

Article 371A and Regional Autonomy in Nagaland: Political Implications and Challenges

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Abstract

Article 371A of the Indian Constitution is a pivotal legal provision that recognizes and safeguards Nagaland's unique historical, cultural, and social identity while ensuring its integration within the Indian Union. Emerging from a legacy of colonial exclusion, nationalist struggles, and the 16-Point Agreement of 1960, Article 371A grants Nagaland extensive autonomy over its customary laws, religious and social practices, land rights, and local governance. This study reveals that while the provision has empowered Nagaland to preserve its indigenous legal systems and traditions, it has also generated significant challenges—such as tensions between customary practices and modern governance, economic constraints arising from restrictive land policies, and political disputes over issues like women's reservations in urban local bodies and resistance to the Uniform Civil Code. Comparative analysis with similar provisions in Mizoram, Manipur, and the tribal areas governed by the Sixth Schedule indicates that Nagaland enjoys one of the strongest forms of legislative autonomy in India, yet this autonomy is accompanied by complex administrative and economic dilemmas. Overall, the provision is both a protector of Naga identity and a contributor to contemporary governance challenges, underscoring the need for a balanced approach that harmonizes traditional rights with modern demands for development and inclusivity.

Keywords: Article 371A, Nagaland, Regional Autonomy, Customary Laws, Asymmetric Federalism, Legal Pluralism.

INTRODUCTION

Nagaland, the sixteenth state of India, occupies a distinctive place in the constitutional framework of the country owing to the special provisions granted under Article 371A. Enacted through the Constitution (Thirteenth Amendment) Act, 1962, this article was the outcome of the 16-Point Agreement signed in 1960 between the Government of India and the Naga People's Convention (NPC). The agreement marked a crucial political compromise, born out of prolonged negotiations and rooted in the Naga people's assertion of their unique cultural identity and demand for autonomy. Before attaining statehood, Nagaland formed part of the Naga Hills-Tuensang Area of Assam and was classified as a Part 'B' tribal area. However, the region's historical experience—marked by colonial-era exclusion, resistance to post-independence integration, and ongoing insurgency—prompted the central government to acknowledge the Naga aspiration for self-governance within the Indian Union. Article 371A, thus, was designed to safeguard critical aspects of Naga life by ensuring that no Act of Parliament applies to the state in matters relating to religious and social practices, customary laws, civil and criminal justice, and land and its resources, unless approved by the State Legislative Assembly.

Additionally, the article conferred special responsibilities on the Governor, particularly in overseeing law and order and administering the Tuensang district during its transitional period. As a result, Nagaland's statehood was not merely an administrative reorganization but a constitutional recognition of its distinct identity within the framework of Indian federalism. Article 371A continues to serve as a vital instrument in maintaining a delicate balance between regional autonomy and national integration.

Objectives of the study

This study aims to explore the legal, constitutional, and political dimensions of Article 371A and its implications for Nagaland's governance. The key objectives are:

1. To trace the historical and constitutional origins of Article 371A, particularly its emergence from the 16-Point Agreement and its incorporation into the Indian Constitution.
2. To examine how Article 371A safeguards Naga customary laws, land ownership, and cultural identity, contributing to the unique autonomous status of Nagaland.
3. To evaluate the political implications of Article 371A on state-centre relations, especially in the context of governance, legislative autonomy, and peace negotiations.
4. To identify the challenges in the practical implementation of Article 371A, including conflicts between customary practices and modern governance, gender rights, and economic development.

Methodology

The study is based on both primary and secondary sources. Primary sources include government records, constitutional provisions, and official publications. Secondary sources comprise academic journal articles, institutional study materials, and news reports from national and regional media outlets

Research Questions

This study seeks to answer the following key questions:

1. What historical and political factors led to the inclusion of Article 371A in the Indian Constitution?
2. How has Article 371A influenced the autonomy and identity of Nagaland in terms of customary law, land rights, and governance?
3. In what ways has Article 371A shaped Nagaland's relationship with the Indian state, particularly in legislative and administrative matters?
4. What are the major limitations and challenges in implementing Article 371A in the context of modern constitutional mandates and socio-economic development?

