

The Annual Survey of State Laws in India

Edited by Amita Dhanda and Faizan Mustafa



The National Academy of Legal Studies and Research (NALSAR)

Justice City, Shamirpet,
Hyderabad, Telangana 500101

2022

Mode of Citation: ASSSL (2020)

All content in this volume is licensed under a Creative Commons Attribution-NonCommercial-ShareAlike 2.5 India License (CC BY-NC-SA 2.5 IN)

Under the terms of this license, the full text of which can be found at <https://creativecommons.org/licenses/by-nc-sa/2.5/in/legalcode>, **you are free to:**

- **Share** — copy and redistribute the material in any medium or format
- **Adapt** — remix, transform, and build upon the material

Under the following terms:

- **Attribution** — You must give appropriate credit, provide a link to the license, and indicate if changes were made. You may do so in any reasonable manner, but not in any way that suggests the licensor endorses you or your use.
- **Non-Commercial** — You may not use the material for commercial purposes.
- **ShareAlike** — If you remix, transform, or build upon the material, you must distribute your contributions under the same license as the original.
- **No additional restrictions** — You may not apply legal terms or technological measures that legally restrict others from doing anything the license permits.

The licensor cannot revoke these freedoms as long as you follow the license terms.

Notices:

- You do not have to comply with the license for elements of the material in the public domain or where your use is permitted by an applicable exception or limitation.
- No warranties are given. The license may not give you all of the permissions necessary for your intended use. For example, other rights such as publicity, privacy, or moral rights may limit how you use the material.

Editorial Advisory Board

- **Archana Parashar**, Emeritus Associate Professor, Macquarie University, Australia
- **Cole Durham**, Professor, Brigham Young University, USA
- **Francesco Palermo**, Head, Institute for Comparative Federalism, Eurac Research, Italy
- **M P Singh**, Professor Emeritus, Delhi University and Distinguished Professor, Jindal Global University, Sonapat
- **Manoj Sinha**, Director, Indian Law Institute, New Delhi
- **Mihir Desai**, Senior Advocate, Bombay High Court
- **Rangin Tripathi**, Professor of Law, National Law University, Odisha
- **Sitharamam Kakarala**, Professor, Azim Premji University, Bengaluru

TAMIL NADU

Rohan K George¹

Introduction

The year 2020 marked the least number of functioning days and functioning hours of the Tamil Nadu legislative assembly (the TNLA). This in itself was not surprising. The advent of the COVID-19 pandemic had affected the sittings of the TNLA as they affected all other aspects of routine life. However, what was surprising was that the limited number of functioning days did not to a great extent hinder the legislative functioning of the TNLA. In 2020, the TNLA passed 47 bills, on par with its records for the previous years. Interestingly, in a year which presented the best case for executive law-making through ordinances, the number of ordinances passed in Tamil Nadu was surprisingly, less than 13.

Methodology

For the purposes of this study, an analysis of publicly available government databases was conducted. The legislations, ordinances, government notifications and orders of Tamil Nādu in 2020 were accessed through its gazette publications.² While a comprehensive analysis of legislations and ordinances was undertaken, notifications, government orders, rules and regulations have been analysed on a representative basis. Where there was a lacuna in terms of availability of certain legislations or ordinances, the resources of PRS Legislative Research (PRS) were utilised. All information regarding sittings of the TNLA was obtained from the website of the Tamil Nadu legislative assembly.³

Sittings of the TNLA

The fifteenth TNLA was constituted on May 21, 2016 and was dissolved on May 3, 2021. The year 2020 marked the least number of functioning days and functioning hours of the Assembly. The number of functioning days in 2020 was 23 as compared to 35 in 2016, 37 in 2017, 33 in 2018 and 27 in 2019. The total number of functioning hours was also considerably less than in the previous years, as it functioned for 117 hours approximately in 2020. In comparison, the Assembly functioned for 199 hours approximately in 2017. However, this did not affect the legislative functioning of the Assembly to any great extent.

-
1. Partner, Samvad Partners, Chennai. The research assistance of Adil Zawahir from School of Law, Christ University and JS Kaushalya from Tamil Nadu National Law University is gratefully acknowledged.
 2. Government of Tamil Nadu, Gazette Publications-2020, *available at*: http://www.stationeryprinting.tn.gov.in/gazette/gazette_list2020.php (last visited on April 15, 2022); Government of Tamil Nadu, Extraordinary Gazette Publications - 2020, *available at*: http://www.stationeryprinting.tn.gov.in/extraordinary/extraord_list2020.php (last visited on April 15, 2022).
 3. Tamil Nadu Legislative Assembly, Archives of the 15th Assembly, *available at*: https://www.assembly.tn.gov.in/archive/15th_2016/15th_assly_sessions.php (last visited on March 14, 2022).

A total of ten sessions, six governor’s addresses and six budget sessions took place. In 2020, the eighth and ninth session took place which consisted of four meetings ranging about 23 days in total.

