

Institutional Adaptations and Local Empowerment: An Evaluation of Article 371(H)'S Role in Governance Mechanisms of Arunachal Pradesh

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Abstract

Arunachal Pradesh is granted specific governance procedures under Article 371(H) of the Indian Constitution, which are intended to address the region's particular socio-cultural, geopolitical, and administrative concerns. Due to its unique position in the Indian federal structure, Article 371(H) grants discretionary powers to the governor, particularly in matters related to land and law and order.

The purpose of the Article was to protect the tribal legacy of Arunachal Pradesh, guarantee its inclusion in the Indian Union, and promote sustainable development in the face of intricate local dynamics. The paper assesses how Article 371(H) has shaped Arunachal Pradesh's governance structures, with a particular emphasis on how it has affected institutional adjustments and local empowerment. It looks at how policymaking and the implementation of development projects have been impacted by the governor's discretionary powers. The research also looks at how much Article 371(H) has made it possible to maintain traditional customs, tribal identities, and community-based government structures. Even though the clause has proven very helpful in resolving regional issues, problems including low local involvement, ineffective administration, and unclear roles for the governor still exist. This essay makes the case that strengthening local communities and promoting participatory government could be achieved by re-examining the structure of Article 371(H). The provision can be used as a model to solve the intricacies of governance in other tribal communities by encouraging a closer alignment between traditional customs and contemporary governance.

Keywords: Arunachal Pradesh, Governance, Welfare, Autonomy, Development, Article 371 (H)

INTRODUCTION

Article 371 has been a part of the Indian Constitution since its enactment on 26th January 1950. Article 371 (A-J) grants special provisions to 12 states. These states include Maharashtra & Gujarat (Article 371), Nagaland (Article 371A), Assam (Article 371 B), Manipur (Article 371C), Andhra Pradesh & Telangana (Article 371 D & E), Sikkim (Article 371F), Mizoram (Article 371G), Arunachal Pradesh (Article 371H), Goa (Article 371I), and Karnataka (Article 371J) ("Article 371", 2024).

The special provisions under this article cover aspects such as land protection and ownership rights to the establishment of development boards. The 55th Constitutional Amendment Act of 1986 introduced Article

371(H) into the Indian Constitution, enabling the establishment of Arunachal Pradesh. Article 371H grants the Governor of Arunachal Pradesh a special responsibility concerning law and order in the state (Constitution of India, Art. 371H, 1986). This article is a protective law for protecting and preserving the tribal culture of the state (Onju et al., 2022). In this article, it is stated that “The decision of the Governor in his discretion shall be final, and the validity of anything done by the Governor shall not be called in question on the grounds that he ought or ought not to have acted in the exercise of his individual judgment” (Constitution of India, Art. 371H, 1986). Also, it specifies that the Legislative Assembly of Arunachal Pradesh should have at least 30 members. This article does not grant any special rights or protection to the Indigenous communities or elected representatives of the states but gives the state governor powers over law and order in the state (“Statehood and Article”, 2025).

Objectives of the paper

- To analyse the historical context and rationale behind Article 371(H)
- To evaluate the role of Article 371(H) in governance and institutional frameworks
- To examine its impact on local empowerment and autonomy in Arunachal Pradesh
- To compare it with similar constitutional provisions like Article 371A and Article 370
- To assess the challenges, legal implications, and potential reforms

Research Questions of the Paper

1. How has Article 371(H) influenced governance mechanisms in Arunachal Pradesh?
2. What institutional adaptations have been made to implement Article 371(H)?
3. To what extent has Article 371(H) contributed to local empowerment?
4. How does Article 371(H) compare with Article 371A and Article 370 in terms of governance outcomes?
5. What challenges and legal implications are associated with Article 371(H)?

Methodology

This study adopts a qualitative approach based on secondary data. The analysis is grounded in constitutional texts, government documents, scholarly articles, and credible media sources. A doctrinal method is used to interpret Article 371(H) and examine its institutional implications. Comparative insights from similar provisions, such as Article 371(A) and Article 370, are included to support the evaluation.