Historical Background of Article 371A

The special constitutional provisions granted to Nagaland under Article 371A were not the result of a single political decision, but the culmination of a long and complex historical process. This journey was shaped by colonial-era policies, post-independence unrest, and the persistent assertion of Naga identity and autonomy. During British rule, the Naga Hills were designated as an "Excluded Area" under the Government of India Act, 1935, allowing the Nagas to administer themselves according to their customary laws and traditional practices, without interference from mainstream Indian governance. As early as 1929, the Naga Club had submitted a memorandum to the Simon Commission, expressing their wish to be left alone, noting their differences in race, culture, and lifestyle. This early assertion of a distinct identity laid the groundwork for future demands.

Following India's independence in 1947, the integration of the Naga Hills into the Indian Union was met with resistance. The Naga National Council (NNC), formed in 1946, asserted that the Nagas should not be forced into the Union without their consent. In the same year, the NNC signed the Nine-Point Agreement (Hydari Agreement) with Sir Akbar Hydari, Governor of Assam, which promised Naga autonomy in legislative, executive, and judicial matters, and protection of customary laws and land rights. However, differing interpretations of this agreement quickly led to distrust between the Naga leadership and the Indian government.

In the early 1950s, the demand for full independence gained momentum and took a militant turn. Armed clashes broke out between Indian forces and underground Naga groups led by A.Z. Phizo. It was during this time that Phizo famously declared: *"Nagas are not Indians and Nagaland is not Indian territory. The Nagas are not demanding independence from India and the Nagas are not trying to secede from India. The case of Nagaland is a case of aggression. It is war..."* This powerful statement encapsulated the sense of alienation and defiance that defined the period of armed resistance.

Despite continued violence, moderate voices within the Naga movement sought a peaceful resolution. This gave rise to the Naga People's Convention (NPC), which initiated political dialogue with the Indian government. These efforts culminated in the signing of the 16-Point Agreement in 1960 between the NPC and the Government of India. The agreement provided for the formation of Nagaland as a separate state within the Indian Union, with its own legislature and representation in Parliament. It also stipulated that no Act of Parliament affecting Naga religious practices, customary law, civil and criminal justice, or land rights would apply to Nagaland unless approved by its Legislative Assembly. Additional provisions were made for special administration of the Tuensang district, fiscal assistance, local governance mechanisms, and the formation of a Naga Regiment.

Based on this agreement, the Constitution (Thirteenth Amendment) Act, 1962 was enacted, introducing Article 371A into the Constitution of India. This article conferred special constitutional status upon Nagaland, affirming its autonomy over key aspects of its cultural and social life. It specifically states that no Act of Parliament relating to religion, Naga customary law, administration of justice, or ownership and transfer of land and resources shall apply to Nagaland unless approved by its Legislative Assembly. The Governor of Nagaland was also given special responsibilities, particularly regarding law and order during periods of internal disturbance, with discretionary powers. Moreover, the article mandated the establishment of a Regional Council for Tuensang to oversee a transition to self-governance in that area. Article 371A, therefore, stands as a constitutional recognition of the distinct identity and political aspirations of the Naga people. It reflects the Indian state's adoption of asymmetric federalism—providing different levels of autonomy to different regions—based on their unique historical, cultural, and political contexts.

Legal Implications of Article 371A

Article 371A grants Nagaland a unique constitutional status, reflecting the state's distinct cultural, social, and political context. Enacted through the Constitution (Thirteenth Amendment) Act, 1962, following the 16-Point Agreement between the Naga People's Convention and the Government of India, Article 371A is located within Part XXI of the Indian Constitution. This part contains temporary, transitional, and special provisions made for twelve Indian states, from Article 371 to 371J, in order to accommodate their diverse historical and administrative needs. Among these, Article 371A stands out for the extent of autonomy it offers to Nagaland, particularly in areas that affect the identity and way of life of the Naga

people.

