CONCLUSION

For the state of Nagaland, due to the application of Article 371 under the Indian constitution rights of the Nagas were protected leading to a unique division of rights which now exist between the State Government and the people of Nagaland. Traditional approach to management of water resources had been in practice in Nagaland from the earliest times with only a few changes implemented wherever necessary. Water being a state subject, although the various states in India have been empowered to enact laws or frame policies related to water, Nagaland government has been compelled to tread cautiously in implementation of new plans to enhance and improve the management and supply of water.

The forests and water resources except those under government reserved areas are still under the control and management of the land owners. Water management in Nagaland is therefore made more complex as the water resources are often situated within the privately owned land, belonging to villagers either collectively or individually. This has generated a unique situation in particular to that pertaining to water resources and water supply as traditional land owners continue to have control over their land and have a final say in this issue. It has therefore become pertinent to study and do further research on the traditional approach to management of water resources, without undermining it because these traditional practices which have long protected the people has also become an issue of conflict, between communities as well as between communities and the government.

The state of affairs over water management and supply in Nagaland is reflective of the existing conditions in the central government. Management of water continues through a top-down approach and has become virtually a government monopoly. However, the point of divergence in the case of Nagaland state seen here is in the fact that the government is not able to provide necessary expansion of services to a growing population both in the rural or urban areas, mainly due to the unique situation Nagaland is facing. The state Government and the traditional land owners are in a deadlock situation; as even though authority has been vested in government to make and implement developmental plans and policies in the water sector, it continues to struggle in finding a common platform with the landowners to obtain sharing rights of water resources. It can be said that due to the traditional land ownership system the
Government and the landowners are often at this stalemate situation unable to formulate a plan on how share, or regulate the supply of water.

As a result glaring problems are cropping up in the water sector. In the past, water had been developed rather than managed. This trend is changing as the central government continues to push for a comprehensive multi sector management approach. This includes decentralization, in a multiplicity of institutional arrangements, varying from state to state. The governmental agencies in Nagaland are drawn into a challenging situation which often involves both development as well as management of water resources. Growth and progress is therefore incremental, fragmented, and sectoral. The situation further compounded by the complex traditional land management system requires that consultation be made and permission sought before and during implementation of any water management scheme within privately owned lands.

Another issue is the current institutional set-up involving various governmental agencies involved in collecting data on various water related parameters such as quality of surface water and ground water, monitoring of drinking water quality, sanitation and drinking supply etc. besides development and management of the water sector. Such an approach results in the duplication and ambiguity of functions and it discourages a unitary and integrated approach. This is a major bottle neck in effective policy formulation and implementation.

Gaps are often visible in knowledge, information and data collection. Published data is not readily available for the water sector. Although certain districts of the state have ground water availability maps, extraction rates have not been defined. Even if licenses have been issued to check illegal groundwater extraction, in a commercial hub like Dimapur city, overexploitation of groundwater has not been properly regulated. Private residential areas as well as business establishments like water bottling plants in the city continue to extract ground water but their licenses do not monitor or regulate the quantum of water extracted.

In Nagaland state the concept of water privatization was unknown. Water was considered a public and common good although the water sources were privately owned by the villages, khels, clans or individuals. As a precious commodity, all water
sources were jealously guarded by the different villages and tribes. There was not a single instance where water was sold as commodity for a price. Even in case of water depletion in a traditional spring or pond of a particular *khel* in a village, members of the said *khel* were free to fetch water from another *khel*. However, this has changed to a great degree due to the existing conditions. The introduction of market forces in water resources has created new conflicts between market forces and survival compulsions. Further issues occurring out of the impasse is that there is no agency whether Governmental or private to regulate the activities of the water suppliers dominating the sale of water (particularly in the case of Kohima), without proper price regulation and quality control measures.

Traditional ownership rights over water sources such as mountain streams are still maintained but water is being sold as a commodity. Cases of commodification of water resources in Nagaland are becoming more common in recent years leading to contestation of water between various landowners, whether villages, communities, clans, or individuals; often wanting to monopolize the private water business.

Water conflicts are also becoming more common; and the traditional method of conflict resolution continues to be applied in privately owned lands. However, a very unique case in land and water dispute presented before the Supreme Court was between two clans, Soya clan of Longkhum village and the respondents represent the Pongen clan of Mangmetong village in Mokokchung district.\(^\text{340}\) In a landmark judgment in 2004, the Supreme Court stated that in view of the peculiar nature of the subject matter of dispute, decision was needed based on customary law applicable to the parties. The Court stated that, ‘the disputes of village community particularly relating to access to land having water source is not a traditional civil litigation as is handled by ordinary civil courts under the Code of Civil Procedure. These are dispute to be dealt with and handled only on the basis of customs of the village communities and through a very informal procedure contained in the Rules’. Further the Court stated that it was their considered opinion that the appeal could be disposed of by declaring that the village communities in two clans of two villages would have a joint and equal right to the water source in the disputed land. None of the members of the two contesting clans or communities in the two villages should restrict access to any