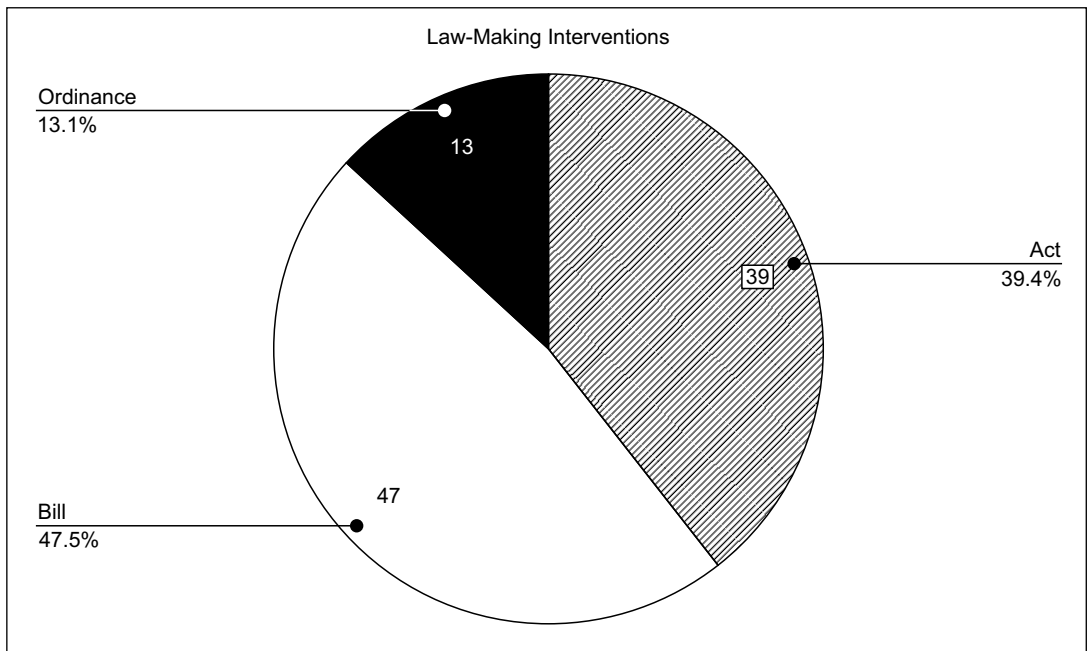
During its eighth session, the TNLA sat for 20 days. During its ninth session, it sat for three days.

Information about Bills, Acts and Ordinances

Despite the circumstances of the COVID-19 pandemic, the TNLA passed 47 bills in 2020, which is on par with those in the previous years. Along with the 47 bills passed, 39 Acts were finalized and 13 ordinances were promulgated in 2020. The use of ordinances in Tamil Nadu in 2020 was surprisingly low. With 13 ordinances, the bills to ordinances ratio for 2020 stood at 3.61.

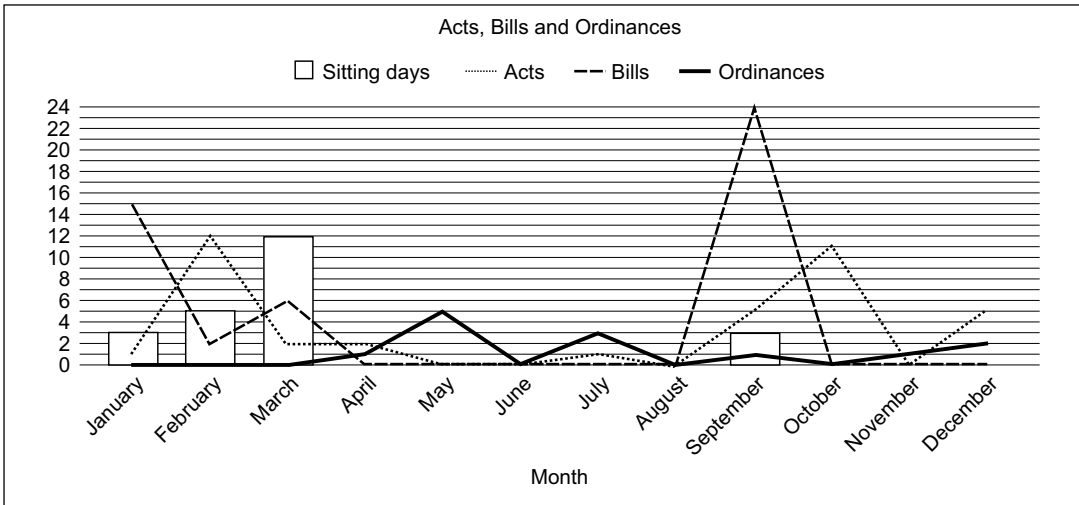
Types of Legislations Passed in 2020

The pie-chart herein represents the various types of legislations passed by the government of Tamil Nadu in the year 2020. Of the 47 bills introduced, 39 were converted into Acts. Thirteen ordinances were also promulgated during this year.



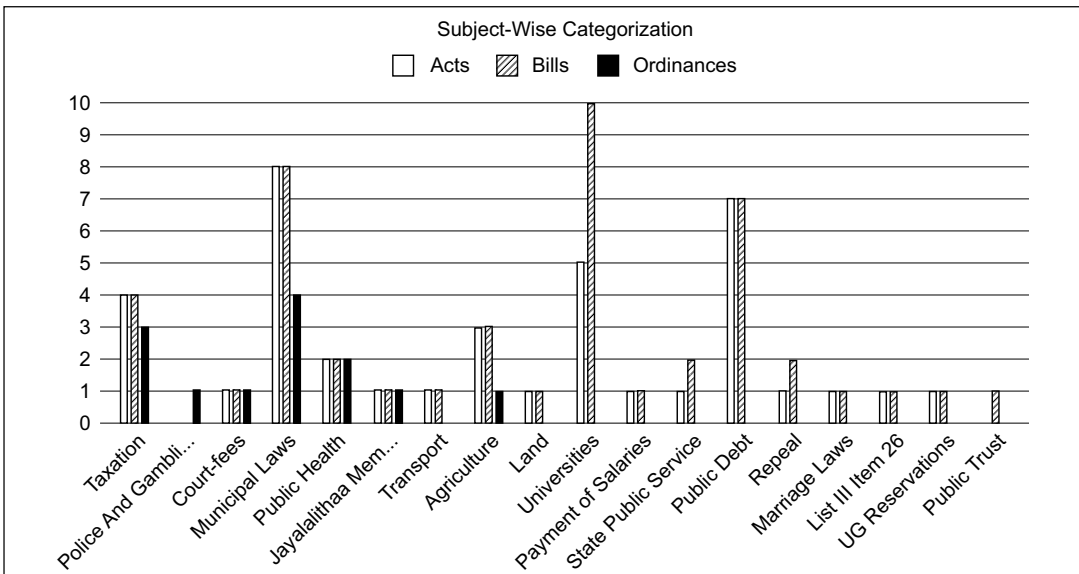
Timeline of Legislations Passed

The following graph represents the number of days the TNLA was in session in 2020 contrasted against the number of types of legislations passed by the sitting legislature. The largest number of bills was passed in September, shortly after lockdown relaxations in 2020. The least number of bills was passed from April to August. Acts were enacted mostly in February and October whereas nine out of the 13 ordinances were promulgated in April, May and July, which is incidentally the time period immediately after the pandemic struck the country.



