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ANDHRA PRADESH

MURALI KARNAM*

The legislative system in Andhra Pradesh includes a bicameral legislature. The government of Andhra Pradesh in 2023, formed by YSR Congress Party, had an overwhelming majority (86%) in the state legislative assembly

Quantitative Analysis

The term of the 15th Andhra Pradesh Legislative Assembly ended in May 2024. Over the past five years, it had met for 75 days and passed 187 bills. Since 2023 under survey is the last year of its term, a longer perspective on the assembly's functioning is necessary. The number of bills introduced varied each year of the term, with the highest of 45 bills in 2023 and the lowest of 32 bills in 2022.

The number of days for which the assembly functioned has fluctuated over the years. It deliberated for 25 days in 2019, which decreased to 12 days in 2020 probably due to interruption by COVID-19. But its engagement with public issues further declined to 8 days in 2021, to 17 days in 2022, and then to 13 days in 2023. In terms of the number of hours, in 2019, the assembly met for 146 hours, but this time significantly decreased to 78 hours in 2020. The business hours further declined to 40.15 hours in 2021, significantly increased to 88.37 hours in 2022, and then decreased again to 69 hours in 2023. As against 69 hours of discussions in the legislative assembly, the legislative council deliberated for 46 hours in 2023.

The Space for the Opposition Party

The time allocation in the Assembly for the principal opposition party, Telugu Desam (TDP), has shown a consistent decline over the years. It was granted 9.091% of the total time in the house. When the ruling party commands an overwhelming majority, the changing

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priorities of legislative assembly and the shrinking space for the opposition parties are clearly visible. These trends eventually impact the law-making functioning of the assembly, some of which can be seen in the analysis of the particular statutes enacted in 2023.

All the 45 bills introduced on a day were passed on the same day in each house. On 23 March 2023, the Assembly passed 7 bills and the council approved 10 bills.¹ Similarly, on 25 September, the Assembly passed 9 important bills related to prohibition of assigned lands, private universities, endowments lands, public service commissions, road transport corporation, and taxation.² None of the bills were referred to select committees of the assembly. 14 of the bills were Ordinances passed as statutes by voice vote. 8 of the bills were introduced as money bills, but two of them were more than money bills. The website of the Legislature has not updated the information on ordinances after 2020. The assembly has not undertaken any discussion under regulations 74 and 344 of the Rules of Procedure and Conduct of Business, 2014 which allow members to call attention to matters of public importance and urgent public importance respectively. It has undertaken brief discussions on eight themes such as corruption in the establishment of the Skill Development Corporation, State Fibernet, and in changing the alignment of the Inner Ring Road, and the reasons for the delay in the completion of the Polavaram project. Regulations 74 and 344 are related to matters of public importance going beyond corruption and inefficiency. Yet the primary focus of the Assembly was on corruption and inefficiency in the previous government.³

The Assembly also passed five resolutions including the one to extend scheduled caste status to Budaga Jangam community⁴ to Dalit Christians,⁵ and to include the Boya/Valmiki community in the scheduled tribes. The National Tribes Federation opposed the move before the National Commission for Scheduled Tribes on the ground that including politically influential Boya community with a population of 40 Lakhs into 34 tribal communities

¹ *17 bills passed in AP assembly and council*, DECCAN CHRONICLE, 24 March 2023, available at <https://www.deccanchronicle.com/nation/in-other-news/230323/17-bills-passed-in-ap-assembly-and-council.html> (last visited 23 November 2023).

² *Assembly passes nine Bills, including AP Assigned Lands amendment*, THE HINDU, 25 September 2023, available at <https://www.thehindu.com/news/national/andhra-pradesh/assembly-passes-nine-bills-including-ap-assigned-lands-amendment/article67345677.ece> (last visited on 23 November 2023).

³ *Short Discussions*, ANDHRA PRADESH LEGISLATURE, available at <https://aplegislature.org/web/aplegislature/short-discussions> (last visited on 25 December 2023).

⁴ Srikanth Aluri, *In Andhra Pradesh, centre mulls SC status for Beda Budaga Jangams*, TIMES OF INDIA, 6 December 2022, available at <https://timesofindia.indiatimes.com/city/vijayawada/in-andhra-pradesh-centre-mulls-sc-status-for-beda-budaga-jangams/articleshow/96023005.cms> (last visited on 25 December 2023).