\(^\text{340}\) Appendix XII
one of the two village communities to the common water source. Even in the case of
the land dispute, the Supreme Court stated that resolution should be made in
accordance with the provisions of the Rules given in the competent village court, the
Village Customary Court viz., Dobhasis Court. The court in view of the customary
nature of the substantive and procedural law involved decided not to pursue an
adversarial mode of dispute settlement but instead opted for a solution in the ‘spirit of
accommodation and adjustment’ so as to mutually benefit the two parties. However,
such an opinion was made within the premise that ‘As so far as natural resources like
land and water are concerned dispute of ownership is not very relevant because
undoubtedly the state is the sovereign dominant owner’.

Constant water scarcity continues in many parts of the state, particularly Kohima the
capital city. The scarcity caught even the attention of the international media, as is
evident by the publication of a news item in the Business Ghana which reported of a
continuing, acute drinking water scarcity in Nagaland with water shortage reported
from other district towns of the hill state as well; prompting the authorities to regulate
the supply to all residential colonies, on a rotational basis. Amidst this drought like
situation (particularly in the off monsoon season) is a great imbalance between
demand and supply of water. Against the average requirement of 15 million liters per
day (MLD) as per the population of Kohima, the Public Health Engineering (PHE)
department is reportedly able to acquire only 1.5 MLD for supply. According to some
PHE officials, the shortage of water supply in Kohima was not always because of lack
of water, but due to different factors such as social and land issues, lack of water
management, cooperation, water treatment and sanitation issues. Other than these
main issues, Kohima district was said to have more than enough water to sustain its
population. This has been reiterated on various public platforms by key government
officials like State DGP K. Kire who made an appeal to the people of Jakhama to
donate their unused/extra water supply to the people of Kohima town. In a news
report, the state DGP was seen urging the people of Jakhama to deliberate on the
matter and then tie up with the government to help ease water problem. Maintaining

342 The Eastern Mirror, Perennial water shortage in Kohima, September 8th 2013.
that unused water from sources in the southern region flow towards Assam, he believed those in need must be benefited rather than letting it go waste.  

The prevailing water situation in Nagaland state has invariably become a political issue in recent years. The issue of scarcity was even taken up in the State Assembly, and in one of its session, Leader of Opposition (Congress party), Tokheho Yepthomi had even cautioned that a time would come for legislators to think of having “Winter Capital and Summer Capital”. This according to him was because of “chronic and perennial” water crisis particularly in the capital. Yepthomi, a former PHE Minister, claimed that some villagers from the Southern Angami areas used to make excuses one way or the other for not allowing the PHE Department to take water from their sources. He continued asserting his point that if the villagers kept refusing the Department to tap water for the citizens living in and around the state capital and also for other purposes in the capital, a time would come to think of having “Winter Capital” as the acute water scarcity normally occurred during winter season. He further opined that “We cannot have capital without water.” It has been reported that the Chief minister Neiphiu Rio, who is from Kohima district, had previously told the people of the district that the state government would have no option but to shift the state capital elsewhere because of shortage of water supply. He is reported to have said that without adequate water supply, Kohima cannot remain the state capital.

Post poll violence has been seen in many parts of the state in recent years, particularly in districts such as Mokokchung and Mon district and Wokha district. In Mokokchung district, due to escalating tension between supporters of rival parties from Ungma and Kupza villages, water pipelines were damaged, roads blocked and leading to a virtual black out in Kupza village. In Wokha, a group of people destroyed a water tank and water supply pipes at Rachan colony which affected over 100 households as water pipes supplying water to the colony were completely destroyed. In Mon town, some miscreants had damaged the water pipelines coming from Chi and Lengha Villages to Mon town causing severe water crisis in the entire town and this destruction of the

343 The Nagaland Post, Jakhama’s help sought to ease water problem in Kohima, 9 April 2011.
344 The Asian Tribune, Water scarcity still haunts Kohima residents, 10 February, 2011.
345 The Telegraph, Water in short supply? Shift the capital, July 17, 2013.
main water pipeline was alleged to be by supporters of defeated candidate of Mon Town Assembly Constituency.346

Social problems continue to increase as a result of the water scarcity. The President of the Konyak Students Union (KSU) Methna Konyak was reported to have said that “This water scarcity has hit the residents of the Mon town and it greatly disturbs our student community as most of the time they roam around to find water leaving aside their study time.” 347 A leading newspaper in Nagaland had highlighted the water crises in Mokokchung town by describing the plight of Aochila, a Class II student residing in Artang Ward, who along with her friend Sunepla, waited for hours by a trickling water source to fetch water, (not suitable for drinking) as early as 4 a.m. in the morning.348 According to another news report, ‘The acute scarcity of supply water in Wokha amidst bountiful perennial sources steals the better times of school and college going children more than half the year.’ It further stated that the supply sources were overflowing the reservoir/s day and night even during the driest seasons but water had become a luxury item in Wokha town. The district as a whole also faced load shedding throughout the year despite having the Doyang hydro project at their backdoor.349

