrangements. The Councils enjoy considerable powers of law-making, administration, and adjudication contrary to the decentralized arrangement of *Panchayats*. Their law-making powers include allotment, occupation and use of land, forest management and administration of public health and sanitation. Some Councils exercise greater powers in areas such as industries, agriculture, communication and education.⁶ The demand for the creation of councils has been very high amongst educated sections of tribal communities in Assam as well as in the neighbouring states.

Unlike *Panchayats*, Councils are not exclusively territorial in nature but are created to protect specific tribal communities. Creation of Councils was a long-standing demand from the Moran, Matak, and Koch-Rajbongshi communities. However, the communities had also demanded Scheduled Tribe (ST) status. In fact, both the Congress and the BJP had incorporated their demand for ST status along with that of three other communities in their manifestoes for the 2021 elections. This demand was however not honoured by the three Acts passed since there was severe opposition from other ST communities. The three Acts creating the new councils were tabled on March 24, 2020, the last day of the budget session and passed in the next session in September 2020. They received the governor's assent on October 12, 2020. No significant discussion preceded the passing of these bills. It is also pertinent that the three communities concerned were active participants in the anti-CAA movement in Assam. Political commentators converge on the opinion that the three bills were tabled at the height of these protests due to the post-

5. The Kamatapur Autonomous Council Act, 2020; the Matak Autonomous Council Act, 2020 and the Moran Autonomous Council Act, 2020. The nomenclature of the Koch-Rajbongshi's stands out as the Council in its case is not named after the community but the Kamatapur area of the state.

6. The Constitution of India, 1950, Sixth Schedule, paras 1, 3-A and 3-B.

CAA political turmoil in Assam.⁷ As such these bills seem like a way to garner electoral support for the oncoming elections on the one hand and to deflate the anti-CAA movement on the other.

The powers conferred to the three new Councils, as well as the language of the provisions, are identical.⁸ Unlike some district councils such as those in Karbi Anglong and North Cachar Hills, the three new Councils have been granted no specific powers tailored to the context of the three communities.

In addition to the Acts constituting the three Councils, the Assembly also passed the Bodo Kachari Welfare Autonomous Council Act, 2020 that was notified on January 30, 2021. The legislation created a Welfare Autonomous Council for members of the Bodo Kachari community who resided outside other sixth schedule areas. The powers of the council here are also identical to the other three statutes.

Overall, the legislative initiatives in creating these councils follow a well-established trend in Assam of creating such councils to cater to the demands of educated elites with an eye on electoral benefits. These councils create new administrative posts with the power to impose tolls and taxes, receive government grants, and pursue welfare and sociocultural measures. They are significant centres of political and monetary power. The success of the three autonomous council bills in garnering electoral support for the ruling party, despite the anti-CAA movement, demonstrates yet again that such Councils are successful in breaking up pan-Assam sociopolitical movements by providing material incentives to focus only on distinct ethnic communities. An upshot of this strategy is that the social bonds of the state become fractured along ethnic lines, but the political control of governments over communities becomes more effective through administrative and financial channels. It is a curious case of social disunity contributing to politico-administrative unity.⁹

The Assam Repealing Act, 2020: Signals of Majoritarian Appeasement and Acontextual Law-Making

In December 2020, the Assam Repealing Act, 2020 was tabled in the Assembly. It received the governor's assent in January 2021. The statute repealed the Assam Madrassa Education (Provincialisation) Act, 1995, and the Assam Madrassa Education (Provincialisation of Services of Employees and Re-Organisation of Madrassa Educational Institutions) Act, 2018. With this move the Assembly effectively ended public funding and regulation of madrassas. The move is significant as Assam is the state with the highest population of Muslims as a minority. According to the 2011 census, Muslims comprise 34.22 percent of the population of Assam.