⁵ *Resolutions*, ANDHRA PRADESH LEGISLATURE, available at <https://aplegislature.org/web/aplegislature/resolutions1> (last visited on 25 December 2023).

constituting 27 lakh population with 6% reservation would gravely affect their potential opportunities. The inclusion, especially of Boya Community into ST category will have serious ramifications for the 34 traditional tribal groups in the state. Some responded that this resolution serves the political interest of the party in power rather than the socio-economic needs of the Boya community.⁶ The resolution on the Dalit Christians' inclusion into Scheduled Caste was vehemently opposed by the BJP on religious grounds.⁷ Interestingly, a month later even the State of Tamil Nadu passed a similar resolution. This question is being challenged before the Supreme Court at the same time.⁸ Two bills, namely the Registration of (Andhra Pradesh Amendment) Bill, 2023, the Andhra Pradesh (Andhra Area) Inams (Abolition and Conversion into Ryotwari (Amendment) Bill, 2023, await the assent of the President of India, as they deal with items on the Concurrent List in the Constitution of India⁹.

Delegated Legislations

The government of Andhra Pradesh published 7839 gazette notifications in 2023.¹⁰ Of these, 256 notifications are routine amendments to rules on matters as diverse as mineral development, tribal welfare, medical education, civil service rules, endowment, local bodies, TTD, school education, AP subordinate services and Secretariat service rules. The Committee on Subordinate Legislation is constituted as per Rule 260 of state legislature's rules of business¹¹ and it is responsible for scrutinising the proper exercise of regulatory powers. This includes examining that the rules align with the objectives of the approved legislation, do not restrict court jurisdiction or have retrospective operation. However, based

⁶ Sambasiva Rao, *Political circles agog over proposal of Andhra Pradesh government to include Boya community on Scheduled Tribes list*, THE HINDU, 30 November 2022, available at <https://www.thehindu.com/news/national/andhra-pradesh/political-circles-agog-over-proposal-of-andhra-pradesh-government-to-include-boya-community-on-scheduled-tribes-list/article66205023.ece>

⁷ *While Tribals, VHP demand delisting of converted SCs-STs, Andhra Govt pushes to include 'Dalit Christians' in SC list*, ORGANIZER, March 29, 2023, available at <https://organiser.org/2023/03/29/166902/bharat/while-tribal-groups-vhp-demand-delisting-of-converted-sc-sts-andhra-govt-push-to-include-dalit-christians-in-sc-list/> (last visited on 25 December 2023).

⁸ Sohini Chowdhury, 'Social Stigma May Continue Even After Conversion': Supreme Court Judge Says While Hearing Plea to Extend Reservation to Converted Dalits, LIVE LAW, 12 April 2023, available at <https://www.livelaw.in/top-stories/reservation-for-converted-dalits-sc-reservation-for-converts-to-christianity-islam-supreme-court-justice-ahsanuddin-amanullah-226186> (last visited on December 2023).

⁹ The Constitution of India, 1950, Art. 254(4).

¹⁰ Search All Gazettes, AP E-Gazette, available at <https://apegazette.cgg.gov.in/searchAllGazettes>, last visited on 25 January 2024.

¹¹ Rules of Procedure and Conduct of Business in the Andhra Pradesh Legislative Assembly, 2014, published by Andhra Pradesh Legislature (Legn) Secretariate, Velagapudi, Amaravati.

on the legislative website, it seems that the Committee did not perform any of these functions.

Qualitative Analysis

A systematic framework is necessary for reviewing various statutes passed by the assembly. The survey involved closely examining the statutes and identifying the broad patterns of lawmaking. While many amendments may initially appear to have only recast procedures of executing the substantive law, their true significance becomes evident when they are examined in the context of principal statutes. Therefore, many amendments are evaluated in their social and economic contexts, to appreciate their far-reaching implications.

The review encompasses a range of amendments, including seven amendments to land statutes that address substantive aspects of relationships between individual citizens, their collective rights, and the government. Similarly, five amendments concerning rights bodies which aim to protect the rights of marginalized communities and women are reviewed together due to their shared goals and interconnectedness. Additionally, two out of the eight money bills are analysed as they extend beyond financial appropriation by the government. Furthermore, an examination of the three amendments to the educational statutes helps in understanding the direction of higher education in the state. However, this analysis excludes bills related to budget appropriation, money bills, and those considered socially and politically less significant, such as creating a security cover for the chief minister. Overall, this review undertakes an analysis of 19 bills, thereby shedding light on the legislative landscape and foregrounding the need for scrutiny and clarity in the formulation and enactment of statutes.

