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ASSAM

SAHEB CHOWDHURY* and GITANJALI GHOSH♦

Introduction

In the year 2023, the 15th Assam Legislative Assembly witnessed substantial legislative activity primarily in the areas of education, welfare and governance. A total of 32 bills were introduced out of which 29 have been enacted. Out of these 32 bills, 23 were introduced in the first two days of the autumn session of the Assembly in September, 2023.¹

The Labour and Welfare minister introduced 'The Assam Tea Plantation Provident Fund and Pension Fund and Deposit Linked Insurance Fund Scheme (Amendment) Bill 2023'.² The Parliamentary Affairs Minister introduced the 'The Assam Backward Classes Commission (Amendment) Bill 2023'.³ The Assam Repealing Bill 2023 which repealed the Assam Rajiv Gandhi University of Cooperative Management Act 2010 was introduced in the Assembly by the Education Minister.⁴ The Education Minister also introduced six other bills meant to upgrade different colleges to universities. These Bills also empowered the Comptroller and Auditor General India to check and audit accounts of five universities of the state.⁵ Furthermore, the finance minister introduced The Assam Micro Finance Institutions (Regulation of Money Lending (Amendment) Bill 2023 and The Assam Goods and Services Tax (Amendment) Bill 2023.⁶ Other bills that were introduced include The Guwahati Metropolitan Development Authority (Amendment) Bill 2023, The Assam Public Safety (Measures) Enforcement (Amendment) Bill 2023 and The Assam Gratuity (Amendment)

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¹ *23 Bills Introduced in Assam Assembly in Two Days*, December 9, 2023, available at <https://www.deccanherald.com/india/assam/23-bills-introduced-in-assam-assembly-in-two-days-2683521> (Last visited on April 5, 2024).

² *Id.*

³ *Id.*

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

Bill 2023.⁷ Apart from the above, the Minister for Panchayat and Rural Development also introduced the Assam Panchayat (Amendment), Bill on 11 September 2023 in order to delimit the Gaon Panchayat, Anchalik Panchayat and Zilla Parishad Constituencies apart from also bringing other changes including direct election for the positions of Gaon Panchayat President and Vice-president.⁸ The same session witnessed the introduction of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Assam Amendment) Bill, 2023 on 14 September 2023 by the Ministry of Rural Development.⁹

The budget session of the Assembly also saw the introduction of The Assam State Commission for Safai Karamcharis Bill, 2023 by the Minister of Social Justice and Empowerment in the budget session on 4 April 2023 to protect the interests of Safai Karmacharis who are involved in manual scavenging or other sanitation work. Previously, the session also saw the introduction of the Assam Public Safety (Measures) Enforcement Bill, 2023 on 10 March 2023 to provide for public safety measures at government and private establishments. Subsequently, the Assam Public Safety (Measures) Enforcement Act 2023 was enacted which received the assent of the Governor on the 27th of June, 2023. The budget session further witnessed the passing of the Assam College Employees (Provincialisation) (Amendment) Bill, 2023 into law on 5 April 2023, which intended to establish the Assam College Service Recruitment Board to recruit teaching and non-teaching employees of colleges in Assam removing the said power from the governing bodies of such colleges.¹⁰ Furthermore, on the same day the Assam Elementary and Secondary School Teachers' (Regulation of Posting and Transfer) (Amendment) Bill, 2023 and the Assam Science and Technology University (Amendment) Bill, 2023 were also passed.¹¹ The former was to empower the government to move or shift any teacher at any

⁷ *Id.*

⁸ *Assam Initiates Steps for Delimitation of Panchayat Seats*, The Hindu (12 September 2023), available at <https://www.thehindu.com/news/national/assam-initiates-steps-for-delimitation-of-panchayat-seats/article67298353.ece> (Last visited on April 5, 2024).

⁹ *Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Assam Amendment) Bill, 2023: State Legislative Brief: Assam*, PRS India, available at <https://prsindia.org/bills/states/right-to-fair-compensation-and-transparency-in-land-acquisition-rehabilitation-and-resettlement-assam-amendment-bill-2023> (Last visited on April 5, 2024).

¹⁰ *Assam Government Passes Three Education Bills for Teacher Recruitment, Engineering Colleges*, India Today NE (5 April 2023), available at <https://www.indiatodayne.in/assam/story/assam-government-passes-three-education-bills-for-teacher-recruitment-engineering-colleges-538052-2023-04-05> (Last visited on April 5, 2024).