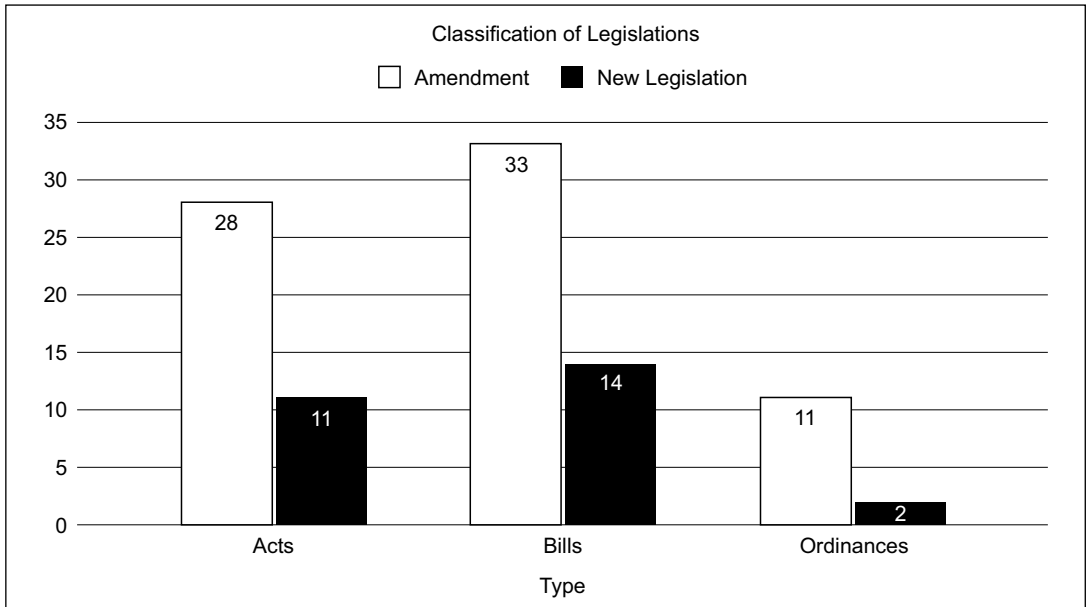
Subject-Wise Categorization

The column graph below represents the various subjects the Tamil Nadu government passed new laws or amended existing legislations upon. This classification has been done based on subjects under schedule 7 of the Constitution of India. Upon analysis it was noticed that some subjects under list II were legislated upon more than the others. Thirteen entries of the available 66 from the state list were used. Five entries of the available 47 from the concurrent list were used. One item from the union list was also interestingly used to legislate upon admission to undergraduate courses in medicine on preferential basis. Municipal laws were given a lot of attention during this year with eight Acts and four ordinances being passed to the effect. Public debt and agriculture also stand out in terms of the number of legislations under list II. Education was the key focus under list III. Despite the pandemic affecting the entire country drastically, it is interesting to note that the legislative assembly passed a mere two Acts and two ordinances in relation to it.



Amendments versus New Enactments

The comparative graph below represents the nature of the legislation passed in terms of whether such legislations constituted amendments or new laws. Fourteen new bills, converted into 11 new Acts, were passed in 2020. Two ordinances were passed to create new legislations, both of which were enacted as new legislations in the Assembly. Of the 47 bills, 33 were amendment bills. This ratio was similar for the Acts enacted as 28 of the 39 Acts notified were amendments. 11 ordinances were also issued to amend existing laws.



May Ordinances

In 2020, the pandemic brought the entire country, as well as the world, to a standstill. A nationwide lockdown was imposed which also brought the legislative assemblies of various states to a standstill. Tamil Nadu was no different. In the absence of a sitting legislative assembly, there was an urgent need for ordinances to be promulgated. With this background, six ordinances were promulgated between April 25, 2020 and May 29, 2020. At least three of these, namely the Public Health (Amendment) Ordinance,⁴ The Goods and Services Tax (Amendment) Ordinance⁵ and The Taxation Laws (Relaxation of Certain Provisions) Ordinance,⁶ were issued citing COVID-19 to be the immediate reason. There was immense financial stress on the nation which required the latter two ordinances to be issued in order to grant extensions of time considering the special circumstances. The Public Health Ordinance was the need of the hour due to the public creating an obstruction to the cremation and burial of those who had died due to the pandemic.

4. Tamil Nadu Ordinance 1 of 2020.

5. Tamil Nadu Ordinance 4 of 2020.

6. Tamil Nadu Ordinance 5 of 2020.

Laws Categorised Thematically

Public Health

The initial responses to the COVID-19 crisis in Tamil Nadu were, by necessity, through the form of rulemaking, notifications and ordinances. On March 13, the governor declared COVID-19 to be a notified disease in Tamil Nadu, under the Tamil Nadu Public Health Act, 1939.⁷ On March 15, the government prescribed the Tamil Nadu COVID-19 Regulations, 2020. These regulations detail the responsibilities of hospitals and individuals, and the powers of officials in relation to the diagnosis, treatment, and containment of COVID-19. These include (i) creation of isolation wards in hospitals, (ii) containment measures in an area once positive cases are detected, and (iii) mandatory 14-day home isolation for asymptomatic air travellers from COVID-19 affected countries.⁸ In its exercise of powers under the Epidemic Diseases Act, 1897,⁹ the government of Tamil Nadu under section 2 of the Epidemic Disease Act, 1897 and regulations under it, ordered restrictions to be imposed in the territorial jurisdiction of Tamil Nadu till April 1, 2020.¹⁰