The central feature of Article 371A is that no Act of Parliament shall apply to Nagaland in respect of religious and social practices of the Nagas, Naga customary law and procedure, the administration of civil and criminal justice in accordance with Naga customary laws, and ownership and transfer of land and its resources unless the State Legislative Assembly resolves to accept such a law. This provision safeguards the Naga people's distinct traditions and legal practices, ensuring that any central legislation that may affect these spheres must receive the democratic sanction of the people of Nagaland through their legislative representatives. As a result, Nagaland retains considerable legislative independence, allowing it to uphold customary institutions and protect local land and resource rights in ways that differ significantly from the rest of the country.

Another critical aspect of Article 371A lies in the role and discretionary powers conferred upon the Governor of Nagaland. Clause (2) of the article specifies the Governor's special responsibilities, particularly concerning the maintenance of law and order, a matter of deep sensitivity given the historical insurgency and political unrest in the region. The Governor also has a pivotal financial role—ensuring that any funds provided by the Union Government for specific purposes are applied strictly to those intended uses. Under Article 371A(1)(c), for instance, the Governor is empowered to see that grants made from the Consolidated Fund of India are allocated only for the services for which they are earmarked. Furthermore, under Clause (2)(b), the Governor must also ensure an equitable distribution of funds between the Tuensang district and the rest of Nagaland. These financial safeguards were particularly important in the early years of Nagaland's statehood when administrative systems were still evolving.

A key innovation of Article 371A was the special arrangement for the Tuensang district, reflecting its historical isolation and unique tribal makeup. For an initial period of ten years, Tuensang was administered directly by the Governor of Nagaland, rather than by the elected state government. A Regional Council was established to guide local governance, and any law passed by the Nagaland Legislative Assembly would not automatically apply to Tuensang unless the Regional Council recommended it and the Governor approved it. The Governor also retained the power to make regulations for the peace, progress, and good governance of the district, including modifying or repealing existing laws. This arrangement aimed to integrate Tuensang gradually into the broader administrative framework of the state while respecting its local autonomy. Additionally, a member from the district was to be appointed as a Minister in the state government to oversee Tuensang's affairs and maintain close coordination with the Governor.

The scope of Article 371A has also been central to debates over the control of natural resources. The provision granting Nagas exclusive rights over land and its resources has often led to friction with the central government. A notable controversy occurred in 2012, when the Nagaland Legislative Assembly passed the Nagaland Petroleum and Natural Gas Regulations, asserting state control over oil and gas. This move was challenged by the Union Government, which argued that mineral resources like oil fall under the Union List and thus come under central jurisdiction. The then Union Minister for Petroleum and Natural Gas, Veerappa Moily, demanded the withdrawal of the regulation, claiming it was unconstitutional. This triggered widespread debate over the interpretation of Article 371A, especially its implications for ownership versus regulation of underground resources. The issue remains unresolved, with local leaders asserting that central intervention in resource extraction undermines the constitutional spirit of autonomy and endangers the economic rights of indigenous communities.

In addition to legal autonomy, Article 371A has enabled a distinct fiscal arrangement for Nagaland. The state is categorized as a "special category state," a designation linked closely to the constitutional

guarantees of Article 371A. This status grants Nagaland various tax exemptions, including relief from customs duties, income tax, excise duties, and corporate tax, designed to stimulate private investment and economic development in a region that is both geographically remote and historically underdeveloped. These tax concessions are not merely economic incentives but reflect a constitutional understanding of the state's need for region-specific policies grounded in its cultural and economic distinctiveness.

Nagaland also receives enhanced financial assistance from the Central Government, with a funding pattern wherein 90% of assistance is given as grants and only 10% as interest-free loans, unlike the 70:30 pattern followed for general category states. Moreover, the state is eligible for a higher share of central plan allocations, often receiving as much as 30% of the Centre's total planned expenditure earmarked for special category states. These fiscal provisions ensure that Nagaland can implement welfare and development programmes that are in tune with local needs and priorities.