¹¹ *Id.*

moment for rationalisation or administrative considerations and the latter to recognise the Assam Engineering College as an ASTU constituent college.¹²

Apart from the bills passed in the Legislative Assembly, several matters of concern were also raised in the floor of the house. To begin with, the efforts to curb child marriage were taken on a war footing by the police in 2023.¹³ This led to several discussions in the assembly with the government asserting its stand over the matter and its plans of enacting a separate law to deal with the matter wherein offences related to child marriage would carry higher penalties than what has been prescribed in the existing law.¹⁴ Further, the government's decision to ban polygamy in the State by enacting a law¹⁵ also came up for discussion. The government first set up a four member committee headed by a retired judge of the Gauhati High Court to examine the government's authority to bring a law to ban polygamy in the State.¹⁶ Pursuant to receiving an extension,¹⁷ the Committee submitted its report to the government.¹⁸ Thereafter, the government set up a three member panel to prepare the draft bill of the proposed anti-polygamy law.¹⁹ The government is expected to table the said bill in the next session of the Assembly. The Assembly also witnessed thorough discussion on the need to provide social security to domestic workers. The Leader of Opposition, Debabrata Saikia, moved a private member bill titled the Assam Domestic Workers (Regulation of Work and Social Security) Bill, 2023 regarding the same but ended

¹² *Id.*

¹³ Mukherjee, Raajnandini, *2,500 Arrested in Assam Child Marriage Crackdown, Situation Tense Amid Protests*, India Today (6 February 2023), available at <https://www.indiatoday.in/india/story/crackdown-on-child-marriages-in-assam-here-is-what-has-happened-so-far-2330768-2023-02-05> (Last visited on April 27, 2024).

¹⁴ ANI, *Discussions on for New Law on Child Marriage: Assam CM Himanta Sarma* (15 March 2023), available at <https://theprint.in/india/discussions-on-for-new-law-on-child-marriage-assam-cm-himanta-sarma/1446489/> (Last visited on April 5, 2024).

¹⁵ Kashyap, Saraswat, *Assam Moves to Ban Polygamy, Bill to Be Introduced Soon* (13 July 2023), available at <https://www.indiatoday.in/india/story/assam-moves-to-ban-polygamy-bill-soon-chief-minister-himanta-biswa-sarma-2405981-2023-07-13> (Last visited on April 27, 2024).

¹⁶ Bora, Pallav, *Assam Govt Forms 4-Member Expert Panel to Examine State Govt's Authority to End Polygamy* (12 May 2023), available at <https://news.abplive.com/northeast/assam-govt-forms-expert-four-member-panel-state-government-authority-to-end-polygamy-himanta-sarma-northeast-1601490> (Last visited on April 27, 2024).

¹⁷ PTI, *Assam Extends Term of Expert Committee on Polygamy* (18 July 2023), available at <https://theprint.in/india/assam-extends-term-of-expert-committee-on-polygamy/1675485/> (Last visited on April 27, 2024). (theprint.in)

¹⁸ PTI, *Panel submits report on Assam's legislative competence to end polygamy* (August 06, 2023), available at <https://www.newindianexpress.com/nation/2023/Aug/06/panel-submits-report-on-assams-legislative-competence-to-end-polygamy-2602575.html> (Last visited on April 27, 2024)

¹⁹ The Hindu Bureau, *Assam government forms three-member panel to draft anti-polygamy law*, September 04, 2023, available at <https://www.thehindu.com/news/national/other-states/assam-government-forms-three-member-panel-to-draft-anti-polygamy-law/article67266965.ece> (Last visited on April 27, 2024)

up withdrawing it after receiving assurance from the Labour Welfare Minister Sanjay Kishan that the government is in the process of drafting rules for the same.²⁰ Another private member bill that ended up being withdrawn was that tabled by Aminul Islam titled the Assam Char-Chapori Land Regulation Bill, 2023 which entailed providing land rights to landless people residing in the 'char-chaporis' i.e. riverine areas of the Brahmaputra and its tributaries.²¹

Quantitative Analysis

The Acts which have been enacted in the Year 2023 are as follows:

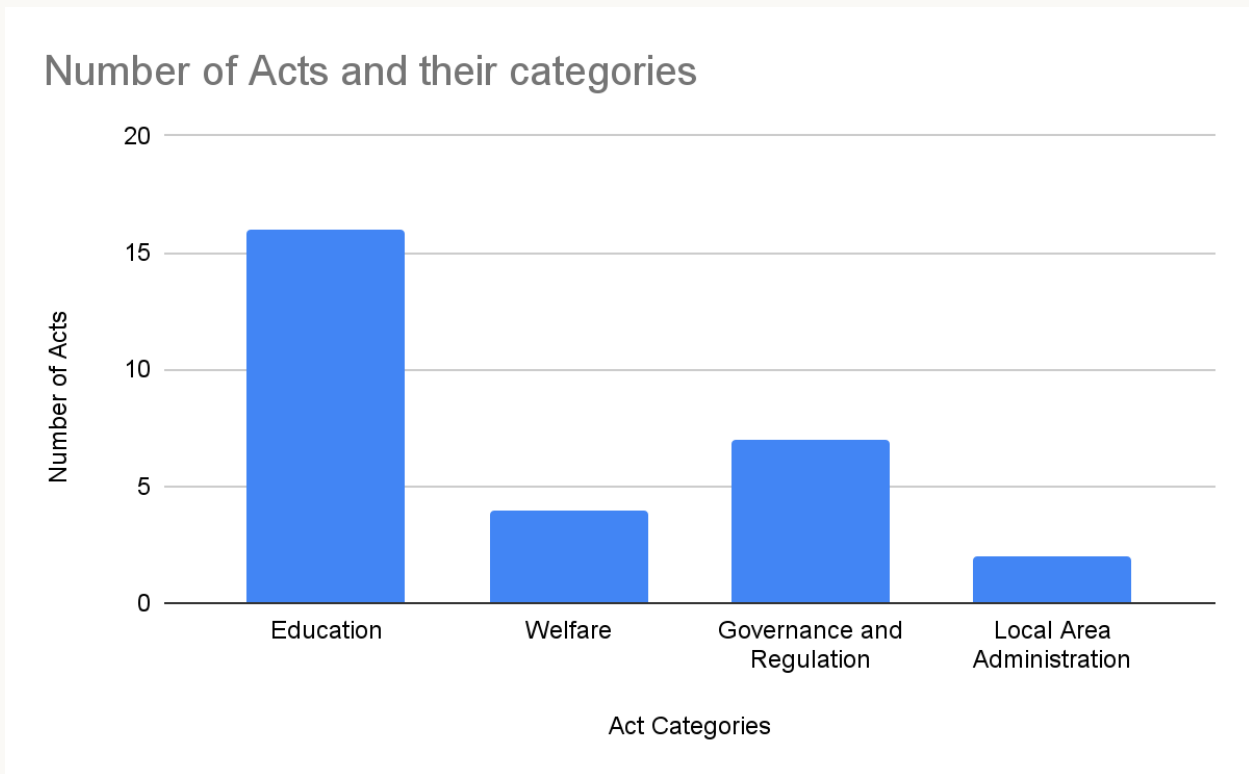
1. The Jagannath Barooah University Act, 2023.
2. The Assam Science and Technology University (Amendment) Act, 2023.
3. The Sibsagar University Act, 2023.
4. The North Lakhimpur University Act, 2023.
5. The Nagaon University Act, 2023.
6. The Gurucharan University Act, 2023.
7. The Madhabdev University (Amendment) Act, 2023.
8. The Kumar Bhaskar Varma Sanskrit and Ancient Studies University (Amendment) Act, 2023.
9. The Gauhati University (Amendment) Act, 2023.
10. The Cotton University (Amendment) Act, 2023.
11. The Bongaigaon University Act, 2023.
12. The Bodoland University (Amendment) Act, 2023.
13. The Assam Women's University (Amendment) Act, 2023.
14. The Assam Elementary and Secondary School Teachers (Regulation of Posting and Transfer) (Amendment) Act, 2023.
15. The Assam College Employees (Provincialisation) (Amendment) Act, 2023.
16. The Assam Repealing Act, 2023.
17. The Assam Backward Classes Commission (Amendment) Act, 2023.
18. The Assam State Commission for Safai Karamcharis Act, 2023.
19. The Assam Gratuity (Amendment) Act, 2023.
20. The Assam Tea Plantations Provident Fund and Pension Fund and Deposit Linked Insurance Fund Scheme (Amendment) Act, 2023.
21. The Assam Electricity Control (Emergency Powers) (Repealing) Act, 2023.
22. The Assam Motor Vehicle Taxation (Amendment) Act, 2023.
23. The Assam Public Safety (Measures) Enforcement (Amendment) Act, 2023.
24. The Assam Goods and Services Tax (Amendment) Act, 2023.

²⁰ Assam Legislative Assembly discusses social security of domestic workers, April 1, 2023, available at <https://www.sentinelassam.com/cities/guwahati-city/assam-legislative-assembly-discusses-social-security-of-domestic-workers-643473> (Last visited on April 27, 2024).

²¹ PTI, Assam: Oppn MLA moves bill for land rights in Brahmaputra's 'char-chaporis', March 31, 2023, available at https://theprint.in/india/assam-oppn-mla-moves-bill-for-land-rights-in-brahmaputras-char-chaporis/1487816/#google_vignette (Last visited on April 27, 2024).

25. The Assam Micro Finance Institutions (Regulation of Money Lending) (Amendment) Act, 2023.
26. The Assam Mobility of employees of State Government and Other Establishment (For Optimum Utilisation of Available Manpower For Efficiency) Act, 2023.
27. The Assam Public Safety Measures Enforcement Act, 2023
28. The Guwahati Metropolitan Development Authority (Amendment) Act, 2023.
29. The Assam Panchayat (Amendment) Act, 2023.

The following chart depicts the above Acts in terms of their respective categories:



The year 2023 also saw the promulgation of six ordinances by the Governor. These are:

1. The Assam Mobility of Employees of State Government and other Establishment (for Optimum Utilization of Available Manpower for Efficiency) Ordinance, 2023 was promulgated on 16th of May 2023;
2. The Assam Right to Public Services (Amendment) Ordinance, 2023 was promulgated on 30th of June 2023 in order to amend the Assam Right to Public Services Act, 2012;
3. The Assam Goods and Services Tax (Amendment) Ordinance, 2023 was promulgated on 3rd of July, 2023;
4. The Assam Motor Vehicle Taxation Amendment Ordinance, 2023 was promulgated by the Governor of Assam on 8th of July, 2023;
5. The Assam Public Examination (Measures for Prevention of Unfair Means in Recruitment) Ordinance, 2023 promulgated on 20 October 2023;
6. The Contingency Fund (Augmentation of Corpus) Ordinance, 2023 promulgated on 26th of October 2023.