The government brought in the Tamil Nadu Public Health (Amendment) Act, 2020.¹¹ The Act came into force on the April 25, 2020. It amended section 74 of the Tamil Nadu Public Health Act, 1939 by adding a sub-section which punished people who prevented the burial of a person who had suffered from a notified disease. After this amendment, on September 4, 2020, Tamil Nadu Governor Banwarilal Purohit promulgated the Tamil Nadu Public Health Act, 1939 (Second Amendment) Ordinance, 2020 as per the wish of the Tamil Nadu government. This ordinance made violations against social distancing and lockdown a compoundable offence. New clauses were added in section 3 to include “quarantine” and “social-distancing”. The Tamil Nadu government amended sub-section 2 of section 76 of the Tamil Nadu Public Health Act, 1939, declaring certain violations such as those relating to violation of quarantine, violation of social distancing or violations of standard operating procedures in commercial establishments as compoundable offences.¹²

Police and Law Enforcement

The Gaming and Police Laws (Amendment) Ordinance, 2020¹³ was promulgated on November 21, 2020. The Tamil Nadu government justified the ordinance by using the reason of innocent people being cheated, especially the younger generation, leading to suicides due to financial debt. In February, 2021 the ordinance was converted into an Act¹⁴ of the legislative assembly. The Act’s constitutional validity was challenged in the Madras high court by the petitioners, *Junglee Games Pvt. Ltd., in Junglee Games Pvt. Ltd. v State of Tamil Nadu*.¹⁵ The high court came down heavily on the Tamil Nadu government

7. Tamil Nadu Act 3 of 1939.

8. Anoop Ramakrishna, “Tamil Nadu Government’s Response to COVID-19”, *PRS Legislative Research*, April 24, 2020, available at: <https://prsindia.org/theprsblog/tamil-nadu-government%E2%80%99s-response-to-covid-19> (last visited on March 13, 2022).

9. Act 3 of 1897.

10. G.O.(Ms).No.152, dated March 23, 2020, available at: <https://www.capsi.in/notifications/Tamilnadu%20notification.pdf> (last visited on March 14, 2022).

11. Tamil Nadu Act 26 of 2020.

12. Tamil Nadu Ordinance 10 of 2020.

13. Tamil Nadu Ordinance 11 of 2020.

14. The Tamil Nadu Gaming and Police Laws (Amendment) Act, 2021 (Act 1 of 2021).

15. 2021 SCC OnLine Mad. 2767.

for its lack of clarity in passing the bill. It noted that games of skill are not covered under the state's legislative competence as laid out under entry 34 of the state list. This provision was exclusively reserved for gambling involving games of chance. The court did, however, note that the state would be free to derive the required legislative competence to regulate games of skill under entries 1, 26 and 33 of the state list. The court held the Act to be manifestly arbitrary and going beyond the reasonable restrictions as provided under article 19 (1)(g) of the Constitution. There was a failure on the part of Tamil Nadu to prove the requirement for a total ban on games of skill, and the statement of objects of the Act being to protect the public from being victims of gambling did not satisfy the test of proportionality.

This was an instance of the Tamil Nadu government overstepping its legislative powers to subvert the process of law-making. An ordinance was promulgated without any powers vested by the Constitution for such promulgation, and the same was duly converted into an Act. It will be interesting to see if games of skill will once again be strictly regulated or banned through the alternate means provided by the Madras high court in the aforementioned case.

Labour Laws

In 2020, the TNLA passed two bills to repeal the Tamil Nadu amendments to various labour legislations and thereby bring those into conformity with the central uniform labour code. The two Acts were the Tamil Nadu Repealing Act, 2020¹⁶ and the Tamil Nadu Repealing (Second) Act, 2020.¹⁷ The Tamil Nadu Repealing (Second) Act repealed the Payment of Wages (Tamil Nadu Amendment) Act, 1957,¹⁸ the Tamil Nadu Maternity Benefit (Amendment) Act, 1958,¹⁹ and the Industrial Employment (Standing Orders) (Tamil Nadu Amendment) Act, 1960.²⁰ While a number of the repealed legislations provided protections that are otherwise not factored in to the central uniform labour code, the effect of repealing others appears to be the avoidance of inconsistencies.

Even though labour is an item on the concurrent list wherein both the union and the states have the power to legislate, it is observed that multiple labour legislations of the state have been repealed to bring them in conformity with the Centre's Labour Codes. Even the amendments that have been brought in by way of Acts in 2020 in the state are in line with the union's labour codes. When these Acts were passed, the then government aligned its interests with the government at the centre.

The Payment of Wages (Tamil Nadu Amendment) Act, 1957 had inserted section 11-A to the then Payment of Wages Act, 1936 providing for deductions in respect of house-accommodation.²¹ After the repeal, this is dealt with under section 22 of the Code on Wages, 2019.²²

Rule 6 of the Tamil Nadu Maternity Benefit Rules, 1967²³ had provided a 15-minute break for nursing. This time limit has been done away in the new Code.

16. LA Bill 11 of 2020. The bill received the Governor's assent in 2022; Act 15 of 2022.

17. Tamil Nadu Act 37 of 2020.

18. Tamil Nadu Act 10 of 1957.

19. Tamil Nadu Act 16 of 1958.

20. Tamil Nadu Act 24 of 1960.

21. Supra note 18, s. 3.

22. Act 29 of 2019.

23. GO.Ms.No.2610, Industries, Labour and Housing (Labour), dated Aug. 16, 1967.

Form J of the Tamil Nadu Maternity Benefit (Amendment) Act, 1958 had prescribed a six-week payment period in case of death of the woman or child. However, section 59 and 63 of the new Code provide that in case a woman dies during the period of maternity benefit, the benefits will be payable up to the day of her death. However, if she dies and leaves a child behind, then the maternity benefits for the full period will be payable by the employer.