Transformative Land Legislations

In 2023, the government of Andhra Pradesh enacted seven important land legislations. Three of them were passed on the same day without much discussion.¹² This was the case even as the statutes may bring about significant changes in property relationships, impacting citizens, collectives, and the acquisition powers of the government. These laws can reshape the ownership of previously shared properties. Furthermore, the laws allow the

¹² They are the A.P. Rights in Land and Pattadar Passbooks (Amendment) Bill, 2023, the A.P. Dotted Lands (Updation in Resettlement Register) (Amendment) Bill, 2023, and the A.P. (Andhra Area) Inams (Abolition and Conversion into Ryotwari) (Amendment) Bill, 2023 passed on 19 March 2023; V. Raghavendra, *Assembly passes three land Bills; two more on education tabled*, THE HINDU, 20 March 2023, available at <https://www.thehindu.com/news/national/andhra-pradesh/assembly-passes-three-land-bills-two-more-on-education-tabled/article66638897.ece> (last visited on 26 November 2023).

government to acquire lands, and introduce new measures to address issues related to encroachment, land distribution, and compensation.

The Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments (Amendment) Act, 2023

The government amended the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987 through an Ordinance.¹³ The Ordinance was subsequently enacted as a statute. The Amendment Act primarily modified sections of the principal statute, related to encroachment on land, buildings, or property belonging to charitable or religious institutions or endowments. It empowers authorities to issue notices for the removal of encroachments, increases the penalties for encroachment offenses,¹⁴ provides for forcible eviction of encroachers, establishes the Endowments Tribunal with the power to pass interim orders against the encroachers, and ultimately entrusts the government with review powers. It received the assent of the Governor on 18 of October 2023, but it was retrospectively enforced from 26 June 2023. Despite proposing significant changes to the ownership rights of collectives and individuals with lasting impact, it does not provide a statement of purpose and grounds for choosing the Ordinance route.

The Andhra Pradesh Bhoodan and Gramdan (Amendment) Act, 2023

The Andhra Pradesh Bhoodan and Gramdan Act, 1965 was a significant piece of land reform legislation. It aimed to facilitate the voluntary donation of land (Bhoodan) and facilitate collective ownership (Gramdan) of land. In order to redistribute land to the landless and to promote village self-sufficiency. The Bhoodan movement led by Vinoba Bhave, encouraged landowners to voluntarily give a portion of their land to landless people. Its primary objective was to address social inequality by reforming land ownership patterns and promoting social justice and community development. The government amended three important sections of the principal statute,¹⁵ substantially changing its original objective. It changed the composition of the Bhoodan Board by amending Section 4, and left the matter of the number of members of the Board to the discretion of the government.

Similarly, the government empowered itself to dissolve the Bhoodan Board¹⁶ and not to reconstitute it for up to a period of three years. The principal act stipulated that if the

¹³ The Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments (Amendment) Ordinance, 2023 (Ordinance 5 of 2023).

¹⁴ The Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments (Amendment) Act, (Act 36 of 2023, §5.

¹⁵ The Andhra Pradesh Bhoodan and Gramdan (Amendment) Act, 2023 (Act 39 of 2023).

¹⁶ Ibid, §9.

government desires to dissolve the board, it has to be reconstituted immediately or within six months. The amendment also extended the meaning of “community purpose” by including within such purpose provisioning of “house sites to weaker sections and poor persons.”¹⁷

The original statute empowers the Tahsildar to evict an allottee, if he fails to cultivate the land personally for two consecutive years.¹⁸ The original section 24 required the involvement of the Gram Sabha in the eviction process. Reflecting the declining importance of the Grama Sabha, the amendment empowers the Tahsildar to evict the allottee or any other person who is in possession of the land or house site if they fail to comply with the condition of allotment.” The preemptory power of the Tahsildar is attempted to be offset by section 24 A introduced by the Amendment Act which grants the person evicted a right to appeal against the order of eviction within a period of 90 days.

Section 24B the other section introduced by the Amendment Act addresses the changing needs of the community by authorising the Bhoodan Board to use the agricultural land within the limits of an urban area for non-agricultural purposes such as house sites for poor persons.

The Andhra Pradesh Rights in Land and Pattadar Pass Books (Amendment) Act, 2023

The legislature amended the Andhra Pradesh Rights in Land and Pattadar Pass Books Act, 1971 through an Ordinance.¹⁹ Understanding the trajectory of this Bill will throw light on the legislative process. Following the promulgation of Ordinance 2 of 2022, the Bill²⁰ was published on 18 March 2023 and introduced in the Assembly on 19 March 2023. In compliance with Section 11 of the principal statute,²¹ a Gazette notification was issued on 12 April 2023²² inviting people to submit their objections or suggestions within a period of 12 days. Exactly after 12 days, the amended Act was promulgated, which seems to show that either no objections or suggestions were received by the government and if received were accorded no consideration. Thus, the people were involved only in form and not in substance. The introduction of the “Certificate of Ownership” for lands in Gramakantam and non-agricultural lands in the villages and Urban Local Bodies were amongst the key changes introduced by the Amendment Act. The Gramakantam land is a common land

¹⁷ Ibid, §14.

¹⁸ Ibid, §24.