Of these six ordinances four of them have been enacted into laws by the Assam Legislative Assembly as a follow up.

The year 2023 further witnessed the Governor or the President assenting to 31 bills which had been passed by the legislature in the Year 2022.

Qualitative Analysis of the Ordinances and Acts

Ordinances

State Employees Mobility

The Assam Mobility of Employees of State Government and Other Establishments (for Optimum Utilisation of Available Manpower for Efficiency) Ordinance, 2023 was promulgated by the Governor of Assam on 16 May 2023 to enable the deployment of state government employees and personnel from other departments to alternative duties in state establishments, industries, and public sector organisations. The objective was to ensure optimum utilisation of available manpower, enhance administrative efficiency, and provide employees opportunities to develop new skills while offering establishments access to professional, technical, clerical, and managerial expertise. Subsequently, the Assam Mobility of Employees of State Government and Other Establishments (for Optimum Utilisation of Available Manpower for Efficiency) Act, 2023 was enacted and received the Governor's assent on 11 October 2023.²²

Assurance for Public Services and Accountability

The Assam Right to Public Services (Amendment) Ordinance, 2023 was promulgated by the Governor of Assam on 30th of June 2023 in order to amend the Assam Right to Public Services Act, 2012. This has been done to provide for the establishment of Assam State Commission for Right to Public Services that is empowered to take disciplinary action against Designated Public Servants for persistently failing to provide notified services within the stipulated time. By virtue of an amendment in the year 2019 to the principal Act the Assam State Commission for Right to Public Services was created which was to exercise powers conferred under the Act.²³ This current amendment ordinance provides for the constitution of the Commission, that includes the chief commissioner and commissioners who are to be appointed by the Governor based on the recommendation of the Chief Minister

²² Act No. 49 of 2023. *The Assam Mobility of Employees of State Government and other Establishment (for Optimum Utilization of Available Manpower for Efficiency) Act, 2023*, available at https://prsindia.org/files/bills_acts/acts_states/assam/2023/Act49of2023Assam.pdf (Last visited on April 27, 2024).

²³ Assam Act No. IX of 2012. *The Assam Right to Public Services Act, 2012*, available at https://www.indiacode.nic.in/bitstream/123456789/15699/1/the_assam_right_to_public_services_act,_2012__1_.pdf (Last visited on April 27, 2024).

as the Chairperson, the leader of opposition and a cabinet minister to be nominated by the Chief Minister. Irrespective of its laudable intention, it needs to be noted that the Ordinances concentrated the power of such appointment in the hands of the Chief Minister.

Goods and Services Tax

The Assam Goods and Services Tax (Amendment) Ordinance, 2023 was promulgated by the Governor of Assam on 3 July, 2023. Subsequently, the Assam Goods and Services Tax (Amendment) Act, 2023 was enacted which received the assent of the Governor of Assam on 3 October 2023.

Vehicle Tax for Two and Four Wheelers Increased

The Assam Motor Vehicle Taxation Amendment Ordinance, 2023²⁴ was promulgated by the Governor of Assam on 8 July, 2023 that doubled the taxes on two wheeled and four wheeled vehicles.²⁵ Under this Ordinance the tax on vehicles was linked to the original cost of the vehicle and the tax increased proportionate to the original price of the vehicle. A similar scheme of taxation was adopted in relation to two wheelers. Subsequently, as a follow up of this ordinance the Assam Motor Vehicle Taxation (Amendment) Act, 2023 has been enacted which received the assent of the Governor on the 11th of October, 2023.²⁶ While the government increased the tax to augment its revenue collection, the same has been criticised by many for reasons such as government's failure to improve public transport apart from also the criticism that even two wheelers necessary for daily commutation have become out of reach for many.²⁷

Prevention of Unfair Practices in Recruitment

Use of unfair means in recruitment exams, including leaked papers and cheating have become a major concern in India including the state of Assam. This not only undermines the integrity of such exams but also erodes public trust in the recruitment mechanism. This also deprives the deserving candidates of opportunities and promotes a culture of mediocrity and corruption. As a consequence, the quality of public service, provided by the officials recruited through such a compromised process is seriously diminished leading to further perpetuation of corruption. Apart from this, leaking of papers in recruitment also means

²⁴ Ordinance No. VI of 2023.

²⁵ *Vehicle tax for 2 and 4 wheelers increased in Assam*, July 20, 2023, available at <https://www.pratidintime.com/latest-assam-news-breaking-news-assam/vehicle-tax-2-wheelers-4-wheelers-increased> (Last visited on April 27, 2024)

²⁶ Assam Act No. L of 2023.

²⁷ *Guwahati Plus, Increase in Vehicular Tax Leaves Residents Displeased*, July 20, 2023, available at <https://guwahatipus.com/guwahati/guwahati-increase-in-vehicular-taxes-leaves-residents-displeased> (Last visited on April 27, 2024).

that such a process has to be cancelled which not only affects the chances of deserving candidates from getting such opportunities but also delays the process of recruitment leading to reduced availability of competent officials needed in public services.