Municipal Laws

Ten bills and two ordinances were passed relating to entry 5 of list II in 2020. Both ordinances, as well as eight bills, were passed in relation to urban and rural local body elections. Both ordinances, as well as six of the eight bills pertained to the extension of time for various preparatory works to conduct elections to urban and rural local bodies. The reason for the same was cited to be, among other things, COVID-19 and related obstacles. One of these eight legislations pertained to reverting to an indirect method of election to the offices of the mayor and chairperson of urban local bodies.²⁴ The last of these eight bills however pertained to the usage of electronic voting machines (EVMs) in rural elections and certain other changes to the office of the vice-chairman of the Panchayat union.²⁵ Lastly, the Town and Country Planning (Amendment) Act²⁶ and the District Municipalities (Amendment) Act²⁷ pertained to the modernization of existing laws.

Taxation

The Tamil Nadu Goods and Services Tax (Amendment) Ordinance, 2020²⁸ came into force on March 31, 2020. The central government promulgated the Taxation and Other Laws (Relaxation of Certain Provisions) Ordinance, 2020 (Ordinance 2 of 2020) on March 31, 2020, which, among others, amends Central Act 12 of 2017, by inserting section 168A in that Act. In consonance with said amendment, the Tamil Nadu Goods and Services Tax Act, 2017²⁹ was required to be amended. This ordinance was passed in furtherance of such purpose.

This was followed by the Tamil Nadu Goods and Services Tax (Second Amendment) Ordinance, 2020,³⁰ which was brought for the same reason as the First Amendment Act. This Act amended sections 2, 10, 22, 25 and other sections of the Tamil Nadu Goods and Services Tax Act, 2017. It also inserted a new section 31A providing for facility of digital payment to recipients. It also included section 101A making the national appellate authority for advance ruling under the Central Goods and Services Tax Act to be the appellate authority under this Act.

The Tamil Nadu Taxation Laws (Relaxation of Certain Provisions) Ordinance, 2020³¹ was promulgated by the governor on May 23, 2020. This was brought in view of the spread of pandemic COVID-19 across many countries of the world, including India, causing immense loss to the lives of people, including

24. The Tamil Nadu Municipal Laws (Amendment) Act, 2020 (Act 5 of 2020).

25. The Tamil Nadu Panchayats (Amendment) Act, 2020 (Act 7 of 2020).

26. Tamil Nadu Act 24 of 2020.

27. Tamil Nadu Act 4 of 2020.

28. Tamil Nadu Ordinance 4 of 2020.

29. Tamil Nadu Act 19 of 2017.

30. Tamil Nadu Ordinance 9 of 2020.

31. Tamil Nadu Ordinance 5 of 2020, repealed and replaced with the Tamil Nadu Taxation Laws (Relaxation of Certain Provisions) Act, 2020 (Act 28 of 2020).

the trading community. It had become imperative to relax the time limit specified by the department of commercial taxes till June 30, 2017 and those Acts being administered with effect from the July 1, 2017, for completion or compliance of the statutory provisions mandated under the said Acts wherever necessary, which could not be completed or complied within the prescribed time due to *force majeure*.

Land Acquisition

On May 22, 2020, the governor of Tamil Nadu under the powers vested in him under article 213 of the Constitution, promulgated the Tamil Nadu Puratchi Thalaivi Dr. J. Jayalalithaa Memorial Foundation Ordinance, 2020³² in continuation of the chief minister's 2017 announcement for possession of the house and to facilitate vesting of movable properties therein with the government.

The AIADMK in 2017 had announced its intention to convert the residence of the recently deceased former chief minister of the state, J Jayalalithaa, "Veda Nilayam" into a memorial accessible to the public. In response to this, the legal heirs of J Jayalalitha, J Deepa and J Deepak, filed a writ petition praying for the property to be handed over to them. The means used to acquire the land were unclear and formed an important part of the questions posed by the Madras high court to the government of Tamil Nadu.³³

Education

With the exception of the Tamil Nadu Admission to Undergraduate Courses in Medicine, Dentistry, Indian Medicine and Homoeopathy on Preferential Basis to Students of Government Schools Act, 2020³⁴ (the TN Undergraduate Medical Reservation Act), the state acted broadly in accordance with the policy preferences of the central government. However, in the context of the national eligibility cum entrance test (NEET), the government of Tamil Nadu and the central government did see conflict in their approaches to lawmaking.

The NEET Undergraduate Reservation Issue

NEET was brought in by the union as an exclusive filter to ensure that only meritorious students seeking medical seats get admission into medical colleges as well as end the practice of collecting capitation fees, which stoked corruption. However, Tamil Nadu has always been against this move. Even constitutionally, entry 32 of list II clearly places incorporation, regulation and winding up of universities exclusively under the state government's purview. Moreover, entry 44 of list I (union list) excludes universities from the Union government's purview. This issue has been a bone of contention between Tamil Nadu and the central government since 2017, with both the ruling and principal opposition parties protesting against it.³⁵

32. Tamil Nadu Ordinance 3 of 2020.

33. Writ Petition No. 9285 of 2020. On 24 November, 2021, the Madras high court categorically set aside the ordinance to convert Veda Nilayam into a memorial and handed the property over to the legal heirs. It also, by way of the same order, granted leave to the AIADMK to appeal against the decision.

34. Act 34 of 2020.

35. Amarnath K Menon, "Why Tamil Nadu is against NEET and other entrance tests", *India Today*, Sep. 28, 2021, available at: <https://www.indiatoday.in/india-today-insight/story/why-tamil-nadu-is-against-neet-and-other-entrance-tests-1858127-2021-09-28> (last visited on March 10, 2022).

On September 15, 2020 the legislative assembly tabled the TN Undergraduate Medical Reservation Bill in the Assembly. The same was passed, received the governor's assent and was notified on October 30, 2020. This was in response to the introduction of the national eligibility cum entrance test (NEET) for undergraduate medical and dental courses countrywide. The TN Undergraduate Medical Reservation Act introduced 7.5 percent horizontal reservation for students studying in Tamil Nadu government schools, excluding government-aided schools and schools under the CBSE or ICSE syllabus. The objective behind the Act was stated as being "to bridge the inequalities between government and private school students and take affirmative action to bring real equality between the two by giving them an equal chance to become medical professionals."

