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NAGALAND

DEBANJANA BHATTACHARJEE*

Introduction

Nagaland consists of 16 Administrative Districts, inhabited by 17 major tribes along with other sub-tribes.¹ The results of the elections to the 14th Nagaland Legislative Assembly (2023-28) were declared on 2 March 2023.² Considering that Nagaland is a small state, the Nagaland Legislative Assembly is unicameral and has 60 elected members. In the last Legislative Assembly Elections, Hekani Jakhalu and Salhoutuonuo Kruse were the first women to be elected to the Nagaland Legislative Assembly.³

Nagaland enjoys special provisions under the Constitution of India. Article 371A(1) exempts Nagaland from the application of any parliamentary statute “in respect of religious or social practices of the Nagas, Naga customary law and procedure, administration of civil and criminal justice involving decisions according to Naga customary law, and ownership and transfer of land and its resources shall apply to the state of Nagaland unless the Legislative Assembly of Nagaland by a resolution so decides.”⁴ A provision has also been made for the establishment of a regional council for the Tuensang district consisting of thirty-five members and the Governor.⁵

The data for this survey was primarily collected from digital sources, especially the official websites of Nagaland.⁶

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¹ Official State Portal, Government of Nagaland, *Nagaland Profile*, available at <https://nagaland.gov.in/pages/nagaland-profile> (Last visited on February 24, 2024).

² PRS Legislative Research, *Profile of the 14th Nagaland Legislative Assembly*, available at <http://prsindia.org/legislatures/state/vital-stats/profile-of-the-14th-nagaland-legislative-assembly> (Last visited on February 25, 2024).

³ Id.

⁴ The Constitution of India, 1950, Art. 371A.

⁵ The Constitution of India, 1950, Art. 371A(1)(d).

⁶ *Nagaland Legislative Assembly*, NATIONAL E-VIDHAN APPLICATION, available at www.nagaland.neva.gov.in

Legislative Output

The 14th Nagaland Legislative Assembly held fewer than 10 sittings in 2023 across three sessions: five days in the first session, three days in the second, and one day in the third. Regarding legislation, the first session saw five bills introduced and passed, the second had six bills introduced with five passed, and the third had one bill introduced and passed. Compared to the previous year, more bills were introduced and all were passed in these sessions. Additionally, under Article 213 of the Constitution, the Governor promulgated one ordinance, the Nagaland Goods and Services Tax (Eighth Amendment) Ordinance, 2023, on October 7, 2023, when the Assembly was not in session. The major bills passed by the 14th Nagaland Assembly in the year 2023 are:

Finance:

- The Nagaland Goods and Services Tax (Sixth Amendment) Bill, 2022 (Passed on 27 March 2023)
- The Nagaland Goods and Services Tax (Seventh Amendment) Bill, 2023 (Passed on 14 September 2023)
- The Nagaland Motor Vehicles Taxation (Amendment) Bill, 2023 (Passed on 12 September 2023)
- The Nagaland Passengers & Goods Taxation (Amendment) Bill, 2023 (Passed on 14 September 2023)
- The Nagaland Appropriation (No.2) Bill, 2023 (Passed on 28 March 2023)
- The Nagaland Appropriation (No.1) Bill, 2023 (Passed on 28 March 2023)

Public Health:

- Nagaland Anatomy Bill, 2023 (Passed on 14 September 2023)

Education:

- North East Christian University (Second Amendment) Bill, 2023 (Passed on 14 September 2023)

Local Government:

- The Nagaland Municipal Bill, 2023 (Passed on 09 November 2023)
- The Nagaland Municipal Act 2001 (Repeal) Bill, 2023 (Passed on 28 March 2023)

Disaster Management:

- The Nagaland Fire and Emergency Services Bill, 2021 (Passed on 27 March 2023)

Qualitative Analysis

The Nagaland Municipal Act, 2023

This Bill was passed by the Nagaland Legislative Assembly on 9 November 2023 and was notified on the same day after receiving the assent of the Governor.⁷ It aims to provide for the administration of urban areas and to establish Municipalities in larger urban areas, smaller urban areas and transitional areas in Nagaland.⁸ The Nagaland Government would

⁷ The Economic Times, *Election process for urban local bodies to be completed by April 30: Nagaland to SC*, December 16, 2023, available at [http://nagaland: Election process for urban local bodies to be completed by April 30: Nagaland to SC-The Economic Times \(indiatimes.com\)](http://nagaland: Election process for urban local bodies to be completed by April 30: Nagaland to SC-The Economic Times (indiatimes.com) (Last visited on March 2, 2024).) (Last visited on March 2, 2024).