In order to deal with this menace, The Assam Public Examination (Measures for Prevention of Unfair Means in Recruitment) Ordinance, 2023 was promulgated by the Governor of Assam on 20 October, 2023 in order to provide measures for preventing and curbing the offences of leakage of question papers and use of unfair means at public examinations for the purpose of recruitment to various posts under Government of Assam including autonomous bodies, authorities, boards and corporations. While the Act prohibits use of unfair means, it also specifically prohibits the possession and disclosure of question papers by different authorities, prohibits entry of non-examinees in the premises of exam centres etc. The Act also imposes penalties for using unfair means on examinees for up to three years including a fine of not less than one lakh rupees. For those who are involved in conspiracy, including examinees, or otherwise indulging or attempting to indulge unfair practices, the punishment shall not be less than five years and may be up to ten years of imprisonment including a fine of not less than ten lakh rupees and up to ten crore rupees. Furthermore, it also provides for creation of special courts for trial of such offences and related matters. The Ordinance was still within its constitutionally permissible subsistence time during the survey period.

Augmentation of Contingency Fund through Ordinance

While in the year 2022 there has been an augmentation of the corpus of the contingency fund of Assam by virtue of a legislative act of the assembly, in the year 2023 the same was done with an ordinance promulgated by the governor of the state and a sum of five thousand crores was added to the fund.²⁸

Acts

Public Safety Measures

The Assam state has seen a rise in crimes and therefore the government intended to take various measures to curb such crimes by taking public safety measures including installing CCTVs cameras at various public places.²⁹ Taking a step in this direction, the Assam Public Safety (Measures) Enforcement Act, 2023 has been enacted in order to provide public safety

²⁸ The Contingency Fund (Augmentation Of Corpus) Ordinance, 2023. Assam Ordinance No. VII of 2023.

²⁹ The Sentinel, *Assam Public Safety (Measures) Enforcement Bill Tabled During Budget Session*, March 10, 2023, available at <https://www.sentinelassam.com/north-east-india-news/assam-news/assam-public-safety-measures-enforcement-bill-tabled-during-budget-session-640606> (Last visited on April 26, 2024).

measures at various establishments in the state of Assam. It requires, among others, the owner, society, manager, person or persons running establishments with a minimum of five number of people to provide public safety measures for the safety and security of the people, establishment or residential buildings. It also empowers the inspector of Police having jurisdiction, with prior notice, to check installations and public safety measures and report violations to higher police officials like ACP, DSP and SDPO and also imposes fines for defaults. Subsequently, the Assam Public Safety (Measures) Enforcement Amendment Act, 2023 was enacted to increase the time period of compliance to 21 days from the 15 days under the original Act after receipt of the show cause notice. Failure to comply with the requirements of this Act also empowers authorities to seal the premises.³⁰ This measure raises concerns on the surveillance of individuals by the state.

Regulation of Micro Finance Institutions

The Assam Micro Finance Institutions (Regulation of Money Lending) (Amendment) Act, 2023 was enacted in order to bring within the ambit of the Act all such micro finance institutions (MFIs) or Money Lending Agencies or Organisations operating in Assam but not registered with the Reserve Bank of India and or regulated by it as Banks under the Banking Regulation Act, 1949 or Non-Banking Financial Company (NBFCs) under the provisions of the Reserve Bank of India Act, 1934. The original Act was enacted in the year 2021 to protect poor and vulnerable individuals and groups who were charged usurious interest rates by microfinance institutions and subjected to coercive means of recovery. Even as the good intention of the law has been acknowledged, concerns have been raised regarding possible conflict with the Reserve Bank of India, as well as the the negative impact of over-regulation of the sector.³¹

Major Changes in Panchayati Raj

The Assam Panchayat (Amendment) Act, 2023 was enacted to amend the Assam Panchayat Act, 1994. Among others, the major changes introduced by the Act include the constitution of the District Delimitation Commission to decide the size of Gaon Panchayat, Aanchalik Panchayat and Zila Parishad constituency with the District Commissioner as its chairman; prohibits the gap between two meetings of ward sabha beyond twelve months; direct election by the voters of territorial constituencies of Gaon Panchayat of the ten members of the Panchayat; fifty percent reservation for women; no no-confidence motion is

³⁰ *Id.*

³¹ MoneyControl, *Assam Microfinance Bill Might bring back ghosts of decade-old AP Act*, January 7, 2021, available at <https://www.moneycontrol.com/news/business/assam-microfinance-bill-might-bring-back-ghosts-of-decade-old-ap-act-6315981.html> (Last visited on April 26, 2024).

to be introduced for the first two and half years of taking charge as president and vice-president; imposes a minimum qualification HSLC (class 10) or equivalent exams for the post of gaon panchayat members; a prohibition on electing those as members who violate the legal age of marriage under the Prohibition of Child Marriage Act, 2006.³²

Of Manual Scavengers and Backward Classes: One Step Forward, One Step Back

While India's legislative efforts to wipe away the scourge of manual scavenging can be traced back to 1993 when the Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act as well as the National Commission for Safai Karamcharis Act, were enacted. In line with its zeal to oust the practice the National Commission for Safai Karamcharis Act was enacted with an expiry date. The Act was to cease to have effect after February 29, 2004. However, as manual scavenging continued, so did the National Commission. With renewed vigour, India enacted a fresh law in 2013 to put an end to manual scavenging viz. the Prohibition of Employment as Manual Scavengers and their Rehabilitation Act. Unlike its predecessor, it provided functions for the National Commission for Safai Karamcharis thereby providing legal validity to the continuance of the Commission.