¹⁹ The Andhra Pradesh Rights in Land and Pattadar Pass Books (Amendment) Ordinance, 2023 (Ordinance 2 of 2023).

²⁰ The Andhra Pradesh Rights in Land and Pattadar Pass Books (Amendment) bill, 2023 (L.A. Bill 4 of 2023).

²¹ Andhra Pradesh Rights in Land and Pattadar Pass Books Act, 1971.

²² G.O. Ms. 172, (Lands-I), Revenue Department, Govt of AP, dated 12 April 2023.

meant for cattle grazing and harvesting of grains but under the supervision of the Panchayats. Since local self-governance has collapsed,²³ these lands have been encroached upon by the socially and politically powerful members of the village, thereby depriving the peasants of common lands. The Amendment allows for a certification of ownership to be conferred on those beneficiaries who can provide proof of paying tax. Given the state of governance in elected local bodies, such a provision may be invariably advantageous to the politically dominant.²⁴ Whether wittingly or not, the amended statute may hand the record of rights to the encroachers of the land.

The Andhra Pradesh Dotted Lands (Updation in Resettlement Register) (Amendment) Act, 2023

The Andhra Pradesh Dotted Lands (Updation in Resettlement Register) Act was enacted in 2017. Its purpose is to update government records and to expressly mark out lands where no one is recorded as the owner. In place of the enjoyer, if dots are recorded, then they are called dotted lands. By replacing the dots placed in column No. (16) with appropriate entries recording the ownership of the Dotted Lands. The primary aim of this Act is to reclaim the common land, in the possession of anyone for less than twelve years. With the induction of this provision the government is competing with the citizens to claim its ownership of lands which are initially known as Porombokes, subsequently named as Government Poromboke. The Andhra Pradesh Dotted Lands (Updation in Resettlement Register) (Amendment) Act, 2023, has expanded the definition of dotted lands and included *Anadheenam*²⁵ (meaning under control of no one). Dotted Lands, which are not assigned to anyone and currently occupied by individuals, will have their names updated based on possession for a period of twelve years or more. Section 22-A of the Registration Act of 1908 declares such lands as one of the categories of lands to which the prohibition of registration applies. The 2023 amendment Act also provided for deletion of dotted lands from the list of the prohibited lands²⁶. This implies that the poor traditionally in possession of such land may be evicted. The pattern of land possession by the poor without legal documents has been a long-drawn

²³ The member of Administrative Reforms Commission Dr. Jayaprakash Narayan says that the local self-governments in Andhra Pradesh are governments only on paper. See: Dr. Jayaprakash Narayan and P. Sanjay, *Local Governments in Andhra Pradesh*, JOURNAL OF INDIAN SCHOOL OF POLITICAL ECONOMY, (December 2004) available at <https://fdrindia.org/wp-content/uploads/2025/01/Local-Governments-in-Andhra-Pradesh.pdf>.

²⁴ See note 33 infra.

²⁵ The Andhra Pradesh Dotted Lands (Updation in Resettlement Register) (Amendment), 2023 Act (8 of 2023), §2.

²⁶ Ibid, Section 10.

problem in the state and cannot be viewed as a sudden emergency. The adoption of the Ordinance²⁷ route to address it is not constitutionally defensible. .

The Andhra Pradesh (Andhra Area) Inams (Abolition and Conversion into Ryotwari) Amendment Act, 2023

The Andhra Pradesh (Andhra Area) Inams (Abolition and Conversion into Ryotwari) Act, 1956, was enacted to abolish the system of Inams and convert them into Ryotwari lands. Inams were a form of land tenure, where specific individuals or communities were granted land by the rulers of pre-Independence India for religious services, personal favors, or military services provided. The statute aimed to abolish such a system and eliminate the special privileges given to landlords. It also aimed to entrust the ownership of such land to the tenants who actually cultivate them. To meet the food crisis and enlarge their social base, previous governments attempted to dispossess non-cultivating castes from the ownership of large chunks of land. It was part of larger land reforms aimed at social justice and improving agricultural productivity.

While introducing the amendment to the principal statute, the government claimed that the resurvey of lands revealed that the settlement of Inam lands, as required by the Andhra Pradesh (Andhra Area) Inams (Abolition and Conversion into Ryotwari) Act, 1956, was not carried out. The principal statute grants ownership rights to the Inamdar and the tenants at a ratio of 1/3 and 2/3, respectively. However, if there is no tenant, the government asserted, the Inamdar continues to enjoy the entire land, which is against the purpose of the statute. The government in the proposed amendment argued that in cases where there were no tenants to whom the land could be transferred, the land should be vested in the government in furtherance of larger public interest. The statement of the objectives of the amendment claims that this situation is causing suffering to the public, but does not elaborate on the nature of the suffering. The amendment proposes a replacement to clause (b) of subsection (2) of the principal Act.²⁸ whereby instead of the Inamdar being entitled to a ryotwari Patta for the land without a tenant, the land would be transferred to the Government, becoming its property without any encumbrances. It is not clear how much of such land would be acquired by the state under the statute. In any case, the confiscation of Inam lands from absentee landlords might serve the public purpose only if the government declares what kind of public purpose it would serve. This amendment is described as procedural in nature

²⁷ The Andhra Pradesh Dotted Lands (Updation in Resettlement Register) Ordinance, 2022 (Ordinance 16 of 2022).