Through the Assam Madrassa Education (Provincialisation) Act, 1995 all madrassas in Assam were provincialized, i.e., their control was taken over by the government and its managing committees or governing bodies were to be reconstituted according to the provisions of the Act. Section 3 of the Act

7. Chandan Kumar Sarma and Objha Borah Hazarika, "Anti-CAA Protests and State Response in Assam: Identity Issues Challenge Hindutva-Based Politics" 55(14) *EPW Engage* (2020). See also, Ayan Sharma, "Upper Assam saw the most violent CAA protests. Why is BJP still leading the fray?", *NewsLaundry*, March 24, 2021, available at: <https://www.newsLaundry.com/2021/03/24/upper-assam-saw-the-most-violent-caa-protests-why-is-bjp-still-leading-the-fray> (last visited on Feb. 01, 2022); Amarjyoti Borah, "Assam Poll: How BJP Contained Political Impact of Anti-CAA Stir", *The Quint*, March 26, 2021, available at: <https://www.thequint.com/assam-elections/anti-caa-protest-impact-bjp-assam-election-first-phase-of-polling> (last visited on April 17, 2022).

8. See chapter III of the respective Acts for the provisions conferring powers on the Council.

9. Pritam Baruah and Nicolas M Rouleau, "Democracy, Representation, and Self-Rule in the Indian Constitution" 44(2) *Verfassung und Recht in Übersee/Law and Politics in Africa, Asia and Latin America* 177-195 (2011).

provided that all employees of madrassas covered by the deficit scheme of grants-in-aid of the government of Assam were deemed to be employees of the government of Assam. All rules for government employees were applicable to them, and so were the emoluments and allowances of government employees. Their immediate pays were protected under the Act, and they received pension and gratuity as per government norms.¹⁰ Norms of selection and appointment were also regulated by the Act. Ownership of the properties of the madrassas, however, remained with the madrassas.¹¹ In effect, the functioning of madrassas and their employees were provincialized by the 1995 Act. In 2018, the Act was amended to bring within its fold ‘venture’ madrassas functioning in the state that were previously governed by the Assam Venture Madrassa Educational Institutions (Provincialisation of Services) Act, 2014.

Repealing of the 1995 and 2018 acts has removed government control over as well as support to state-run madrassas.¹² There are 729 state-run madrassas in the state in addition to several privately run ones.¹³ State-run Madrassas regulated by the government’s education norms, provided both Islamic and general education. Private madrassas on the other hand have no obligation to provide general education and several of them provide purely religious education.¹⁴ State-run madrassas were a choice for girls as parents, due to the pressure of social norms, wish them to have both religious and general education. In this sense, state-run madrassas were a valued instrument of enabling girls to access general education despite the prevailing patriarchal and religious norms against women’s education. The provincialisation of madrassas was, therefore, a valuable and context-sensitive social innovation that created an avenue for gradual change in the educational landscape by making secular education possible without building religious opposition.

The sudden and immediate removal of state support and regulation by the Repealing Act ends this unique social innovation without any public consultation or debate. If the previously state-run madrassas cannot find viable financial resources to stay afloat, several thousand Muslim students, especially girls, will lose access to a mode of education that was socially sustainable as well as a gateway to the world through the secular education recognized by the state board.

Though the legislation does not provide any justifying reasons for the repeals, statements by ministers and higher education officials indicate that the move towards general education by closing down of state-run madrassas is beneficial for the state as, now, general and secular education would be the norm. Such justifications are, however, too general and thin as they do not consider its impact on the students, staff, and access to education. The state government did not refer to any detailed study or committee reports in drafting this bill. This is precisely the kind of issue where a detailed study of the impact of deregulation of madrassas would have benefitted the wisdom of the legislature. In fact, the government rejected a demand from Congress and AIDUF MLAs to send the bill to a select committee for further scrutiny.¹⁵

10. The Assam Madrassa Education (Provincialisation) Act, 1995, s. 4.

11. *Id.*, s. 10.

12. The constitutionality of the Repealing Act was challenged before the Gauhati High Court and its constitutionality was upheld.

13. Special Correspondent, “Assam Madrassas Turn General Schools”, *The Hindu*, Feb. 04, 2021, available at: <https://www.thehindu.com/news/national/other-states/assam-madrasas-turn-general-schools/article33744247.ece> (last visited on April 17, 2022).