Apropos Assam and its tryst with manual scavenging, was catapulted to unwanted limelight when it found itself in the company of a few other States which had districts that had not yet been declared manual scavenging free. This information was provided by the Minister of State for Social Justice and Empowerment in a written reply to a question in Lok Sabha in 2023.³³ Accordingly, the Government of Assam presented a Bill to establish the Assam State Commission for Safai Karamcharis in 2023.³⁴ Until then, the Assam Backward Classes Commission was designated by the Government of Assam to do the needful under the 2013 law.³⁵

Endowed with the powers of a civil court, the Assam State Commission for Safai Karamcharis has been tasked with recommending programmes to eliminate inequalities in

³² The Hindu, *Assam initiates steps for delimitation of panchayat seats*, September 12, 2023, available at <https://www.thehindu.com/news/national/assam-initiates-steps-for-delimitation-of-panchayats-seats/article67298353.ece> (Last visited on April 26, 2024).

³³ Press Release, PRESS INFORMATION BUREAU, *Manual Scavenging*, December 19, 2023, available at <https://pib.gov.in/Pressreleaseshare.aspx?PRID=1988141> (Last visited on April 16, 2024).

³⁴ The Sentinel, *Assam Government introduced bill to safeguard interests of safai karamcharis*, April 5, 2023, available at <https://www.sentinelassam.com/cities/guwahati-city/assam-government-introduced-bill-to-safeguard-interests-of-safai-karamcharis-644059> (Last visited on April 16, 2024).

³⁵ Directorate of Tribal Affairs (Plain), Assam, *Brief Note about Constitute/ Powers and Functions/ Activities etc. of Assam Backward Classes Commission*, Undated, available at https://directoratetribalaffairsplain.assam.gov.in/sites/default/files/swf_utility_folder/departments/directorate_wpt_unecopscloud_com_oid_4/menu/document/ABCC.pdf (Last visited on April 27, 2024). (Last visited on April 16, 2024).

status, facilities, and opportunities for safai karamcharis, evaluating the implementation of programmes pertaining to the socio-economic development of safai karamcharis and making necessary recommendations, investigating specific grievances and taking suo-moto notice of matters relating to non-implementation of programmes, guidelines, decisions, and legal provisions concerning the welfare of safai karamcharis.

The Assam Backward Classes Commission was established in 1993 pursuant to the Supreme Court's judgement in the Indra Sawhney case by the enactment of the Assam Backward Classes Commission Ordinance, 1993 followed by the Assam Backward Classes Commission Act, 1993. The Assam Backward Classes Commission (Amendment) Act, 2023 has brought in two significant changes in the parent Act.

The constitution of the Commission has been amended to introduce the position of a "Vice Chairperson" by removing the position of a "social scientist". Since Dr Ranjan Gogoi was appointed as the first chairperson one is compelled to wonder whether the change was dictated by the need to accommodate him? However, this could have been done by creating an additional position of Vice Chairperson instead of removing the functionally useful position of a social scientist from the membership of the Commission.

Another significant change has been made to section 11 which provides for periodic revision of the lists of backward classes by the government. Pre amendment, the provision mandated the government to undertake revision of the lists every ten years to include or exclude classes from such lists. This obligation of mandatory revision has been deleted by the Amendment Act. Consequently, the matter of revision has been made the prerogative of the government which it can undertake at its convenience.

Revamping of the Education Sector

The education sector of Assam witnessed a proliferation of universities in 2023. A total of six new universities were established by upgrading existing colleges all over Assam,³⁶ viz. Bongaigaon University,³⁷ Gurucharan University,³⁸ Jagannath Barooah University,³⁹ North Lakhimpur University,⁴⁰ Nagaon University⁴¹ and Sibsagar University.⁴² While these

³⁶ PTI, *Assam Assembly nod to six new universities*, September 14, 2023, available at <https://www.deccanherald.com/india/assam/assam-assembly-nod-to-six-new-universities-2686545> (Last visited on April 16, 2024).

³⁷ The Bongaigaon University Act, 2023, Assam Act No. LIV of 2023.

³⁸ The Gurucharan University Act, 2023, Assam Act No. LVII of 2023.

³⁹ The Jagannath Barooah University Act, 2023, Assam Act No. LXVI of 2023.

⁴⁰ The North Lakhimpur University Act, 2023, Assam Act No. LVIII of 2023.

⁴¹ The Nagaon University Act, 2023, Assam Act No. LIX of 2023.

⁴² The Sibsagar University Act, 2023, Assam Act No. LVI of 2023..

Universities saw the light of the day, another University slipped into oblivion. The Assam Repealing Act, 2023 repealed the Assam Rajib Gandhi University of Cooperative Management Act, 2010 and placed its properties and staff in the hands of the newly established Sibsagar University.