⁸ The Nagaland Municipal Act, 2023.

now be able to create and specify limits of municipal areas in the state. Furthermore, Section 9 states that not less than one-third of the total number of seats to be filled by direct election in every Municipal Council shall be reserved for women and such seats may be allotted by rotation to different constituencies in a Municipality.⁹ Similarly, there shall be reservation of women in the Town Council.¹⁰

In order to appreciate the significance of this development, it is necessary to recount the history of reservation of seats for women in the state of Nagaland. The Nagaland Municipal Act, 2001 included the reservation of 33% seats for women in urban local bodies (ULBs) but it was repealed as it faced opposition from community-based organizations. These organizations took the view that Naga customary laws did not allow women to participate equally in political and socio-economic decision-making bodies.¹¹

Prior to the 2023 Municipal Bill, the 2001 Act was repealed.¹² The statement of objects and reasons of the repealing bill, stated that in the interest of the public, the Nagaland Municipal Act, 2001 had been enacted. However, the implementation of the Act was fraught with controversy as the public perception was that the Act ran contrary to the spirit of Article 371A. It further stated that elections to the ULBs under the Act couldn't be held in 2004, 2008, 2012 and 2017¹³ due to lack of participation by the public and boycott calls. Moreover, the efforts of the Government to hold ULB elections on 16 May 2023 had received the same opposition from civil society.

The Supreme Court had slammed both the Union and the Nagaland Government over non-implementation of the constitutional scheme of one-third reservation for women in urban local bodies.¹⁴ Following the repeal of the 2001 Act, a seven-member Select Committee reviewed the Nagaland Municipal Bill 2023.

⁹ The Nagaland Municipal Act, 2023, §9.

¹⁰ The Nagaland Municipal Act, 2023, §21.

¹¹ Lianboi Vaiphei, *The Conversation, Equality and tradition clash as Naga women in India's northeast fight for political representation*, January 15, 2029, available at [http://Equality and tradition clash as Naga women in India's northeast fight for political representation \(theconversation.com\)](http://Equality and tradition clash as Naga women in India's northeast fight for political representation (theconversation.com)) (Last visited on March 20, 2024).

¹² Nagaland Municipal Act, 2001 (Repeal) Bill, 2023

¹³ *Statement of Object & Reasons of The Nagaland Municipal Act 2001 (Repeal) Bill, 2023.*

¹⁴ *Rosemary Dzuwichu And Anr. v. State of Nagaland And Ors.* (2012) 3 GAUHATI LAW REPORTS 817 (KOHIMA BENCH); *State of Nagaland, Represented by the Chief Secretary to the Government of Nagaland and Another Vs. Rosemary Dzuwichu and Others* 2012 SCC OnLine Gau 289.

Nagaland Anatomy Act, 2023¹⁵

The Nagaland Anatomy Bill, 2023 creates a legal framework for handling unclaimed bodies and promotes pre-mortem body and organ donation. Before this legislation, there were no clear procedures for managing unclaimed bodies or for making cadavers available to medical institutions.

The Act allows individuals to donate their body or any part of it after death to a hospital or medical teaching institution for anatomical examination, dissection, or research. It empowers the State Government to appoint an “authorised officer,” who must be an Executive Magistrate for a notified area. This officer is responsible for handling unclaimed bodies. If the cause of death appears natural and a medical institution requires a cadaver, the authorised officer is to hand over the body to such an institution. However, if the cause of death is doubtful, the officer must refer the matter to the Police Officer mentioned in Section 174 of the Code of Criminal Procedure, 1898. If no institution requires the body, the officer must dispose of it.

Section 5 of the Act deals with voluntary body donation. It states that if a person has clearly expressed in writing, in the presence of at least two witnesses, a desire to donate their body for medical education or research, the person lawfully in possession of the body after death may authorize its transfer to an approved institution, unless there is reason to believe the consent was withdrawn.

Section 12 prescribes a penalty of up to ₹10,000 for anyone who disposes of an unclaimed body contrary to the provisions of the Act or obstructs authorities in carrying out their functions. The Nagaland Anatomy Rules, 2023¹⁶ have also been framed to operationalize the Act.

While the Act ensures dignified cremation or burial for unclaimed bodies, it also enables individuals to voluntarily pledge their bodies or body parts for medical education and research. Although it has been welcomed by many, there are also concerns regarding its possible misuse. Critics have pointed to ethical issues, risks of stigmatisation, public mistrust, questions of privacy and dignity, and the possibility of increased demand for cadavers influencing decision-making. However, it is expected that over time these concerns will be addressed and appropriate safeguards or amendments will be introduced.

¹⁵ The Nagaland Anatomy Bill 2023 was passed by the Assembly and assented to by the Governor of Nagaland on 14 September 2023. It was neither brought into force nor gazetted in 2023. It came into force as Act No 1 of 2024. However, as all the enactment protocols were complete in 2023, it has been included in the survey year [Ed.]

¹⁶ Since the Act was not brought into force in 2023, the Rules were more in the nature of draft rules.

The Nagaland Goods and Services Tax (Eight Amendment) Ordinance, 2023

Originally promulgated as an ordinance,¹⁷ the Act amends the principal legislation to insert definitions on online gaming and online money gaming. The need for the promulgation of this ordinance was majorly to bring in uniformity in the application of the CGST and the SGST Acts since without incorporating the said corresponding amendments, which were introduced by the Central Government in the CGST Act, 2017, the supplier of such actionable claims such as casinos, horse racing and online money gaming couldn't be taxed.