14. Makepeace Sitlhou, “In Assam, ban on state-run Madrassas may force girls to drop out”, *Aljazeera*, March 11, 2021, available at: <https://www.aljazeera.com/features/2021/3/11/shut-down-of-madrasas-in-indias-assam-could-see-girls-drop-out> (last visited on Oct. 31, 2021).

15. Abhishek Saha, “Assam passes Bill to turn madrasas into regular schools”, *The Indian Express*, Feb. 18, 2022, available at: <https://indianexpress.com/article/north-east-india/assam/assam-passes-bill-to-turn-madrasas-into-regular-schools-7126938/> (last visited on Oct. 30, 2021).

Newspaper reports and commentaries suggest that without access to the state-run madrassas, girl students would suffer significantly as several of them would have to travel to private madrassas which may not offer general education. Religious and patriarchal prejudice prevalent in society will be indirectly bolstered as their cultural norms prefer Muslim girls to have religious education. Since general schools do not provide religious education, parents with orthodox religious beliefs would be disincentivised from sending girls to schools.

Citing the Sachar Committee report, defenders of the Repealing Act have argued, that religious education leads to ghettoisation and, thus, the Repealing Act is a welcome move that would push for general education amongst Muslims. Such a conclusion is too quick and almost naive. It fails to appreciate the fact that regulation of madrassas acted as a realistic gateway to general education even for students from orthodox religious backgrounds. In effect, the repealing law closes this gateway and holds the potential of incentivising ghettoisation. Orthodox religious norms may now act as barriers to education, especially for girls. As the state recedes from madrassa-education, it is highly likely that socio-cultural and religious norms will occupy the space left by any economic or other secular incentive to substitute pure religious education. The Assam Repealing Act, 2020, therefore, betrays the contextual nature of a legislative action motivated by electoral considerations rather than considerations relevant to the issue of state regulation of religious education. By washing its hands of, the state has lost an opportunity to integrate religious and secular education that holds the promise of building a secure constitutional future for a multicultural state. It is for this reason that several MLAs criticized the move as one incentivising religious polarization.¹⁶

The allegation that it is electoral concerns that motivated the repealing of the Act is not misplaced. Prior to the 2021 elections, leaders of the ruling party including those holding governmental posts spoke of the deregulation of madrassas along with policies for Sanskrit *Tols*. Media outlets reported that, in December 2020, there was a proposal approved by the cabinet for the closing down of Sanskrit *Tols*. However, it was also reported that there was support for the view of transferring the *Tols* to the Kumar Bhaskar Varma Sanskrit and Ancient Studies University where *Tols* would be converted to centres for learning and research in Indian culture, civilization, and nationalism.¹⁷ When the bill was tabled, however, any reference to Sanskrit *Tols* was missing. The promise of state support to *Tols* remains an open question.

Education: A Trend toward Executive Control and Furthering of Central Policies

There were seven Acts passed in 2020 that made changes in the education sector of Assam. The Assembly passed two bills establishing two new universities: the Assam Skill University in Mangaldoi, and the the Birangana Sati Sadhani Rajyik Vishwavidyalaya in Golaghat. The Skill University Act is established with the objective to promote skill-based education and entrepreneurship. The preamble of the Act states that the university would promote research in emerging areas such as agriculture, food

16. Press Trust of India, "Assam government table bill to abolish all state-run Madrassas", *The Hindustan Times*, Dec. 28, 2020, available at: <https://www.hindustantimes.com/india-news/assam-government-tables-bill-to-abolish-all-state-run-madrassas/story-XrDnZqSb9N6WPrZqjv4IcN.html> (last visited on April 17, 2022).

17. *Ibid.* See also, Editorial, "All the same: madrassa, Sanskrit tols", *The Telegraph*, Dec. 17, 2020, available at: <https://www.telegraphindia.com/opinion/all-the-same-madrassa-sanskrit-tols/cid/1800733> (last visited on Oct. 31, 2021).

processing, chemicals, plastics, petrochemicals, textile, design, logistics, automation, healthcare and tourism. The Act also employs language reflecting the vision of the National Education Policy (NEP). For example, it aims to provide opportunities for 'flexible learning systems and skill development', and 'to frame credit framework for competency-based skill and vocational education.'