²⁸ The Andhra Pradesh (Andhra Area) Inams (Abolition and Conversion into Ryotwari) Amendment Bill, 2023 (L.A. Bill 8 of 2023), §3.

making provision for delegated legislation. The Bill was referred for presidential assent under Article 31A of the Constitution. The Article protects laws made pertaining to the acquisition of jagirs and inams, among other things, from being void for violating Articles 14 or 19. Where such a law is made by a state legislature, it is only protected from judicial review if it receives presidential assent.

The Andhra Pradesh Assigned Lands (Prohibition of Transfers) (Amendment) Act, 2023

The Andhra Pradesh Assigned Lands (Prohibition of Transfers) Act, 1977, serves as a crucial instrument in addressing the issue of land distribution and safeguarding the rights of the landless farmers. Its inception emerged from a deep concern for the vulnerable segments of society who were granted assigned lands by the government as a means of cultivating and securing their livelihoods.

This legislation holds a twofold purpose. Firstly, it aims to protect these assignees from any illegal transfer or exploitation of their assigned lands. By strictly prohibiting the transfer, sale, lease, or any form of their alienation, the Act seeks to counter the potential threats of coerced transactions or the concentration of land in the hands of a privileged few. It stands as a barrier against the further marginalization of the landless poor. As such, the Act promotes an equitable distribution of land and aligns with the principles of social justice.

However, the Andhra Pradesh Assigned Lands (Prohibition of Transfers) (Amendment) Ordinance 2023,²⁹ which was subsequently adopted as a legislative amendment by the Assembly marks a departure from such a principled protection. The amendment relaxes certain limitations imposed on assignees and empowers the government to acquire their lands. 20 years after assignment, the assignees can sell the agricultural land, and after ten years of assignment, they have the option to sell their house sites—which seems like a significant step towards recognizing the evolving needs of the assignees as agriculture recedes as a primary source of their livelihood. The Act exempts specific leases to the Andhra Pradesh Green Energy Corporation³⁰ Ltd from the period of restriction altogether. This ‘public purpose’ has the potential to enlarge itself in the future, threatening the lands of the assignees. Its potential can be seen in the way the compensation for alienation of land is provided. When an assigned land is resumed for a public purpose, the assignee is entitled to receive compensation based on the market value of the land (which is arbitrarily fixed at low level by the government). It also further removed the right of the assignees to go for a

²⁹ The Andhra Pradesh Assigned Lands (Prohibition of Transfers) (Amendment) Ordinance, 2023 (Ordinance 9 of 2023).

³⁰ The Andhra Pradesh Assigned Lands (Prohibition of Transfers) (Amendment) Act, 2023 (Act 35 of 2023), §2, §3.

negotiated award or move the courts³¹ for better compensation, when they were denied fair compensation. It primarily targets the poor to part with their lands.³² The primary objective of protecting the poor and preventing the concentration of wealth, particularly in land, is even more valid in the emerging context of general conversion of a primary source of livelihood into a secondary source. The statute seems to facilitate the process of transforming a sustenance economy into a market-based system.

The Andhra Pradesh Municipal laws (Second Amendment) Act, 2023

The Municipal Corporations Act, 1955 and the Andhra Pradesh Municipalities Act, 1965, play a crucial role in governing the administration and management of urban local bodies. They establish mechanisms, promoting systematic urban governance and empowering local authorities to independently manage their affairs. They provide a legal framework for urban planning, infrastructure development, town planning, and the maintenance of basic urban amenities.

Claiming to meet the challenges posed by growing urbanization, the government has enacted the Andhra Pradesh Municipal Laws (Second Amendment) Act 2023 to amend the Andhra Pradesh Municipal Corporation Act, 1955 and the Andhra Pradesh Municipalities Act, 1965. This amendment, again, grants the government the authority to acquire land for public purposes, allowing the landowners to receive Transferable Development Rights (TDR) in exchange. The TDR is provided through Transferable Development Right Certificates (TDRC) and serves as compensation for the relinquished land.³³

Transferable Development Rights (TDR) refer to the development rights that enable the transfer of the developmental potential of a plot to another specified area in municipalities³⁴. The purpose of TDR includes the provision of community amenities, public development, road widening, recreational use, traffic infrastructure, government-required sites for weaker sections or social housing, as well as urban infrastructure development like water supply, sewerage, education, and health facilities.