Historical Context: The Evolution of Article 371(H)

The region without an official name in the eastern Himalayas, bordered by Bhutan to the west, Tibet and China to the north and east, and Myanmar to the southeast, with a connection to the upper Brahmaputra valley, was designated as the North East Frontier Agency (NEFA) in the mid-1950s (Sarmah, 2020).

It was inhabited by the Indo-Mongoloid groups. This region, presently known as Arunachal Pradesh, is in the Northeast of India. Arunachal Pradesh has a major tribal population, and since it is a tribal area, the state Governor applied for the provisions under the Sixth Schedule of the Constitution (Mibang, 2007). The Government of Union Territories Act, 1963, provided provisions for the Union Territory of Arunachal Pradesh effective from 15th August 1975. The Union Territory of Arunachal Pradesh became a state on 20th February 1987, following the enactment of the State of Arunachal Pradesh Act, 1986 (Mibang, 2007). The influx of immigrants from neighbouring states and other states in India was a concern for the people in Arunachal Pradesh as it would affect or alter the state’s demographic profile and ethnic culture. The

increase in immigrants in Arunachal Pradesh is likely due to poor governance and political stability (Onju et al., 2022). The Inner Line Permit System (ILPS) has been practised since the British Colonial period till the present to restrict the outsiders in the region. The Government of India grants Arunachal Pradesh provisions under Article 371H in context to the distinct cultures, various ethnic communities, and social-political and cultural conflicts within the community and its neighbouring states (Onju et al., 2022). Along with Mizoram, Arunachal Pradesh attained statehood to fulfil the political desires and aspirations of the people (Sarmah, 2020). However, Mizoram gained constitutional provisions under Article 371 G, which is similar to that of Nagaland and the constitutional provision for Arunachal Pradesh under Article 371H significantly differs from Mizoram's Article 371G, likely due to the political circumstances that shaped the restructuring of these two federal units (Sarmah, 2020).

The Impact of Article 371(H) on Arunachal Pradesh's Political Landscape

People in the Northeast region were discontent during the early post-colonial period due to the vast illegal migrations, changes in demographic profiles, poor development and negligence of these regions and their ethnic communities by the Central and State Governments (Goswami, 2013). The tribes of Arunachal Pradesh followed a traditional self-governed institution in the early times. After the modern system of government came into the picture, some of the tribal groups in the state of Arunachal Pradesh started demanding autonomy under the Sixth Schedule of the constitution to access self-governance (Gao et al., 2022). Most tribal social movements in the Northeast region demand vary from autonomy to seeking independence, and the movements can be peaceful or violent protests, which led to the formation of insurgency and militancy. In Arunachal Pradesh, they faced two autonomy demands, Mon Autonomous Demand and Patkai Autonomous Demand, which lasted over two decades (Gao et al., 2022). Gao et al. (2022) claimed that the main reason for these demands was political. The demand for an Autonomous District Council in Arunachal Pradesh, initiated by the Mon Autonomous Region Demand Committee in July 2020 and 2021, sparked intense political debates, with opposition from All Arunachal Pradesh Student Union and Arunachal Indigenous Tribes Forum, fearing ethnic divisions (Gao et al., 2022). By 2021, the demand had expanded beyond Mon and Patkai, turning autonomy into a statewide issue. The state government, facing political pressure, passed a mutual agreement on 29th August 2021, seeking the inclusion of the Sixth Schedule of the Constitution and an amendment to Article 371H to protect the rights and resources of ethnic tribals. Article 371H is in effect in the state, but it does not safeguard tribal rights related to traditional practices, customary laws, land rights, and natural resources. Amar Sangno (2020) stated that in 2016, Governor Jyoti Prasad Rajkhowa misused this provision by implementing the President's Rule to overthrow Chief Minister Nabam Tuki's government since Article 371H grants the governor full powers over law and order in the state. The people of Arunachal Pradesh were not constitutionally protected like the Mizos in Mizoram and Nagas in Nagaland, due to which the state is close to China (Gao et al., 2022). The State government has written to the Centre in 1998 and 2006 to replace Article 371H with Articles 371A and 371G, stating that it does not provide any real rights to the people of the state ("Statehood and Article", 2025).