Section 3 of the Act provides for admission on preferential basis which states that a 7.5 percent of the government seats shall be set apart on preferential basis to students studied in government schools. Under NEET, 15 percent of seats are reserved for all-India quota and the rest 85 percent of the seats are filled by state counselling process. The very reason NEET was brought in was to have a uniform system of admission to medical seats throughout the country. By bringing in this additional reservation quota, it can be seen that the intention of the legislature of TN has been to circumvent the central law and provide additional reservations given the fact that the central law by itself has given a bifurcation of reservation seats.

The Madras high court has also upheld the TN Undergraduate Medical Reservation Act. In the case of *D Arun v. State of Tamil Nadu*,³⁶ the high court of Madras confirmed an order of a single judge who ordered the provision of a medical seat for a student hailing from Thanjavur under the NEET 7.5 percent quota.³⁷

Examination of University Acts

Many state universities were renamed to include the former CM Dr. J Jayalalithaa's name into their name. This is of relevance as these Acts were passed in 2020 when the AIADMK, the party headed by Dr. Jayalalithaa until her passing, was in power. Furthermore, these university Acts conferred the state government with the power of inspection and inquiry citing implementation of government schemes and government funding as reasons.

The Tamil Nadu Dr. Ambedkar Law University (Amendment) Act, 2020³⁸ amended section 15 of the Tamil Nadu Dr. Ambedkar Law University Act, 1996. This section redefines the qualifications of a registrar. Initially the qualifications were very narrow, now it has been amended to include more qualifications, making it mandatory to have an LLM, have teaching experience etc. This was done to take into consideration the qualification prescribed for the post of registrar by the University Grants Commission and the suggestion of the state government thereon.

The Tamil Nadu Music and Fine Arts University and Private Colleges (Regulation) Amendment Act, 2020³⁹ amended the Tamil Nadu Music and Fine Arts University Act, 2013 and the Tamil Nadu Private Colleges (Regulation) Act, 1976. The university has been renamed as The Tamil Nadu Dr. J Jayalalithaa Music and Fine Arts University.

36. W.P.(MD)NO.17835 OF 2020.

37. 2021 SCC OnLine Mad 68.

38. Tamil Nadu Act 9 of 2020.

39. Tamil Nadu Act 1 of 2020.

The Tamil Nadu Fisheries University (Amendment) Bill, 2020⁴⁰ and the Tamil Nadu Veterinary and Animal Sciences University (Amendment) Bill, 2020⁴¹ aimed to amend various sections of the Tamil Nadu Fisheries University Act, 2012 and the Tamil Nadu Veterinary and Animal Sciences University Act, 1989 respectively. These amendments were aimed to monitor the use of government funds by the universities but the bills were not enacted and only signify governmental intention to oversee the financial affairs of the concerned universities.

Public Debt

Article 266 of the constitution of India provides that all revenue received by the state government, as well as all loans raised by that government by the issue of treasury bills, loans or ways and means advances and all money received by the state government on repayment of loans shall form one consolidated fund which is to be described as the consolidated fund of the state. According to article 266(3) of the Constitution of India, a state government cannot appropriate any money from the state fund except in accordance with law and for purposes provided by the constitution.

An appropriation bill is when, on the governor's advice, a bill is submitted in the legislative assembly to provide for the appropriation out of the state's consolidated fund of all the money required to fulfill the vote as well as charged expenditure. In the legislative assembly, no amendment shall be offered to any such bill that has the effect of varying the amount or changing the destination of any such grant or varying the amount of any expenditure charged to the consolidated fund. The amount shown in this bill can be spent during the financial year concerned once it has been passed by the legislative assembly and the governor has assented to it.⁴²

The year 2020 saw a significant increase in appropriations from the previous two years. The total amount allocated via various appropriation bills in 2020 was almost thrice the total in 2019 and twice of that in 2018.

The TNLA passed not less than five Appropriation Acts in 2020 for a total amount of INR 5,26,130,93,00,000 (five lakh twenty-six thousand one hundred and thirty crores and ninety-three lakh rupees). However, excluding the amount appropriated under the Tamil Nadu Appropriation [No.3] Act, 2020,⁴³ which was inclusive of the sum of the amount specified in section 2 of the Tamil Nadu Appropriation (Vote on Account) Act, 2020,⁴⁴ the total amount would be INR 3,17,799,63,25,000.

On February 25, 2020, the Tamil Nadu Appropriation Act, 2020⁴⁵ provided for the state government to appropriate a sum of INR 6,580,15,24,000/- (six thousand five hundred and eighty crore fifteen lakh twenty-four thousand rupees) out of the consolidated fund of the state. This was for the purposes of the financial year which commenced on April 2019.

On March 24, 2020, the Tamil Nadu Appropriation [No.2] Act, 2020⁴⁶ was passed. This Act provided for appropriation out of the consolidated fund of the state for the financial year April 2019-2020. The

40. LA Bill No 2 of 2020.

41. LA Bill No 10 of 2020.

42. Government of Tamil Nadu, "Tamil Nadu Budget Manual-Volume 1" (1992) available at: https://tnbudget.tn.gov.in/tnweb_files/TN_Budget_Manual_Vol_I_Book.pdf (last visited on March 13, 2022).

43. Tamil Nadu Act 16 of 2020.

44. Tamil Nadu Act 15 of 2020.

45. Tamil Nadu Act 12 of 2020.

46. Tamil Nadu Act 14 of 2020.

appropriation was for a sum of INR 6,408,81,57,000/- (six thousand four hundred and eight crore eighty-one lakhs and fifty-seven thousand rupees).