The Nagaland Fire and Emergency Services Act, 2023

Introduced as Bill No. 161 and passed by the Assembly on 27 March 2023, the Act received the Governor's assent on 14 June 2023. According to its statement of objects and reasons, the law aims to regulate and strengthen fire and life safety measures in Nagaland. The Act provides for the establishment, organisation, superintendence and functioning of a unified Nagaland Fire and Emergency Service. The State Government is empowered to declare any existing fire station or emergency service as part of the Nagaland Fire and Emergency Service. However, privately maintained fire services set up to protect specific buildings or industries are excluded.

The Act covers both fire-related and other emergency disasters, with overall control vested in the State Government. It lays down provisions on the structure and classification of the service, preventive safety measures, water supply, establishment of a Fire and Emergency Institute, community preparedness, and offences and penalties. A notable feature of the legislation is the introduction of a fire tax, which may be imposed on buildings in areas where the Act applies. Buildings owned or controlled by the Government or a public authority are exempt. The Act also mandates the creation of a Fire Prevention and Life Safety Fund to be used for training, community preparedness and other purposes under the Act.

Rules/Orders/Notifications/Others

Numerous notifications were issued by the Governor in the year 2023¹⁸ which were mostly related to appointments made in the different posts of the State Government.

An important resolution was passed by the Nagaland Legislative Assembly on Forest (Conservation) Amendment Act, 2023 on 14 September 2023. The parliamentary statute amended the principal Act exempted certain types of land from the purview of the Act.

¹⁷ Nagaland Goods and Services Tax (Eighth Amendment) Ordinance, 2023. [Ed.]

¹⁸ Govt. of Nagaland, The Nagaland Gazette (December 15, 2023).

Furthermore, the amendment exempted forest lands situated within a distance of 100 kilometres along international borders and proposed to be used for construction of strategic linear projects of national importance and concerning national security.¹⁹ The state government contended that the above exempted area of 100 kilometres from international borders- will cover most parts of Nagaland where the ownership of most of the forest lands were vested with tribal communities. The resolution argued that Article 371A of the Constitution provides for ownership and transfer of land and its resources. The resolution stated that the phrase 'land and its resources' mentioned in Article 371A included forest lands and its resources and that the application of the amended Act to Nagaland would jeopardise the existing rights of tribal communities on their forest lands and its resources. It proposed to explore a compensatory mechanism wherein any diversion of private or community owned forest land for non-forestry purposes and damage to environment would be suitably compensated by the user agency, in addition to availing benefits of the existing schemes of the Central Government in this regard.²⁰

Observations and Concluding Remarks

The year 2023 has seen women being elected to the Legislative Assembly of the state for the very first time in the state's history and as this small state gears up to hold its local elections to its urban bodies, after a span of twenty years, it needs to be watched closely. This is because for the first time, affirmative action in terms of reservation of seats for women, as per the Constitution, can be taken advantage of by the women in the state to assert themselves and compete for power and representation at par with men. This breakaway with the tradition of a state dominated mostly by tribes and the long struggle of women provides an example of how the Constitution and people's will can actually be a harbinger of change. The proposal of the Centre to create an autonomous council comprising six districts of the state was welcomed by the Eastern Nagaland People's Organization (ENPO). This organization is the apex body of seven Naga tribes in Eastern Nagaland representing the Chang, Khiamniungan, Konyak, Phom, Sangtam, Tikhir and Yimkhiong communities and was formed in 1997, after the Eastern Nagas walked out of the Naga Hoho. They had been demanding for a separate state, called the Frontier Nagaland, since

¹⁹ The Forest (Conservation) Amendment Act, 2023, Cl. 4.

²⁰ Government Of Nagaland, Department of Information & Public Relations, *NLA Passes Resolution On Forest (Conservation) Amendment Act, 2023*, September 14, 2023, available at <https://www.ipr.nagaland.gov.in/nla-passes-resolution-forest-conservation-amendment-act-2023> (Last visited on March 25, 2024).

2010²¹ mainly due to socio-economic backwardness. Lack of schools, hospitals, good roads, electricity and proper supply of water are some of the major dissatisfactions driving the advocacy for a separate state.²² According to them, following a series of formal parleys with the government of India since 2015 and the state government, the Centre had, in 2023, offered the formation of Frontier Naga Territory with legislative, executive, administrative and financial autonomy.²³ In 2023, the legislation introduced in the state Assembly covered a wide range of important areas such as public health, finance, local governance and disaster management.

²¹ Alice Yhoshu, Hindustan Times, *Nagaland: ENPO welcomes Centre's proposal to create autonomous council*, June 29, 2023, available at <http://Nagaland: ENPO welcomes Centre's proposal to create autonomous council- Hindustan Times> (Last visited on March 26, 2024).

²² Angeline Kez, Hubnews, *The Development of ENPO'S demand for 'Frontier Nagaland*, January 9, 2023, available at <http://hubnetwork.in/the-development-of-enpos-demand-for-frontier-nagaland/> (Last visited on March 26, 2024).

²³ Id.