The economy of the state has also been affected by the prevailing water situation. Tourism a revenue generating sector has been plagued by water woes and it has been struggling to generate income as a result of water scarcity. This had prompted the Department of Tourism, to take active measures by a tie up with Nagaland Tourism Association (NTA) by organizing seminars with themes such as ‘Tourism & Water: Protecting our common future’ with a call to all the stakeholders of tourism activities in the state to come together in ensuring sustainable access to water resources. 350

Another critical issue is the environmental degradation through water pollution. Due to the land management system, the municipal councils in urban areas have been facing intense problems acquiring land, even on lease for waste disposal. Municipal

346 The Shillong Times, Post-poll violence continues in Nagaland and Tripura, March 10th, 2013.
347 Ibid.
348 The Morung Express, Water, Water ... nowhere in sight!, March 9, 2013.
350 The Times of India, World Tourism Day observed in Nagaland. September 27, 2013.
and domestic wastes from urban and rural areas are directly discharged into natural water bodies, and there is no arrangement for recycling the waste effluents. This has led to water contamination of many streams and rivulets. A study done across some urban habitat such as Kohima, Dimapur, Mokokchung, Wokha, Tuensang, Lumami, Tseminyu and Ungma in Nagaland has shown that the concentration of lead in few water sources under Mokokchung, Kohima and Wokha were slightly above the permissible limit in the ranges of 0.14-0.19 mg/L (maximum permissible limit is 0.1mg/L). This relatively higher concentration of lead in some water sources confirms that many surface water sources are unprotected from domestic and municipal sewage, human and industrial effluents as most of the heavy metals and in particular the lead metal is generate from street dust. Based on the study, it was concluded that the quality of surface water is found deteriorating slowly with the passes of years and need an immediate attention to restore the water quality in the State.351 There are two Acts presently in use, the Water (Prevention & Control of Pollution) Act, 1974, under the Nagaland Pollution Control Board (NPCB) and Environment (Protection) Act, 1986, (Soil and Water Conservation Department also works within these directives).352 However, the directives under the acts have not prevented the discharge of effluents directly into a drain/stream/river without being treated. Residences’ and business establishments continue to discharge the fecal wastes directly into the drain/stream/river particularly during the monsoon season; dug pit latrines are not covered with soil after the pit is 80% filled; and pit latrines/septic tanks/soak pits continue to be constructed less than 10 meters away from the source of water such as open well/head pump.

The response from the civil society in Nagaland towards the prevailing water paucity in Nagaland has been slow and restrained. However, the issue has come to the notice of the Christian community in Nagaland, consisting of 90% of the total population and some sort of activism is seen through their writings. In recent years, a few theologians have started to express their own viewpoints about the situation. Z.K. Pahrü Pou, from Baptist Theological College, Pfutsero, in Phek district, in his

351 Dr. T. Tiakaba Jamir, Department of Chemistry, Kohima Science College, Jotsoma. *Assessment of surface water quality in Nagaland.* The Morung Express, 23rd August 2013.

352 The Morung Express, *NPCB issue directives to control pollution of water resources,* October 9, 2013.
writings had emphasized the importance of water by stating that, ‘Water if life and who owns water owns life. The importance of water is quite visible as water is mentioned in the Bible more than 700 times.’ He further went on to say that ‘therefore control over water or denying water is literally a control over God given lives of the creatures on the earth. Water sustains not merely human life, but also the life of animals and birds; and it sustains and is sustained by the ecological system. It plays a crucial role on planet earth. When we take water for granted, waste it, or spoil it we suffer spiritually and physically. Stand up against privatization and commoditization of water. Water is life. When we respect water as God’s gift, our rivers and reservoirs will be full with water and life would flourish.’ Other Christians in the state are also seemingly doing their bit. It had been reported that some wealthy families from Mokokchung district, who have been able to afford to bore a deep well are reported to sell their water on weekdays and distribute it free of cost to neighbours on Sundays, ostensibly to solicit god’s blessings.

In conclusion, throughout the tumultuous history of Nagaland, from the earliest days, its transition as the Naga Hills district under colonization of the British, and to the days of transfer of control to the present Government of India, the Nagas have adjusted albeit with reluctance to the changes brought to the land. Successive Governments through implementation and imposition of laws and statutes have played a role in making what Nagaland is today.