The Skill University has been accorded priority over other universities through a notwithstanding clause whereby any college or institution situated within the limits of the Skill University, but affiliated to any other university, shall be deemed to be associated with and admitted to the privileges of the Skill University as and when the state government notifies a date to that effect. Unlike other state universities, where the governor is usually the chancellor, the chief minister of Assam is the chancellor of the Assam Skill University. Such a move is considered controversial for reasons related to academic autonomy and exercise of political power. Akin to other states in India, Assam has also had the governor of the state as the chancellor of state universities. It is perceivable that this arrangement provides for more distancing of universities from immediate executive and legislative interference as the governor enjoys relative autonomy from both the state and central executives. In the case of state universities founded by state legislatures, the question assumes more importance as the day-to-day running of state universities cannot be interfered with by the state executive directly, especially since the state executive (read the council of ministers) in the Indian system is the strongest repository of coercive state power. If intellectuals in universities are also to hold truth to power, then that role requires some autonomy from the direct exercise of state coercive power over their immediate circumstances, especially their employment. Though this point may not be formally recognized, it is a consequence of the governor, rather than the chief minister, being the chancellor.

Recently, the controversy over appointment of the chief minister as chancellor of state universities assumed importance in West Bengal and Kerala. In West Bengal, the education minister proposed that the chief minister be appointed chancellor of all state universities. The longstanding and severe tussle between the governor of West Bengal and the state executive serves as a background to this proposal. While, on the one hand, the government of West Bengal had already made rules in 2019 to whittle down the powers of the chancellor of universities,¹⁸ on the other, the governor had complained of 'unionism' on the part of vice-chancellors who had not attended a meeting with the governor as chancellor.¹⁹ In contrast, in Kerala, the governor had urged the chief minister to take over the chancellorship of state universities and pass an ordinance to that effect. The backdrop to this remark was differences over the appointment of a vice-chancellor, and a minister's remark that the governor was sitting on files and delaying the government's work.²⁰ The chief minister remarked that his government had no intention of taking over the chancellorship of universities.

The fault lines exposed by these controversies bring to light the danger to university autonomy posed by executive control over universities. University autonomy may clearly be impaired by both the chief minister and the governor by exercise of executive powers that are detrimental to academic freedom.

18. The West Bengal Universities and Colleges (Administration and Regulation) Act, 2017, s. 17.

19. Shubhankar Chowdhury, "Chief minister as chancellor? Bengal govt mulls option", *The Telegraph*, Dec. 25, 2021, available at: <https://www.telegraphindia.com/my-kolkata/news/chief-minister-as-chancellor-bengal-govt-mulls-option/cid/1844727> (last visited on Nov. 21, 2021).

20. Ramesh Babu, "Don't intend to take over gov's post as chancellor of universities: Kerala CM", *The Hindustan Times*, Dec. 30, 2021, available at: <https://www.hindustantimes.com/india-news/dont-intend-to-take-over-governor-s-post-as-chancellor-of-universities-kerala-cm-101639334643637.html> (last visited on Nov. 21, 2021).

However, the largely titular nature of the governor's office, and its relative detachment from the exercise of executive power by the state government, makes it a better fit for a predominantly ceremonial role such as the chancellor's. That will be more so if the ruling parties at the state and the center are different. Having the chief minister as the chancellor of a university is a clear signal of direct executive control over the university. Perhaps the intention of the Assembly in the case of the Assam Skill University is to precisely make this distinction, as the state executive desires more control over the direction that a skill university seeks to take. This might arguably be more efficient in meeting skill related objectives of the state. Simultaneously, it might be argued that decisions related to skills education would be influenced by political interests rather than knowledge-based reasons. However, the overall trend of setting a precedent of direct executive control over universities is an aberration in thinking about university administration. Other skill-oriented universities, such as the Delhi Skill and Entrepreneurship University or Shri Vishwakarma Skill University are state universities with the lieutenant governor and governor respectively as chancellors. Assam, therefore, stands out in choosing the chief minister as the chancellor, betraying the Assembly's desire to exercise executive control over academic institutions at the cost of intellectual autonomy.