Institutional Adaptations Under Article 371(H)

Role of the Governor in Governance

Article 371(H) of the Indian Constitution grants the Governor of Arunachal Pradesh special responsibilities concerning law and order. Specifically, the Governor is empowered to exercise individual judgment in matters related to law and order after consulting with the Council of Ministers. This provision

underscores the state's strategic significance and aims to ensure stability in a region with unique geopolitical challenges.

However, this concentration of authority has been a subject of debate. Critics argue that it can potentially undermine the democratic process by placing substantial power in the hands of a centrally appointed official. For instance, in 2016, the Governor's discretionary powers were controversially exercised to impose the President's Rule in the state, leading to significant political unrest (Sangno, 2020).

Modifications in Administrative and Legal Structures

The enactment of Article 371(H) necessitated adjustments to Arunachal Pradesh's administrative and legal frameworks to accommodate the Governor's special responsibilities. While the article specifies that the state's Legislative Assembly must consist of at least thirty members, it does not provide explicit protections for indigenous communities or their customary laws. This omission has prompted discussions about the need for additional legal provisions to safeguard the rights and traditions of the state's tribal populations.

Interplay Between State and Central Institutions

The provisions of Article 371(H) highlight a complex dynamic between state autonomy and central oversight. The Governor's authority to act independently in law-and-order matters reflects the central government's intent to maintain a degree of control in Arunachal Pradesh, given its sensitive location. This arrangement, however, has led to tensions regarding the balance of power. In response, there have been movements advocating for either the inclusion of Arunachal Pradesh under the Sixth Schedule of the Constitution or the strengthening of Article 371(H) to provide greater autonomy and protection for indigenous communities. Such changes aim to empower local institutions and ensure that governance structures are more attuned to the unique cultural and social fabric of the state (Karmakar, 2020).

Article 371(H) has brought notable institutional changes in Arunachal Pradesh, particularly in redefining the Governor's role, modifying administrative structures, and adjusting the balance of power between the state and the Centre. While these provisions were crafted to address the unique challenges of the state, ongoing debates underscore the need for continuous reassessment to ensure governance structures remain effective and inclusive for all stakeholders.

Local Empowerment and Autonomy

Impact on Tribal Governance and Customary Practices

Article 371(H) of the Indian Constitution, introduced through the Constitution (Fifty-fifth Amendment) Act, 1986, grants the Governor of Arunachal Pradesh special responsibilities concerning law and order. However, it does not explicitly safeguard the customary laws and practices of the state's indigenous tribes. This omission has raised concerns about the protection of tribal governance systems and traditional practices. In response, there have been calls to amend Article 371(H) to include provisions similar to those in Articles 371(A) and 371(G), which protect the customary rights of Nagaland and Mizoram, respectively (Government of India, n.d.; ET Bureau, 2014).

Strengthening of Local Governance Institutions

Recognizing the importance of traditional village councils in local governance, the Arunachal Pradesh Legislative Assembly passed the Arunachal Pradesh Rural Local Bodies Empowerment Bill. This legislation aims to strengthen institutions such as the Gaon Bura and Gaon Buri systems, ensuring the preservation and integration of customary laws within the formal governance framework. Despite these efforts, the absence of constitutional safeguards under Article 371(H) has led to ongoing debates about the

need for more robust legal protections for these indigenous institutions (Echo of Arunachal, n.d.; correspondent, 2023).

Role in Political Representation and Decision-Making

The current provisions of Article 371(H) have prompted discussions about enhancing political representation and decision-making for Arunachal Pradesh's indigenous communities. State leaders have advocated for amending the Constitution to provide protections akin to those in Nagaland and Mizoram, aiming to empower local communities in governance matters. Such amendments would facilitate greater autonomy in decision-making processes, ensuring that the voices of indigenous populations are more effectively represented and their customary rights upheld (ET Bureau, 2014).