The economic provisions also include debt relief mechanisms, loan restructuring schemes, and greater flexibility in the utilization and rollover of unspent funds into the next financial year. The state enjoys considerable leeway in framing its own economic policies and public expenditure programmes, without strict adherence to centrally designed development templates. These fiscal features, though not explicitly enumerated in the text of Article 371A, are deeply embedded in its spirit and in the political consensus surrounding its implementation.

Interpretation and implementation of Article 371A continue to evolve, raising several important questions. These include the extent to which the Nagaland Legislative Assembly can resist central laws, the balance of power between the Governor and the elected government, and the role of the judiciary in interpreting customary law within the constitutional framework. While the article is meant to uphold Naga traditions, courts have occasionally been called upon to decide whether certain practices conflict with the broader principles of the Constitution, including fundamental rights. As Nagaland modernizes, issues such as gender equality, resource sharing, and legal uniformity have brought new challenges to the application of customary norms protected under the article.

Overall, Article 371A remains a cornerstone of Nagaland's constitutional identity. It offers a rare example of asymmetric federalism in India, where a state is granted significant self-governing powers while still remaining within the broader framework of the Indian Union. It is not merely a legal provision but a political commitment to respect the distinctiveness of the Naga people. However, as India continues to evolve as a nation, the continued relevance and implementation of Article 371A will depend on a sensitive balance between constitutional autonomy and national integration.

Political Implications of Article 371A

Article 371A, introduced through the 13th Constitutional Amendment following the 16-Point Agreement, was crafted to accommodate the distinct political and cultural identity of Nagaland within the Indian Union. While it has succeeded in formalizing the autonomy of the state in key areas—particularly customary law, religion, and land rights—it has also produced complex political consequences that continue to influence governance and democratic participation in the state.

A central implication lies in the legal pluralism that Article 371A institutionalizes. The coexistence of customary law alongside the Indian legal framework has led to jurisdictional overlaps and interpretative ambiguities, especially regarding land ownership and usage. This has not only complicated administrative functions but has also created a parallel authority structure, wherein traditional tribal institutions exercise

substantial power. These bodies often function independently of, and sometimes in opposition to, constitutionally mandated institutions, such as municipal councils and state agencies.

The ULB (Urban Local Bodies) election controversy of 2017 marked a critical moment in this political dynamic. The proposed implementation of a 33% reservation for women in municipal governance—mandated by national law—was fiercely opposed by tribal organizations. The backlash led to widespread protests and ultimately the cancellation of the elections. This event underscored the resistance of customary institutions to reforms perceived as externally imposed, and highlighted how the protective provisions of Article 371A can, in practice, be used to justify exclusionary practices, particularly against women.

Further, political leaders and tribal representatives have repeatedly emphasized the need for a clearer and more coherent framework for implementing Article 371A. Prominent figures such as Shurhozelie Liezietsu and Chuba Ozukum have advocated for formalizing the relationship between customary practices and the modern administrative system. Their positions reflect a broader concern that the ambiguity in the article's language—particularly regarding land and resource governance—has impeded effective policy-making and development planning.

The assertion of state autonomy over natural resources, particularly petroleum and natural gas, has also emerged as a key political contention. The Nagaland government's claim that central laws on resource extraction do not apply to the state was countered by the Centre in 2013, when Union Minister Veerappa Moily contested the legality of Nagaland's petroleum regulations. This confrontation revealed the limitations of Article 371A in protecting state jurisdiction against central intervention, despite the original intention of ensuring local control over land and resources.

Moreover, the role of tribal bodies in regulating economic activities, such as coal mining, has further exposed the challenges posed by decentralized customary governance. Although the state adopted a Coal Mining Policy in 2006, the persistence of illegal and hazardous practices—compounded by the community's economic reliance on resource extraction—has made regulatory enforcement difficult. Traditional entitlements and local control over land continue to override formal environmental and safety standards, creating friction between development needs and traditional authority.