Compared to The Skill University Act, 2020, the Birangana Sati Sadhani Rajyik Vishwavidyalaya Act, 2020 is a conventional law setting up a state university in Golaghat district. In deciding to set up the university, the chief minister stated that it was motivated by a desire to 'keep the memory of the brave Chutia queen alive and bring (it) forth to the new generation.'²¹ Several remarks were made in the House on how this bill along with another is aimed at preserving the rich cultural heritage of the Assamese community. The chief minister also tweeted that the university would offer multidisciplinary courses in accordance with the NEP.²² Though education is a concurrent legislative power under List III, the easy acceptance of the NEP and the express commitment to it during the passage of this Act show that the government intends to implement the central policy unquestioningly and also seeks to portray the establishment of universities to win the confidence of specific communities. The Chutia community is electorally relevant in Golaghat and has been demanding ST status even though a large section of Chutias are Hindus. It is currently categorized under other backward classes (OBC).

Apart from establishing universities, the Assembly also passed the Assamese Language Learning Act, 2020 that makes it compulsory for all schools to have Assamese language in their curriculum from standard I to X. Schools not teaching Assamese as a modern Indian language (MIL) or first language would have to introduce the language as the second or third language. The Act does not apply to the sixth schedule areas, Bodo medium schools of Bodo-inhabited areas, and Barak Valley areas (where Bengali is predominant).²³ Students transferred to schools of Assam and admitted to class VI or above are also exempted from the Act.²⁴ Failure to comply with the Act would invite an inquiry by a competent authority set up for ensuring compliance and lapses could attract penalties including cancelation of trade license or discontinuation of electricity.²⁵ The Act was welcomed by several civil society organisations and regional organisations such as the *Assam Sahitya Sabha* and All

21. Bitopan Deka, "Assam govt to set up Birangana Sati Sadhani State University in Golaghat", *Eastmojo*, Sep. 02, 2020, available at: <https://www.eastmojo.com/news/2020/09/02/assam-govt-to-set-up-birangana-sati-sadhani-state-university-in-golaghat/> (last visited on Nov. 24, 2021).

22. *Ibid.*

23. The Assamese Language Learning Act, 2020, s. 2(1).

24. The Assamese Language Learning Act, 2020, s. 5.

25. The Assamese Language Learning Act, 2020, s. 8.

Assam Student Union. These organisations have been persistently demanding the compulsory teaching of Assamese language in schools. The exclusion of the sixth schedule areas and Bodo-inhabited areas, however, does not easily map onto the long-standing demand of such organisations as Assamese regionalist forces argue that the Assamese language is the single most unifying marker of the state.²⁶ The territorial exemptions in the Act belie this sentiment as it expressly recognizes that Assamese is not to be accorded priority in areas inhabited by communities under the sixth schedule.

The Assam Non-Government Educational Institutions (Regulation of Fees) (Amendment) Act, 2020 was passed to include all private schools and colleges imparting education in two or more classes from pre-primary to class XII, excluding those established and maintained under Article 30 (1) of the Constitution of India. The parent Act of 2018 provided for the regulation of fee structure of private educational institutes of the state through a fee regulatory committee. It would have the power to determine the maximum fee of private schools, considering location, investment incurred, infrastructure, expenditure on administration and maintenance, number of students, qualifications of teaching staff and expenditure incurred on students. The committee has the power to impose penalties and to recommend the cancellation of registration of an institution. The Act was amended to respond to economic hardships brought by the pandemic resulting in several families failing regularly to pay the fees of private schools.

The Assam Elementary and Secondary School Teachers' (Regulation of Posting and Transfer), Act, 2020 and Assam Education (Provincialisation of Services of Non-Teaching Staff of Venture Educational Institutions) (Amendment) Act, 2020 dealt with transfer regulation and salary matters of educational institutes.

Acts Related to State Finance: Finances in the Shadow of Elections?