From the colonial era, till today traditional customary law has been respected and preserved. British administrative policy was such that protection of customary law meant it served the dual purpose of keeping the Nagas free to govern themselves in their traditional ways; while at the same time immensely reducing the responsibility of the government from the detailed and costly affairs of administration. The declarations of the British, to conserve and preserve forests and water resources, included in greater or lesser degree, the regulation of the rights and privileges of the local community. In the interest of British administration, village administration was delegated with the powers to deal with petty local disputes, and yet, practically in

almost every aspect of public matters, the district administration invariably intervened in the name of maintaining law and order and developmental activities. The status of the village administrative functionaries was changed significantly as they were given a quasi-official position and were no longer answerable to the village community of which they had been the representatives or servant. In policy matters, the Government of India after independence has retained some of the administrative substructure of the British Indian Government. The Customary law continued to be protected by the Constitution of India, giving the Naga tribes freedom to be governed by their respective customs and traditions. Nevertheless, this was done so within the principle that undoubtedly the state is the sovereign dominant owner of all natural resources like land and water. Therefore the Nagas tribes who primarily depended upon natural resources for their livelihood were most seriously affected by such a transformation.

In the case of Nagaland, the state Government, in its very first Nagaland Assembly passed the Nagaland Land (Requisition & Acquisition) Bill, 1964 (later amended in 1969); and some Forest Acts for acquiring land and forest areas. Till date, the area under Government control is very limited and the Nagaland government takes the present land holding system as an obstacle to development. However, the developmental activity initiated by the State does not necessarily focus on collective public interest. It has increasingly pushed for privatization of resources. This directly implies the exclusion of the right of survival for the poor and marginalized sections of the society. The developmental model seriously undermines the self-renewable capacity and the sustainability of the water resource, by eliminating the social constraints on resource that are the basis of common property management under traditional tribal customs and practices. Although the idea of international aid and technology transfer in the name of development is noble, it also links diversion of natural resources from survival needs to the market forces. Thus local resources, be it forest or water, increasingly move out of the control of local communities into state or national governments.

Lately, the government has started to involve the communities to be more involved in its water supply projects through a decentralization process. The Government in order to make it into a workable model has already issued a notification by which it is clearly stated that the acquisition/usage of all water source catchments and all other
land related to water supply works should be the sole responsibility of the beneficiaries and be free from all encumbrances.

There is no clear cut answer to the problem except for the Government and the local communities to come to the negotiating table to find an acceptable solution; and to work within the limits of traditional ownership of water resources to ease the water scarcity problem faced by the general public. For instance, it was the common opinion of the village elders interviewed from Kohima district that in order to solve the water supply problem in Kohima, the capital city; the Angami tribe in a magnanimous gesture should come together and voluntarily provide water to the citizens of Kohima. Pheluokhwe Kirha, from Jakhama Village, stated that ‘contribution of water should be done without any existing pre-conditions.’ Thepfürülie Zutso, the Village Council Chairman from Kigwema Village, was of the opinion that, ‘water supply in the village was very systematic as people fetched water from the traditional well. They could also fetch water freely from other khel’s. This culture must be upheld.’ He was also expressed concern over developmental plans of the government in the water sector saying that, ‘these things are complicated. Development should first be all-round development of the villages and towns. Subsequently, all the villages in the Western and Southern Angami areas must contribute their water to the town. If this is done, it can solve the water problem once for all.’ The same concerns have been reflected from the interviews done in the other three districts; namely Mon, Wokha and Mokokchung. They were of the opinion that since time immemorial, the land of the Nagas has belonged to the village community, clan and individuals of the village and therefore, traditional forest and water ownership pattern preceded the Article 371(A) of the Indian Constitution. It only legitimized what already existed from before. They felt that if the government is serious about acquiring land from the people for development purpose, than they should also be willing to provide all round development to the villages and towns, and also provide adequate compensation to the villagers.

355 Interview with Pheluokhwe Kirha, 81 years, Jakhama Village, Kohima District - 22nd December, 2013.
356 Interview with Thepfürülie Zutso, 55 years, Kigwema Village, Kohima District - 22nd December, 2013.
Careful consideration by incorporating these concerns into planning must be done to ensure equitous distribution of benefits. Any plans of the Government should take into account the urban poor and the marginalized. In terms of water conservation and sustainability measures, changes cannot be initiated without educating and empowering the local communities. Local traditional conservation methods should not be undermined. For instance, most of the agriculture activities are carried out during the monsoons. The traditional jhum cultivation is completely rain fed while terrace cultivation draws water through channels drawn from springs that are charged during the monsoon season, or through traditional means such as Zabo. Apart from this, the various khels in the Naga villages continue to use ancient traditional wells and share all water resources without any restrictions. Time tested practices such as these rather should be encouraged to co-exist alongside community based programmes of the Government for any progress to be made in the water sector.