Another set of universities witnessed amendments to their parent Acts borne out of financial and not academic reasons. These universities included Bodoland University,⁴³ Cotton University,⁴⁴ Gauhati University,⁴⁵ Kumar Bhaskar Varma Sanskrit and Ancient Studies University⁴⁶ and Madhabdev University.⁴⁷ As categorically stated in the Statement of Objects and Reasons to the Bills, the amendments were to empower the Comptroller and Auditor General of India to audit the accounts of these Universities in order to professionally check the accounts of the universities' and to inquire into any financial irregularities. Similar amendments requiring audits have also been made to the Assam Women's University Act, 2013 as well as the Assam Science and Technology University Act, 2009 but in these statutes, there is no mention of the need to inquire into financial irregularities.

It has to be noted at this juncture that the only education related change as envisaged in the Bills that could not find place in the corresponding Acts is that related to the Assam Science and Technology University (Amendment) Act, 2023. It had been proposed in the Assam Science and Technology University (Amendment) Bill, 2023 that the Assam Engineering College be made a constituent college of the University,⁴⁸ however this proposal was not incorporated into the amendment act as passed by the legislature.

The Assam Elementary and Secondary School Teachers' (Regulation of Posting and Transfer) (Amendment) Act, 2023 has made several changes to the principal Act. While the definitions of high pupil teacher ratio (high PTR) and low pupil teacher ratio (low PTR) have been amended. A significant change that mandates attention relates to transfer of teachers. The original section 11 provided that transfer of a teacher shall not affect their seniority, the amendment Act introduces a proviso to the section which categorically states that the transfer of a teacher made on their own request would result in forfeiture of their seniority.

⁴³ The Bodoland University (Amendment) Act, 2023, Assam Act No. LXI of 2023.

⁴⁴ The Cotton University (Amendment) Act, 2023, Assam Act No. LXIII of 2023.

⁴⁵ The Gauhati University (Amendment) Act, 2022, Assam Act No. LX of 2023.

⁴⁶ The Kumar Bhaskar Varma Sanskrit and Ancient Studies University (Amendment) Act, 2023, Assam Act No. LV of 2023

⁴⁷ The Madhabdev University (Amendment) Act, 2023, Assam Act No. LIII of 2023.

⁴⁸ India Today NE, *Assam government passes three education bills for teacher recruitment, engineering colleges*, April 5, 2023, available at <https://www.indiatodayne.in/assam/story/assam-government-passes-three-education-bills-for-teacher-recruitment-engineering-colleges-538052-2023-04-05> (Last visited on April 25, 2024).

Even as the freedom of movement of teachers has been curtailed, the severity of the penalties under the Act have been reduced. Thus, the sanction of rigorous imprisonment has been replaced with enhanced fines which range between rupees fifty thousand and one lakh.

Sweeping changes have been made to the Assam College Employees (Provincialisation) Act, 2005 pertaining to appointments of teaching and non-teaching staff in colleges. Instead of relying on the Governing Bodies of the colleges for making recommendations to the Director of Higher Education, Assam, the amendment authorises the Government to constitute the Assam College Services Recruitment Board.

Addressing the Concerns of Tea Plantation Workers

The Assam Tea Plantations Provident Fund and Pension Fund Scheme owes its origin to the efforts of its founder, Loknayak Omeo Kumar Das, the then Labour Minister of Assam. When the minimum wages for plantation workers was affixed in 1951, the daily wages were raised by a few annas. However, it was apprehended that the increase in income would not be properly managed by the workers. This led the Labour department to launch a savings scheme whereby a portion of this increased income was to be compulsorily saved in a fund to be used during times of need. When the plantation industry went through recession during 1952-53, the savings scheme was dropped. This period witnessed lay-offs which led to financial hardships for the workers and showed the need for social security. Pursuant to the advent of prosperity to the plantation industry, the Labour department decided to set up a contributory provident fund i.e. the Assam Tea Plantations Provident Fund and Pension Fund.⁴⁹

A welcome amendment has been made to the definition of “employees” contained under section 2(d) of the Assam Tea Plantations Provident Fund and Pension Fund and Deposit Linked Insurance Fund Scheme Act, 1955. The instant amendment was necessitated due to two pertinent reasons.⁵⁰ To begin with, employees earning more than Rs. 15,000/- per month did not fall under the purview of the pre-amendment law. Owing to the fact that everyone working in tea gardens drew a salary exceeding the said amount, several tea garden managements stopped deducting provident fund contribution from their salaries consequently leading to disputes.

⁴⁹ *Assam Tea Employees Provident Fund Organization*, available at <https://www.atppf.nic.in/index.html> (Last visited on April 25, 2024).

⁵⁰ *Statement of Object & Reasons of The Assam Tea Plantations Provident Fund and Pension Fund and Deposit Linked Insurance Fund Scheme (Amendment) Bill, 2023*, subsequently the Assam Act No.LXXIII of 2023.