While Article 371(H) provides a framework for governance in Arunachal Pradesh, its shortcomings in safeguarding tribal governance, customary practices, and local political representation point to the need for constitutional amendments that more effectively address the rights and needs of the state's indigenous communities.

Comparative Analysis: Article 371(H), Article 371A, and Article 370

Key Similarities and Differences

Articles 371(H), 371A, and the former Article 370 of the Indian Constitution were designed to address the unique socio-political contexts of Arunachal Pradesh, Nagaland, and the erstwhile state of Jammu and Kashmir, respectively. Article 371(H) grants the Governor of Arunachal Pradesh special responsibility concerning law and order, allowing discretionary power after consulting the Council of Ministers. In contrast, Article 371A ensures that no Act of Parliament affecting Naga religious or social practices, customary law, administration of justice, or ownership and transfer of land applies to Nagaland unless approved by its Legislative Assembly. Article 370 provided Jammu and Kashmir with significant autonomy, including its own constitution and decision-making rights over all matters except defense, foreign affairs, finance, and communications (Government of India, n.d.; Ram, 2024).

Effectiveness in Governance and Local Autonomy

Article 371A has been effective in preserving Naga customary laws and practices by granting the state legislative authority to accept or reject parliamentary laws in specified areas, thereby promoting local governance. Article 371(H), while addressing administrative needs, lacks explicit provisions for protecting indigenous customs in Arunachal Pradesh, leading to calls for amendments to better safeguard tribal interests. Article 370's effectiveness was a subject of debate; while it provided substantial autonomy to Jammu and Kashmir, it also led to complexities in governance and integration with the rest of India. Its abrogation in 2019 aimed to streamline governance but has been met with both support and criticism (Government of India, n.d.).

Lessons from Other Special Provisions

The experiences with Articles 371A and 370 highlight the importance of balancing regional autonomy with national integration. Nagaland's model demonstrates that constitutional provisions can protect local customs while maintaining legislative flexibility. In contrast, the challenges faced post-abrogation of Article 370 in Jammu and Kashmir underscore the complexities involved when altering special provisions. For Arunachal Pradesh, enhancing Article 371(H) to include explicit protections for indigenous practices, similar to Article 371A, could strengthen local governance and cultural preservation.

While each article is designed to address specific regional needs, a comparative analysis reveals differing levels of success in balancing local autonomy with effective governance. Embedding explicit protections

for indigenous practices within constitutional provisions could strengthen governance frameworks and support the preservation of cultural heritage.

Challenges and Legal Implications

Conflicts Between State and Central Authorities

Article 371(H) of the Indian Constitution grants the Governor of Arunachal Pradesh special responsibility over law and order, allowing the exercise of individual judgment after consulting the Council of Ministers. This provision can potentially lead to conflicts between state and central authorities, as the Governor, appointed by the central government, holds significant discretionary power that may override the decisions of the state's elected representatives. Such an arrangement raises concerns about the balance of power and the autonomy of the state government (Government of India, n.d.).

Issues Related to Political Representation and Decision-Making

The concentration of law-and-order authority in the hands of the Governor under Article 371(H) has implications for political representation and decision-making in Arunachal Pradesh. Elected officials may find their influence diminished in critical areas of governance, leading to questions about the effectiveness of democratic processes within the state. This structure can result in tensions between the state's political leadership and the central government, especially when their policies or priorities diverge.

Legal Ambiguities and Need for Reforms

The provisions of Article 371(H) have been criticised for their lack of explicit protections for the indigenous communities of Arunachal Pradesh, particularly concerning customary laws and land rights. Unlike Articles 371(A) and 371(G), which safeguard the rights of Nagaland and Mizoram respectively, Article 371(H) does not extend similar protections to Arunachal Pradesh. This omission has led to calls for constitutional amendments to provide the state's indigenous populations with comparable rights and safeguards. The state government has, on multiple occasions, requested the central government to replace Article 371(H) with provisions akin to those in Articles 371(A) and 371(G) to better protect the interests of its people.