Historically, Article 371A was perceived as a constitutional guarantee of Naga political identity, shaped by the long-standing struggle for autonomy and self-determination. However, in recent times, some scholars and political voices have argued that the provision has become increasingly ineffective in responding to modern governance challenges. The absence of clear legal mechanisms for interpreting and applying its clauses—especially those concerning land, resources, and gender rights—has made it vulnerable to both overreach and misuse.

In sum, Article 371A has produced a unique political environment in Nagaland—characterized by the assertion of cultural rights, the persistence of traditional power structures, and ongoing tensions between autonomy and constitutional integration. While the provision continues to serve as a cornerstone of Naga identity, its political implications reveal the urgent need for reinterpretation and reform that can reconcile customary practices with democratic values and contemporary governance demands.

Challenges in the Implementation of Article 371A

The implementation of Article 371A has encountered significant hurdles, largely due to the inherent tension between protecting traditional Naga customs and accommodating evolving democratic and constitutional mandates. While the Article was originally intended to safeguard the unique social,

religious, and legal practices of the Naga people, its interpretation and application in contemporary governance have led to multiple controversies and roadblocks.

One of the most prominent challenges has been the issue of Urban Local Body (ULB) elections and women's reservation. Nagaland has long resisted implementing the 33% reservation for women mandated by Clause IV of the 74th Constitutional Amendment, citing that it infringes upon customary laws protected by Article 371A. Traditional tribal bodies and civil society organizations argued that women's participation in formal political structures was not customary and thus, such a mandate imposed an alien value system on Naga society. The controversy led to violent protests, indefinite postponement of elections, and the eventual repeal of the Municipal Act in 2022. Although elections were finally held peacefully in 2024 with women winning over a third of the seats, the deep-rooted societal resistance and the earlier legal and administrative paralysis demonstrate the difficulties in reconciling constitutional rights with customary norms.

Another significant challenge lies in the perceived threat posed by the Uniform Civil Code (UCC). The UCC seeks to introduce uniform personal laws across the country concerning marriage, divorce, adoption, and inheritance. The Nagaland Legislative Assembly, supported by all political parties, unanimously passed a resolution seeking exemption from the UCC, asserting that it would infringe upon the religious and social customs of the Nagas. The state invoked Article 371A and also drew upon the historical context of the Bengal Eastern Frontier Regulation (1873), the 9-Point Agreement (1947), and the 16-Point Agreement (1960) to emphasize its special status. This reflects a broader anxiety that national legal uniformity could override region-specific safeguards and disturb the socio-cultural fabric of the state.

Ownership and control over land and natural resources constitute another complex area. Article 371A provides that ownership and transfer of land and its resources fall exclusively under the purview of the state, and no central law will apply unless the state legislature decides otherwise. This has led to Nagaland rejecting the applicability of the Mines and Minerals (Development and Regulation) Act. Although the state has framed its own legislation on this matter, it is still pending Presidential assent, thereby creating a legislative vacuum. The absence of a functioning legal framework restricts economic development, discourages private investment, and complicates resource governance. It also underscores the dilemma of asserting autonomy without having parallel and effective legislative mechanisms in place.

Moreover, there is a growing conflict between customary law and fundamental rights guaranteed by the Constitution. While Article 371A shields customary laws, these cannot be used to justify practices that are discriminatory or regressive, particularly in the context of gender and social justice. Courts have increasingly held that fundamental rights, especially those ensuring equality and non-discrimination, must prevail in cases of conflict. This judicial stance raises questions about the extent and limits of Article 371A's protections in the face of changing national and international norms on human rights.

In sum, the implementation of Article 371A is not only a legal question but also a political and cultural challenge. It requires a careful balancing of indigenous identity and constitutional values. The state's experience with issues such as women's political participation, legal uniformity, and resource autonomy illustrates the ongoing struggle to define the boundaries of state power and customary authority within the Indian Union. Without sustained dialogue, legal clarity, and administrative sensitivity, the challenges posed by Article 371A are likely to intensify in the future.