The Assembly passed nine Acts that were related to matters of state finance. Four Acts titled Assam Appropriation Act 2020 (No. I, II, III and IV) were passed in 2020. Appropriation Acts are usually passed after budget sessions to cover revised budget expenditure in the subsequent sessions. The Acts authorise the government to withdraw certain sums from and out of the consolidated fund of the state. These Acts I, II, III and IV in 2020 saw the state withdrawing approximately Rs 1180 crore,²⁷ Rs 103762 crore,²⁸ Rs 8142 crore²⁹ and Rs 10437 crore³⁰ respectively. While Appropriation Act (No. I) was to cover revised state expenditure of session 2019-20, the later Appropriation Acts were passed for covering the budget expenditure of 2020-2021 session. Commentators have termed the 2020-2021 budget populist and election-oriented. Increase in state expenditure for providing free rice to 57 lakh households, free distribution of electricity till 30 units of consumption per month, one-time financial benefit of Rs. 10,000 to students from the tea-tribe community, allocation of Rs. 10 crore to retired tea-garden labourers, one-time cash incentive of Rs. 50000 each to several sports personnel and artists,

26. For a discussion of Assamese nationalism see Monirul Hussain, "Tribal Question in Assam" 27(20/21) *Economic and Political Weekly* 1047-1050 (1992); K M Sharma, "The Assam Question: A Historical Perspective" 15(31) *Economic and Political Weekly* 1321-1324 (1980).

27. Appropriation Act (No. I) 2020, s. 3.

28. Appropriation Act (No.II) 2020, s. 3.

29. Appropriation Act (No. III) 2020, s. 3.

30. Appropriation Act (No. IV) 2020, s. 3.

Rs 50 crore for celebrating festivals of tribal communities and other expenditure of similar nature were reflective of an election-oriented budget.³¹

Expenditure for enacting many populist Acts capable of promoting social welfare, such as the three Acts establishing autonomous councils were earmarked by the passing of Appropriation Acts. A 500-crore special package was also provided to four tribal communities including the *Moran* and *Mattak* communities. The Appropriation Acts authorised the government to spend a revised expenditure of Rs. 5948 crore on social welfare measures.³² This was a substantial increase of Rs. 1,580 crore from the revised expenditure of 2019-2020 on social welfare, which stood at Rs. 4368 crore.³³

With the state struggling with economic challenges posed by COVID-19 and the resultant lockdown, the government was compelled to increase its borrowing capacity. The Assam Fiscal Responsibility and Budget Management (Amendment) Act, 2020 made the government eligible for an additional borrowing of Rs. 2000 crore and up to 2.5 percent of GSDP for the year 2020-21.

Conclusion: Executive Domination of Legislature

The year 2020 saw the legislative assembly of Assam function with quantitatively high efficiency: low working hours as input and high legislative output. Efficiency perhaps came at the cost of hours spent on meeting and deliberating legislation. If deliberations were one of the metrics for qualitative assessment of the Assembly, then there was a significant shortfall. Coupled with the fact that several of the legislations were aimed at electoral advantage through balkanisation of pan-state interests and polarisation of electorally significant communities, it is perhaps not a far throw to characterize this year as an executive domination of the legislature in a Westminster system. In real terms this would translate as party-dominance of the executive, since electoral interests are those of the victorious political party, which in turn forms both the executive as well as the legislative majority. The rest of the legislature is irrelevant unless there are institutional mechanisms making them stronger determinants of legislation. This trend of 'executivisation', so to say, then transcends federal boundaries as the politics of the executive in Assam and the union executive (read political party with parliamentary majority) have been aligned. The Repealing Acts and Acts creating autonomous councils stand testimony to that. Assam 2020, therefore, adds to the evidence that the emphasis on electoral democracy in India as an index of political legitimacy marginalizes both deliberative democracy and non-ethnonationalist identity formation across the state.

31. Budget Speech 2020-21, *available at*: https://finassam.in/budget_documents/ (last visited on Jan. 30, 2022).

32. Manish Kanadje, "Assam Budget Analysis 2021-22", *PRS Legislative Research*, July 18, 2021, *available at*: <https://prsindia.org/budgets/states/assam-budget-analysis-2021-2022> (last visited on Jan. 30, 2022).

33. Anurag Vaishnav, "Assam Budget Analysis 2020-21", *PRS Legislative Research*, March 6, 2020, *available at*: <https://prsindia.org/budgets/states/assam-budget-analysis-2020-2021> (last visited on Jan. 31, 2022).