Although Article 371(H) was intended to meet specific administrative needs, it poses challenges concerning state autonomy, political representation, and the safeguarding of indigenous rights. These concerns highlight the necessity for legal reforms to establish a more balanced and inclusive governance framework in Arunachal Pradesh.

Findings and Analysis

Summary of Key Insights from Research

Article 371(H) was incorporated into the Indian Constitution through the 55th Amendment Act of 1986 to address the unique administrative and security challenges of Arunachal Pradesh. This provision grants the state's Governor special responsibility over law and order, allowing the exercise of individual judgment after consulting the Council of Ministers. Additionally, it mandates that the Legislative Assembly consist of no fewer than thirty members, ensuring adequate representation for the state's diverse population.

Effectiveness of Article 371(H) in Governance and Empowerment

While Article 371(H) aims to provide a framework for stable governance in Arunachal Pradesh, its effectiveness has been a subject of debate. The Governor's discretionary power over law and order is intended to address the state's strategic concerns. However, this centralisation of authority has raised questions about the autonomy of the state's elected representatives and the empowerment of local

institutions. Critics argue that unlike provisions in Articles 371(A) and 371(G) for Nagaland and Mizoram, Article 371(H) does not explicitly safeguard the customary rights and land ownership of Arunachal's Indigenous communities, potentially limiting their empowerment (Tongam, 2019).

Areas Requiring Further Policy Intervention

There have been calls for constitutional amendments to enhance the protections offered to Arunachal Pradesh's indigenous populations. The state government has previously petitioned the central government to replace Article 371(H) with provisions similar to Articles 371(A) and 371(G), which offer more robust safeguards for tribal rights over land and resources. Additionally, proposals have been made to bring the state under the Sixth Schedule of the Constitution to provide greater autonomy and protection for tribal communities. Addressing these areas through policy interventions could strengthen local governance, ensure the protection of indigenous rights, and promote more inclusive development in Arunachal Pradesh (Karmakar, 2020).

Conclusion and Recommendations

Summary of Key Takeaways

Article 371(H) was introduced to address the unique administrative and security challenges of Arunachal Pradesh, granting the Governor special responsibility over law and order and establishing a Legislative Assembly with a minimum of thirty members. However, this provision has been critiqued for not offering explicit protections for the indigenous communities' rights over land and resources, unlike similar provisions for other northeastern states.

Policy Suggestions for Strengthening Governance under Article 371(H)

1. **Amend Article 371(H) to Include Indigenous Rights Protections:** Aligning Arunachal Pradesh's provisions with those in Articles 371(A) and 371(G) could safeguard indigenous land and resource rights. The state government has previously advocated for such amendments to better protect its people's interests.
2. **Enhance Local Governance Structures:** Establishing autonomous councils or strengthening existing local bodies can empower indigenous communities, ensuring their active participation in decision-making processes and preserving cultural practices.
3. **Review the Governor's Discretionary Powers:** Reassessing the extent of the Governor's authority over law and order may help balance power dynamics between state and central authorities, promoting more democratic governance.

Future Research Directions

- **Comparative Analysis with Other States:** Investigating how similar provisions have been implemented in states like Nagaland and Mizoram can offer insights into best practices and potential pitfalls.
- **Impact Assessment of Governance Structures:** Evaluating how the current governance framework under Article 371(H) affects socio-economic development and cultural preservation in Arunachal Pradesh can inform targeted policy interventions.

Exploring the Sixth Schedule Inclusion: Researching the feasibility and implications of bringing Arunachal Pradesh under the Sixth Schedule could provide alternative avenues for enhancing autonomy and protecting indigenous rights.

Addressing these areas through policy reforms and dedicated research can contribute to more effective

governance and the empowerment of Arunachal Pradesh's indigenous communities.

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