Comparative Analysis with Other Special Provisions in India

The Indian Constitution grants special provisions to various states through Articles 371 to 371J, primarily

to address regional diversity and protect cultural identities. Among these, Article 371A, which pertains to Nagaland, stands out for its strong legislative autonomy. It grants the Nagaland Legislative Assembly exclusive power over religious and social practices, Naga customary laws and procedures, and ownership and transfer of land and resources—provisions that are not merely administrative but also deeply rooted in the cultural and historical context of the state. In comparison, Article 371G provides similar protections to Mizoram, but with slightly less legislative independence. For instance, while both states require legislative consent for the application of central laws in certain areas, the scope and historical depth of Article 371A—originating from the 1960 Sixteen-Point Agreement—make Nagaland’s autonomy more robust.

Other northeastern states enjoy varying degrees of protection under different clauses. Article 371C for Manipur, for example, mandates the creation of a Hill Areas Committee to represent the interests of tribal groups in the legislative process but does not offer legislative autonomy like that granted to Nagaland. Article 371B for Assam and the Sixth Schedule also ensure tribal self-governance through Autonomous District Councils (ADCs), particularly in areas such as the North Cachar Hills and Bodoland Territorial Regions. However, these councils function within the broader framework of state legislation and are often subject to limitations, unlike Nagaland’s legislative power under Article 371A. Arunachal Pradesh, under Article 371H, grants discretionary powers to the Governor in matters of law and order, but again, the people do not enjoy the same constitutional autonomy as Nagaland in matters of cultural and land rights. The strength of these provisions became a focal point of public discourse after the abrogation of Article 370 in Jammu and Kashmir in 2019. This raised alarm in the Northeast, particularly because Article 371 also falls under Part XXI of the Constitution—titled “Temporary, Transitional and Special Provisions.” Mizoram’s former Chief Minister Lal Thanhawla called the event a “red alert” for the region, although civil society responses varied. In Nagaland and Manipur, organizations like the United Naga Council expressed cautious confidence that Article 371A and 371C would remain untouched, asserting that separatist movements in the Northeast did not derive legitimacy from these provisions. Union Home Minister Amit Shah and Minister for Development of the North Eastern Region Jitendra Singh both reassured the public that Article 371 was fundamentally different from Article 370. While Article 370 dealt with the temporary status and limited integration of Jammu and Kashmir, Article 371 is designed to preserve tribal culture, provide administrative protections, and promote development within the Indian Union.

Therefore, in a comparative analysis of special constitutional provisions in the Northeast, it is evident that Article 371A offers Nagaland one of the most extensive forms of legislative autonomy in India. However, this autonomy is accompanied by complex administrative and developmental dilemmas, especially concerning natural resource management and policy implementation. The contrast with Mizoram, Manipur, and states governed by the Sixth Schedule further highlights that while other northeastern regions enjoy important protections, Nagaland’s constitutional status remains uniquely comprehensive—yet delicately balanced within the framework of Indian federalism.

Conclusion

Article 371A remains a cornerstone of Nagaland’s constitutional and cultural identity, reflecting the region’s unique historical journey and the negotiated settlement of the 16-Point Agreement. It safeguards Naga customary laws, land rights, and social practices, granting a high degree of legislative autonomy within the Indian Union. This provision has helped preserve traditional institutions and foster a distinct

identity, while also facilitating peace negotiations with insurgent groups. However, its coexistence with modern legal frameworks presents ongoing challenges—such as conflicts over land and resource management, limited private investment, and resistance to reforms like women's reservation in urban local governance.

Looking ahead, the continued relevance of Article 371A lies in its ability to adapt to changing socio-political and economic realities. Constructive dialogue among policymakers, community leaders, and legal experts is essential to reconcile traditional values with contemporary governance needs. Reforms that clarify legislative ambiguities, promote inclusive participation, and explore balanced models for development—while respecting indigenous rights—will be key. As a living constitutional mechanism, Article 371A must evolve to maintain the delicate balance between regional autonomy and national integration, ensuring that Nagaland's distinct identity thrives within a democratic and diverse India.

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