On the same date, i.e., on March 24 2020, the Tamil Nadu Appropriation (Vote on Account) Act, 2020⁴⁷ provided for the appropriation out of the consolidated fund of the state a sum of INR 1,95,342,32,94,000/- (one lakh ninety-five thousand three hundred forty-two crore thirty-two lakh and ninety-four thousand rupees). This money was appropriated for a part of the financial year of April 2020-2021.

On April 11, 2020, the Tamil Nadu Appropriation [No.3] Act, 2020⁴⁸ was passed. This Act provided for the appropriation out of the consolidated fund of the state, for a sum of INR 3,04954,43,50,000/- (three lakh four thousand nine hundred fifty-four crore forty-three lakh and fifty thousand rupees). This sum was inclusive of the sum of the amount specified in section 2 of the Tamil Nadu Appropriation (Vote on Account) Act, 2020. The said sum was appropriated for the requirements of the financial year April 2020-2021 and for the expenditure charged on the said fund of the state for that year

The Tamil Nadu Appropriation [No.4] Act, 2020⁴⁹ was passed on September 26, 2020. This Act was for the supplementary appropriation out of the consolidated fund of the state for the services and purposes of the financial year 2020-21. This provided appropriation for a further sum of INR 12,845,19,75,000/- (twelve thousand eight hundred and forty five crore nineteen lakh and seventy five thousand rupees).

The Tamil Nadu Fiscal Responsibility (Second Amendment) Act, 2020⁵⁰ amended section 4 of the Tamil Nadu Fiscal Responsibility Act, 2003 to maintain the ratio of fiscal deficit to gross state domestic product as not more than three per cent by March 31, 2022 and adhere to it thereafter.

By way of comparison, in 2018, the TNLA passed three Appropriation Acts which amounted to a total of INR 2,61,309,40,93,000 (two lakh sixty-one thousand three hundred and nine crore forty lakhs ninety-three thousand rupees). In 2019, the TNLA passed three Appropriation Acts which amounted to a total of 1,89,20,891,83,000 (one lakh eighty-nine thousand two hundred and nine crore ninety-one lakh eighty-three thousand rupees).

The increased level of appropriations would inevitably have an effect on Tamil Nadu's fiscal deficit. This was highlighted by the opposition at the time of presenting the interim state budget for 2021-2022. The fiscal deficit for this year was over INR 84,000 crore and the then leader of the opposition, MK Stalin, in a statement, condemned the government for an alleged Rs. 5.70 lakh crore debt. By way of explanation, the state government, at the relevant session, noted that the pandemic had caused the state's own tax revenue (STOR) to collapse in the first four months of the current financial year and the collection of state GST and value-added tax (VAT) started to pick up from August, 2020. The Deputy Chief Minister O Panneerselvam, who held the finance portfolio at the time stated that, due to the pandemic, there was a sharp drop in revenue, "but the expenditure levels had to be enhanced to protect people's welfare." Hence, "it is completely unavoidable that the government had to resort to borrowings

47. *Supra* note 44.

48. *Supra* note 43.

49. Tamil Nadu Act 22 of 2020.

50. Tamil Nadu Act 21 of 2020.

resulting in a higher fiscal deficit”.⁵¹ Regardless, it is clear that appropriations in 2020 resulted in a significant increase in the fiscal deficit of Tamil Nadu.

Co-operative Societies

The government of Tamil Nadu passed the Tamil Nadu Co-operative Societies (Amendment) Act, 2020⁵² in order to create accountability within cooperative societies. Prior to the amendment, in the Tamil Nadu Co-operative Societies Act, 1983,⁵³ there was no provision to place the president or vice-president of a registered cooperative society under suspension, if they are alleged to have committed misappropriation or breach of trust or gross mismanagement of the affairs of the society or any offence involving criminal misconduct or moral turpitude.

The government amended the Tamil Nadu Act 30 of 1983 by inserting section 76-A through the Tamil Nadu Co-operative Societies (Amendment) Act, 2020. This particular amendment was challenged before the Madras high court through a writ petition filed by a Perambur-based cooperative building society’s president, Krishnamoorthy. The Madras high court dismissed the writ, finding that the amendment had clearly been passed with an intent to protect cooperative societies.⁵⁴

Agriculture

Within the space of a week, both Tamil Nadu and the union passed bills relating to Agriculture Produce Marketing Committees (APMC). The former passed the Tamil Nadu Agricultural Produce Marketing (Regulation) Second Amendment Ordinance, 2020⁵⁵ whereas the latter passed the Farmers’ Produce Trade and Commerce (Promotion and Facilitation) Ordinance, 2020. In India, agriculture is a state subject found in the state list of the seventh schedule. The centre’s circumvention of APMCs in Tamil Nadu and the rest of the country raised a few eyebrows. This is what eventually led to the farmer’s protests which lasted well over a year, until the centre decided to back down and repeal the Acts.

In Tamil Nadu, the Tamil Nadu Agricultural Produce Markets Act, 1959 was passed to establish APMCs in order to prevent the exploitation of farmers by local middlemen. APMCs controlled the wholesale agricultural transactions. It consisted of government representatives, farmers and traders. Prior to the union’s proposed changes, a farmer was only allowed to sell to licensed traders of the APMCs. The change proposed was further privatisation of the market and a viable private alternative to APMCs without disbanding them completely. The scope of ‘trade area’ was enlarged by the central law to any area or location or place of production, collection and aggregation anywhere in the country for the trade of farmers’ produce. Nevertheless, this was inapplicable to the physical boundaries of those market yards or markets falling under the state APMC Acts.

51. PTI, “Tamil Nadu Tables Interim Budget Ahead Of Assembly Elections”, *NDTV*, Feb. 23, 2021, available at: <https://www.ndtv.com/india-news/tamil-nadu-tables-interim-budget-ahead-of-assembly-elections-2376948> (last visited on March 14, 2022)

52. Tamil Nadu Act 13 of 2020.

53. Tamil Nadu Act 30 of 1983.

54. *DT Next*, “High Court upholds TN’s amendment allowing cooperative society registrars to initiate suspension”, *DT Next*, Oct. 7, 2021, available at: <https://www.dtnext.in/News/TopNews/2021/10/07141237/1322129/Madras-High-Court-upholds-states-amendment-allowing-.vpf> (last visited on March 10, 2022).