³¹ Ibid. §4.

³² As per the government, this Act is intended to benefit 66,111 persons who are in control of 63,191 acres of land. See Srinivasa Rao Apparasu, *Govt-assigned land to be transferable in Andhra Pradesh*, HINDUSTAN TIMES, 13 July 2023, available at <https://www.hindustantimes.com/india-news/govtassigned-land-to-be-transferable-in-andhra-pradesh-101689190792675.html> (last visited on 2nd December 2023).

³³ The Andhra Pradesh Municipal Laws (Second Amendment) Act, 2023 (Act 11 of 2023), §2.

³⁴ Ibid. §3.

The Controller and Auditor General of India's report³⁵ pointed out that the state has partially delegated administrative functions to local bodies, with only a few functions fully devolved. Significant powers of local bodies still remain with the state government, leading to the centralisation of governance. The local bodies are administered by state-appointed Special Officers. The apex audit body is critical of the state for creating a legal framework without a mechanism to enforce it. It recommended that the state should decentralize the powers and adhere to the constitutional frameworks.

Education

The Andhra Pradesh Education (Amendment) Act, 2023

The Andhra Pradesh Education (Amendment) Ordinance, 2022 was enacted in 2023 to extend the retirement age of teaching and non-teaching staff in educational institutions including Universities from sixty to sixty-two years³⁶. The Ordinance was enforced retrospectively³⁷. Since the legal measure has far reaching implications to the question of unemployment, burden on exchequer and prolonged services of employees, the legislature should have been the appropriate forum to deliberate on these questions of public importance. However, the government has chosen the ordinance route to legislate the law.

The Andhra Pradesh Private Universities (Establishment and Regulation) (Amendment) Act, 2023

The state had brought three amendments to the statutes governing education in general and higher education in particular. They may have a long-lasting impact on the intellectual autonomy of universities and affordability of higher education for marginalized sections. The Andhra Pradesh Private Universities (Establishment and Regulation) (Amendment) Act, 2023 claims to protect government quota seats and reserve seats for economically disadvantaged students.³⁸ This amendment to the principal statute, governs the establishment and operation of private universities. However, there was no public

³⁵ Comptroller and Auditor General of India, Supreme Audit Institution of India, Performance Audit Report of the Comptroller and Auditor General of India on Efficacy of Implementation of 74th Constitutional Amendment Act, Report number 2 of 2023, available at https://cag.gov.in/webroot/uploads/download_audit_report/2023/Report-2-of-2023-Performance-Audit-Report-of-the-Comptroller-and-Auditor-General-of-India-on-Efficacy-of-Implementation-of-74th-Constitutional-Amendment-Act-0651173d604ab28.25935362.pdf (last visited on 1 January 2024).

³⁶ The Andhra Pradesh Education (Amendment) Act, 2023 (Act 37 of 2023). §2.

³⁷ It was made on 29 November 2022 and came into effect from 1 January 2022.

³⁸ The Andhra Pradesh Private Universities (Establishment and Regulation) (Amendment) Act, 2023 (Act 40 of 2023), §6.

consultation on the declining quality of education in public universities or the necessity to shift towards the private sector.

Services

The Andhra Pradesh Public Service Commission (Entrustment of Additional Functions with respect to the Services of Universities) (Amendment) Act, 2023

The above development has been confounded by a second statute that amended the Andhra Pradesh Universities Act, 1991, which governs the administration of universities and provides for their autonomous functioning. However, this has increased the government's control over the recruitment of professors in public universities. The previous government in 2017 had brought the important role of recruiting teachers by universities under the control of the Public Service Commission. This has been expanded by the government through the Andhra Pradesh Public Service Commission (Entrustment of Additional Functions with respect to the Services of Universities) (Amendment) Ordinance, 2023³⁹, which included science and technological universities under the law.⁴⁰ The legislature approved the amendment⁴¹ without any debate whatsoever. This amendment has centralized the hiring process in public universities. The impact of these changes on the recruitment process in the universities will be felt in a few years from now.

Local Self-Government Officers

The Andhra Pradesh Grama Sachivalayams and Ward Sachivalayams (GSWS) Act, 2023 aims to establish administrative offices in rural and urban areas to deliver citizen-centric services. The act defines terms, appoints bureaucratic functionaries, and outlines the functioning and responsibilities of these offices.⁴² It has created 14 categories of personnel, who receive orders directly from the state headquarters. Since 2019, the various government departments issued 95 Government Orders creating the mechanisms and legal framework to run the rural⁴³ and urban local bodies⁴⁴. This managerial approach effectively relegates the citizens participation in the local self-governance. This undermines the village

³⁹ The Andhra Pradesh Public Service Commission (Entrustment of Additional Functions with respect to the Services of Universities) (Amendment) Ordinance (Ordinance 9 of 2023).