Further, there was an inconsistency between the definition of employee provided in the Assam Tea Plantations Provident Fund and Pension Fund and Deposit Linked Insurance Fund Scheme Act, 1955⁵¹ with the one incorporated in the Employees' Provident Funds and Miscellaneous Provisions Act, 1952.⁵² While the definition under the former Act excluded persons working under a contractor, the latter statute included this set of workers .

Delimitation of Constituencies

Another important area of legislative output in the state was the delimitation of constituencies in the state. The last delimitation was carried out in 1976. Unlike other delimitations, this delimitation was carried out by the Election Commission of India and not a statutory delimitation commission. The delimitation order for constituencies was notified in August 2023.⁵³ Delimitation for the states of Arunachal Pradesh, Assam, Manipur or Nagaland had been deferred under the Delimitation Act, 2002.

Section 8A of the Representation of the People Act, 1950 permitted the State to rescind the deferral and order delimitation. The delimitation was preceded by a redrawing of Assam's districts, which was criticised as a form of gerrymandering meant to disadvantage Bengali-speaking Muslims of the state.⁵⁴ The final delimitation order was claimed by the ruling party as a measure to 'protect' the 'indigenous' Assamese.⁵⁵ The order was criticised for 'cracking' and 'packing' voters on the basis of their ethnic and religious identity.⁵⁶

⁵¹ The Assam Tea Plantations Provident Fund and Pension Fund and Deposit Linked Insurance Fund Scheme Act, 1955, Assam Act No. X of 1955 §2(d).

⁵² The Employees' Provident Funds and Miscellaneous Provisions Act, 1952, Act No. 19 of 1952 §2(f).

⁵³ Election Commission of India, *Order No. 2, Notification No. 262/AS/2003 (DEL) Vol. V, August 11, 2023*, republished in THE ASSAM GAZETTE available at https://dpns.assam.gov.in/sites/default/files/swf_utility_folder/departments/directorate_printing_uneecopscloud_com_oid_3/menu/document/no._364_ele_09-2020-161_dated_11-08-23.pdf (Last visited on April 27, 2024).

⁵⁴ Rokibuz Zaman, *In Assam, redrawn district maps may tilt electoral contests in Bengali Muslim strongholds*, January 9, 2023, available at <https://scroll.in/article/1041395/in-assam-redrawn-district-maps-may-tilt-electoral-contests-in-bengali-muslim-strongholds> (Last visited on October 1, 2025).

⁵⁵ Himanta Biswa Sarma, X (formerly Twitter), July 18, 2023, available at <https://x.com/himantabiswa/status/1681273310326439937?s=20> (Last visited on April 27, 2024).

⁵⁶ Rokibuz Zaman, *Why the Election Commission's Assam Delimitation Proposal Is Being Seen as Communal*, June 27, 2023, available at <https://scroll.in/article/1051522/why-the-election-commissions-assam-delimitation-proposal-is-being-seen-as-communal> (Last visited on April 16, 2025). Rokibuz Zaman, "No Muslim Can Win, Now or in the Future": *In Assam's Barpeta, Delimitation Fears Confirmed*, May 6, 2024, available at <https://scroll.in/article/1067465/no-muslim-can-win-now-or-in-the-future-in-assams-barpeta-delimitation-fears-confirmed> (Last visited on April 16, 2025).

Conclusions

The above analysis shows that the legislative efforts in the state of Assam aimed at addressing various socio-economic, administrative and governance challenges. Some of the important steps taken intend to improve efficiency, and accountability in public services while others intend to instil confidence by ensuring fairness and transparency in the recruitment processes.

However, there are also some justifiable concerns, for instance, concentration of appointment powers as noticed in the Assam Right to Public Services Act. Similarly, there has also been a noticeable increase in government's efforts to increase revenue, particularly through massive increase in vehicle tax without commensurate improvements in public transport to reduce dependency on private vehicles. Regulation of microfinance institutions have also raised concerns about over-regulation of the area which may adversely impact both the rural economy and the sector itself. However, it is also equally important that poor and vulnerable sections are protected from debt trap. This suggests the need to hold consultations with the various stakeholders. A similar heavy-footed approach is noticed in the manner in which the state intends to curb unfair means in recruitment. A predominantly punitive approach has been adopted without addressing the deep rooted structural, systemic and social changes required. This amendment again shows the absence of requisite consultation and deliberation in the lawmaking process.

Furthermore, while the establishment of the Assam State Commission for Safai Karmacharis signifies a dedicated approach towards vulnerable communities, the doing away of periodic revision of lists of backward classes by the government is worrisome as such revision will henceforth entirely depend on the government's discretion. Apropos education, the establishment of new universities and amendments to existing education-related laws suggests a strategic focus on expanding higher education and ensuring financial accountability. Apart from the above, self-requested transfers resulting in the loss of seniority indicates a tightening of regulations to ensure a healthy pupil teacher ratio. Addressing the concerns of the tea plantation workers through legislation aims to rectify past anomalies and extend social security benefits to a broader range of workers.

While several of these reforms are progressive, the rapid and easy proliferation of statutes points to insufficient consultation in the lawmaking process. Furthermore, implementation and enforcement of these laws remain critical, to ensure that the intended benefits reach the targeted populations. Moreover, a proportionate increase in financial allocation is needed so that the laws are more than just words on paper.