55. Tamil Nadu Ordinance 6 of 2020.

The Tamil Nadu ordinance was promulgated to amend the APMC Act, which covered a host of areas, such as providing for geographically restriction-free trade or transaction of agricultural produce across the state; enhancing transparency in trade; promoting the emergence of multiple channels to competitive marketing, and encouraging investments in the development of markets and marketing infrastructure. All of this was brought to a standstill with the centre's bill being introduced in a week's time. Among other things, the central law's prevalence over the state law meant that traders will not require a license or have to pay a fee or cess for transactions outside APMC markets.

The following points cover what the Tamil Nadu ordinance had proposed:⁵⁶

- The establishment of the whole of Tamil Nadu as a unified market area. The market areas under the control of APMCs are excluded.
- The committee on Agricultural Marketing Reforms (2013) had noted that there is a high wastage of fruits and vegetables due to lack of marketing infrastructure, absence of sufficient cold storage areas, and a disorganised distribution system. The new ordinance addresses this issue by allowing any person to establish a private market yard in any area of the unified market area and grants the state government the power to notify structures as private market sub-yards. Licenses obtained for the same will be valid for a period of three years.
- “The ordinance allows direct marketing, i.e., direct wholesale purchase of agricultural produce from farmers, outside the APMC markets. It provides that collection or aggregation centres can be set up close to any production area or within a designated food park for direct marketing. It can also be carried out, without setting up such centres, in areas specified for this purpose, including private market yards and sub-yards. A buyer engaging in direct marketing is required to obtain a licence from the director and report trade transactions on a monthly basis. Such licence will be valid for a period of three years.”⁵⁷
- Dispute Settlement: The ordinance provides for the director to be the arbiter of all disputes between various categories of licensees.

Despite being allied with the union government on most policy issues, the AIDMK expressed disagreement with the central decision to exempt hydrocarbon exploration projects from Environmental Impact Assessment (EIA) and public consultation, vide an amendment to the EIA Notification, 2006.⁵⁸ The amendment came at the heels of Vedanta applying to carry out exploratory activities in the Cauvery delta, a proposal that was met with severe public opposition for its potentially destructive impact on a fragile ecosystem and the livelihoods of farmers in the region.⁵⁹ The Assembly passed the Tamil Nadu Protected Agricultural Zone Development Act, 2020, which designated a significant portion of the Cauvery delta as a ‘protected agricultural zone’ where industries such as zinc, copper, aluminium smelting; iron and steel processing; shipbreaking and the exploration, drilling and extraction of oil and

56. PRS, “The Tamil Nadu Agricultural Produce Marketing (Regulation) Second Amendment Ordinance, 2020”, *PRS Legislative Research*, available at: <https://prsindia.org/bills/states/the-tamil-nadu-agricultural-produce-marketing-regulation-second-amendment-ordinance-2020> (last visited on March 13, 2022)

57. *Ibid.*

58. S.O. 236 (E), Ministry of Environment, Forest and Climate Change, dated Jan. 16, 2020.

59. The public outrage prompted a roll-back of the requirement of public consultation, instead of a rejection of the application. Nityanand Jayaraman, “Public Hearing Exemption for Hydrocarbon Exploration Makes a Bad Law Worse”, *The Wire*, Jan. 19, 2020, available at: <https://thewire.in/environment/eia-public-hearing-exemption-hydrocarbon-exploration-drilling-environment-ministry> (last visited on April 18, 2022).

natural gas would be barred.⁶⁰ The statute, however, does not speak to the status of existing industries nor covers the entire geographical area of the delta. The union government's sleight of hand at the stated behest of industry,⁶¹ and Tamil Nadu's response, forms part of a larger story of relentless incursions by the centre into states' powers to manage resources and safeguard sensitive ecosystems.

Conclusion

For the most part, Tamil Nadu was broadly aligned with the law-making objectives of the central government. As with many other states, the government of Tamil Nadu used its executive powers to try and create order out of the chaos wrought by the pandemic through several notifications and ordinances relating to public health. The increasing adoption of online gambling by the state's citizenry during the lockdown prompted the government of Tamil Nadu to pass an ordinance to prohibit this practice. However, the constitutional validity of such an ordinance was challenged and defeated in Tamil Nadu, as it was in other states which had attempted the same. The coordination between Tamil Nadu and the central government was apparent with relation to laws relating to labour as well as agriculture, with the state government passing laws enabling the uniform labour code as well as the Indian Agriculture Acts of 2020 (also called the farm bills). However, at certain points, there was conflict between the government of Tamil Nadu and the central government, particularly with relation to NEET. Tamil Nadu introduced legislation in 2020 which introduced 7.5 percent horizontal reservation for students studying in Tamil Nadu government schools. This has so far been upheld by the courts of India. The state also saw itself at loggerheads with the union in relation to hydrocarbon exploration in the Cauvery delta, leading to the passage of a statute designed to frustrate any efforts towards the sanctioning of the same. In terms of public debt, the government of Tamil Nadu dipped significantly into the Tamil Nadu consolidated fund. This was a move which, though perhaps necessary due to the circumstances of the pandemic, significantly increased Tamil Nadu's fiscal deficit and created a debt that would be inherited by governments to come.

60. Tamil Nadu Act 11 of 2020, s. 4(1).

61. The preamble clause of the notification states: "the Ministry of Environment, Forest and Climate Change has also received references requesting for exemption from requirement of prior environmental clearance under the provisions of the Environmental Impact Assessment Notification, 2006 for exploration drilling in respect of on-shore and off-shore oil and gas" indicating that the ministry in charge of protecting the environment now seems to take its instructions from industrialists. *Supra* note 58.