⁴⁰ Such as Jawaharlal Nehru Technological University, Rajeev Gandhi University of Knowledge Technologies, Dr. Abdul Haq Urdu University, the Cluster University, §2.

⁴¹ Andhra Pradesh Public Service Commission (Entrustment of Additional Functions with Respect to the Services for Universities) Act, 2023, §2.

⁴² The Andhra Pradesh Grama Sachivalayams and Ward Sachivalayams (GSWS) Act, 2023 (Act 23 of 2023), §3.

⁴³ <https://gramawardsachivalayam.ap.gov.in/GSWS/AdsandGos/Go.html> (last visited on 10 January 2024).

⁴⁴ Supra note 27.

self-governance, subverting the 73rd and 74th Constitutional Amendments⁴⁵, which recognizes the autonomy and self-governance of local political bodies and thus the autonomy of the community. A law with far-reaching consequences to the rural and urban local bodies has been introduced as an ordinance⁴⁶ and subsequently enacted by the legislature.

Rights and Their Enforcement

Reservation in Religious Endowments

The state amended the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987 by including a provision⁴⁷ which requires one Nayee Brahmin to be appointed as a Trustee in every Board of Trustees of a religious institution. This change aims to promote inclusivity, diverse perspectives, and social justice by giving marginalized communities representation in temples. It allows Nayee Brahmins, a professional community of traditional musicians, but at the lower rung of caste social ladder, to contribute to the governance of religious institutions and helps challenge existing power structures for a more equitable society. But the path of ordinance⁴⁸ preferred by the government to right the historical wrongs adds political drama to the social transformation.

Independence of Rights Commission

The legislature amended five important statutes concerning the rights of five marginalized communities. They are the State Commissions for Scheduled Castes,⁴⁹ Scheduled Tribes,⁵⁰ Minorities,⁵¹ Women,⁵² and Backward Castes.⁵³ These amendments reduced the terms of the Commission members to two years, extendable for another two years. This has the potential to threaten their autonomy, indicating a growing arbitrary power of the government. The shortened terms may affect the members' ability to address community issues effectively, and the provision for government discretion raises concerns about the

⁴⁵ The Constitution (Seventy-third Amendment) Act, 1992.

⁴⁶ The Andhra Pradesh Grama Sachivalayams and Ward Sachivalayams (GSWS) Ordinance, 2022 (Ordinance 15 of 2022).

⁴⁷ The Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments (Amendment) Act, 2023 (Act 15 of 2023). §2.

⁴⁸ The Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments (Amendment) Ordinance, 2023 (Ordinance 3 of 2023).

⁴⁹ The Andhra Pradesh Commission for Scheduled Castes (Amendment) Act, 2023 (Act 14 of 2023). §2.

⁵⁰ The Andhra Pradesh Commission for Scheduled Tribes (Amendment) Act, 2023 (Act 25 of 2023). §2.

⁵¹ Andhra Pradesh State Minorities Commission (Amendment) Act, 2023 (Act 19 of 2023). §2

⁵² The Andhra Pradesh Commission for Women (Amendment) Act, 2023 (Act 9 of 2023), §2.

⁵³ The Andhra Pradesh Commission for Backward Classes other than Scheduled Castes and Scheduled Tribes (Amendment) Act 2023 (Act 20 of 2023). §2.

commissions' independence. Overall, they weaken the stability, independence, and effectiveness of the Commissions in safeguarding the rights of marginalized communities.⁵⁴

Revenue Raising Measures

Andhra Pradesh Motor Vehicles Taxation (Second Amendment) Act, 2023

The tax on motor vehicles is an important source of revenue for the government and is collected based on the cost of the vehicle. The government has included the amount paid by the purchaser to the dealers, including GST and other taxes. When its decision was challenged, the Andhra Pradesh High Court clarified that the cost of a vehicle does not include GST and other taxes.⁵⁵ However, to overcome this judicial restraint on the scope of taxing, the government amended the Andhra Pradesh Motor Vehicles Taxation Act, 1963. Now, the definition of 'Cost of the Vehicle' includes the invoice value issued under the APGST Act for vehicles manufactured in India, along with taxes, duties, cesses, fees, and charges imposed by current laws. Discounts, rebates, or subsidies given by the dealer are not deducted. The value of the motor vehicle as endorsed in the Bill of Entry or assessed under the Customs Act, along with customs duty, freight charges, and other taxes, are also included.⁵⁶ This definition applies to past and future notifications for tax collection under the Andhra Pradesh Motor Vehicles Taxation Act, 1963.

The government assured the legislature that these changes will not burden the exchequer. This is an irrelevant assurance as the legal measure is intended to burden the citizens and fill the exchequer. In the financial year 2022-23, the Transport Department collected a total revenue of Rs. 4294.14 crores, and the total life tax collected was Rs. 2519.01 crores. Despite such a financial burden on the citizens imposed through delegated legislation under Clause 1(2) of the Bill, the government claims that the bill primarily addresses procedural matters and its provisions pertain to routine procedural affairs⁵⁷. This routine but false claims by the government before the peoples' representative body are not subjected to scrutiny to make the executive accountable for the same.

Promotion of Waterways

The Andhra Pradesh Inland Waterways Authority Bill, 2023 was introduced as a money bill in the legislative assembly. It aims to establish The Andhra Pradesh Inland Waterways

⁵⁴ Responding to the declining independence of rights bodies in India, the Sub-Committee on Accreditation of the National Human Rights Commission was deferred by Global Alliance of National Human Rights Institutions in 2023 <https://ganhri.org/wp-content/uploads/2023/04/SCA-Report-First-Session-2023-EN.pdf>

⁵⁵ Valluru Pavan Chandra v. State of Andhra Pradesh, WP 2049/2021, Andhra Pradesh High Court.

⁵⁶ The Andhra Pradesh Motor Vehicles Taxation (Second Amendment) Bill, 2023 (L.A. Bill 33 of 2023). §2.

⁵⁷ Ibid. Memorandum Regarding Delegated Legislation.

Authority⁵⁸ (APIWA) for the regulation and development of inland waterways and their integration with long coastal waterways. This Authority is granted significant powers which include acquiring and disposing of property, making policy decisions, regulating structures on rivers and water bodies, surveys and investigations and coordination with other modes of transport⁵⁹. While these powers enable the APIWA to effectively regulate and develop inland waterways, this has a potential for conflict with environmental safeguards and rights of citizens. The compulsory acquisition of properties and assets by the APIWA⁶⁰ may result in the displacement of local communities like fishermen who depend on those resources for their livelihoods. The development of waterways can have environmental consequences. Dredging activities, construction of infrastructure, and increased vessel traffic can disrupt ecosystems, alter water flow patterns⁶¹, and impact aquatic life and habitats. Regulating structures on rivers and water bodies risks altering water flow, impacting the environment and local communities. Increased vessel movement can lead to pollution. The Act has not yet come into force.

Penalties under Excise Law

The Andhra Pradesh Excise Act of 1968 was amended, introducing significant changes. Stricter penalties were imposed for possession of non-duty/non-tax paid intoxicants, based on quantity and offense history. The government claimed that there was a need to differentiate between grave and petty offenses, particularly in cases involving smaller quantities of intoxicants and first-time offenses keeping in view the case backlog in trial courts. , The amendments enable compounding⁶² of such offenses, in order to enhance the efficiency of enforcement agencies in investigations and to reduce the caseload of trial courts⁶³.

The amendment rationalised and modified the penalties.⁶⁴ It was brought into force retrospectively from 16 May 2020. It would be interesting to see whether it provides any relief to a large section of citizens in conflict with this law. Overall, the amendments aimed

⁵⁸ The Andhra Pradesh Inland Waterways Authority Bill, 2023 (L.A. Bill 24 of 2023). §3

⁵⁹ Ibid. §16

⁶⁰ Ibid. 2023, §28

⁶¹ Ibid. §16 (e)

⁶² Ibid. §3.

⁶³ *AP Assembly passes 10 Bills, council three*, DECCAN CHRONICLE, 21 March 2023, available at <https://www.deccanchronicle.com/nation/in-other-news/210323/ap-assembly-passes-10-bills.html> (last visited 5 January 2024)

⁶⁴ The Andhra Pradesh Excise (Amendment) Act, 2023 (Act 4 of 2023). §2.

to differentiate between professional offenders and minor transgressors. The government by adopting a more flexible approach is seeking to reduce its prosecution burdens.

Conclusion

A close scrutiny of laws in their socio-economic and legal context reveals they have potential for far-reaching consequences to the public. The analysis highlights substantive aspects in land statutes and amendments related to marginalized communities and women's rights. The government's approach to higher education in the private and the public sector is a concern. The use of ordinances and money bills to legislate on important matters is a source of serious concern. They bypassed the scrutiny by the sub-committees and evaded the public consultations. Many Bills even lacked statements of objectives. Given these legislative strategies, the questions of transparency and government accountability to the citizens galore, undermining the legitimacy of the legislature as the representative body in Andhra Pradesh.