

# State Legislative Brief

## ASSAM

### The Assam Cattle Preservation Bill, 2021

#### Key Features

- The Bill prohibits the slaughter of cows. It permits the slaughter of other cattle (bulls, bullocks and buffaloes) if the cattle is over 14 years of age, or has become permanently incapacitated due to injury or deformity.
- It also restricts intra-state and inter-state transport of cattle, and sale of beef except at permitted locations.
- The relevant authority may inspect and seize cattle and vehicles used for offences under the Bill. Upon conviction, the seized cattle and vehicles will be forfeited to the state government.

#### Key Issues and Analysis

- The Bill may unduly limit the transport of cattle in the north-eastern region of India due to restrictions on transport through Assam.
- The Bill restricts cattle transport from Assam to states where slaughter is not regulated. It is unclear if and why states having *any* regulation on cattle slaughter are exempt from restrictions.
- Requirement for the accused to pay maintenance costs of seized cattle during trial may be onerous.
- Restriction on places where beef can be sold may be too broad and may, in effect, amount to prohibition on sale of beef in the entire state.

**The Bill was introduced in the Assam Legislative Assembly on July 12, 2021. It seeks to replace the Assam Cattle Preservation Act, 1950. The Act provides for the preservation of cattle by restricting their slaughter. The Bill regulates slaughter and transportation of cattle and sale of beef.**

## PART A: HIGHLIGHTS OF THE BILL

### Context

The Directive Principles of State Policy under the Constitution provide that the state shall endeavour to organise agriculture and animal husbandry on modern and scientific lines, take steps to improve breeds and prohibit the slaughter of cows, calves, and other milch and draught cattle.<sup>1</sup> More than 20 states have passed laws restricting the slaughter of cattle (cows, bulls, and bullocks) and buffaloes to various degrees. For instance, while Chhattisgarh completely prohibits the slaughter of cattle and buffaloes, Tamil Nadu allows slaughter of cattle and buffaloes which are: (i) above the age of 10 years and are unfit for breeding or work, or (ii) are incapacitated permanently.<sup>2,3</sup> Note that north-eastern states such as Arunachal Pradesh, Meghalaya, Mizoram and Nagaland do not have any such law regulating cattle slaughter.

Over time, the extent of the prohibition under these state laws has been guided by Supreme Court judgments. Earlier state laws such as those in Madhya Pradesh (1949), Bihar (1955), and Uttar Pradesh (1955) completely prohibited the slaughter of cattle.<sup>4</sup> In 1958, while examining these three laws, the Supreme Court held that complete prohibition on slaughter of cattle infringed upon the fundamental right of butchers to practice their trade or profession.<sup>4</sup> It held that while the complete prohibition on slaughter of cows was constitutionally valid, the ban on slaughter of bulls, bullocks, and buffaloes can only be up to a certain age, or be based on their usefulness (for milk, draught, or reproduction).<sup>4</sup> In 1994, Gujarat passed an amendment law to prohibit the slaughter of bulls and bullocks of all ages.<sup>5</sup> In 2005, a seven-judge constitutional bench of the Supreme Court upheld this complete prohibition on slaughter of bulls and bullocks under the Gujarat amendment law, in contrast with the earlier judgments of the Court.<sup>5</sup> In recent years, states such as Chhattisgarh (2004), Madhya Pradesh (2004), Maharashtra (2015), Haryana (2015), and Karnataka (2021) have also prohibited the slaughter of bulls and bullocks of all ages.<sup>6,7,8,9,10</sup>

The Assam Cattle Preservation Bill, 2021 was introduced in the Assam Legislative Assembly on July 12, 2021.<sup>11</sup> It seeks to replace the Assam Cattle Preservation Act, 1950.<sup>12</sup> The 1950 Act provides for the preservation of cattle by controlling their slaughter. The Bill regulates slaughter and transportation of cattle and sale of beef.

## Key Features

- **Restriction on slaughter of cattle:** Under the Bill, cattle refers to bulls, bullocks, cows, heifer (a cow that has borne zero or one calf), calves, male and female buffaloes, and buffalo calves. The Bill prohibits the slaughter of: (i) cows of all ages, and (ii) other cattle, unless a fit-for-slaughter certificate is issued. Such certificate will only be issued by the veterinary officer if the cattle (excluding cow, heifer or calf): (i) is over 14 years of age, or (ii) has become permanently incapacitated due to accidental injury or deformity. Slaughter excludes the accidental killing of cattle.
- **Places where slaughter is permitted:** The Bill permits slaughter of cattle only in licensed slaughter houses or other premises as specified in the fit-for-slaughter certificate. The state government may exempt certain places of worship or religious occasions for slaughter of cattle (excluding cows, heifer, and calves).
- **Restriction on transport of cattle:** The Bill restricts transport of cattle into, out of, through and within the state of Assam. However, a competent authority may issue a permit to transport cattle for bona fide agricultural or animal husbandry purposes as may be prescribed. No permission is required for moving cattle within a district: (i) for agricultural or animal husbandry purposes, and (ii) for the purpose of sale and purchase of cattle at a registered Animal Market. An Animal Market is a licensed or recognised market place where animals are brought and offered for sale or auction, including animal fairs and cattle pounds.
- It will be presumed that a person is transporting cattle for the purpose of slaughter unless: (i) the contrary is proved, or (ii) the person has obtained a permit for such transport.
- **Restriction on sale of beef and beef products:** The Bill allows the sale and purchase of beef or beef products only at permitted places. No such permission will be granted: (i) in areas mainly inhabited by Hindu, Sikh, Jain, or other non-beef eating communities, (ii) within a radius of five kilometres of religious institutions belonging to the Hindu religion, or (iii) any other notified area or institution.
- **Search and seizure:** If an offence has been or is likely to be committed, authorities may enter and inspect premises, seize any material, carcass, cattle or vehicle so found, and detain any accused persons. The cattle seized may be handed over to any institution or Gaushala and the cost of maintenance recovered from such persons as prescribed. A Gaushala is a shelter established for the protection and preservation of cattle, registered with the department of Animal Husbandry under state or central law. Upon conviction, the seized cattle, materials, and vehicles will be forfeited to the state government.
- **Penalties:** The Bill provides for an imprisonment term between three and eight years, and a fine between three and five lakh rupees. This penalty will be levied for contravention of any provision of the Bill except the prohibition on sale of beef and beef products. The trial court has the discretion to impose a lower punishment. Further, repeat offences will attract double the prescribed punishment. All offences under this Bill will be cognisable and non-bailable. Note that the 1950 Act provided punishment of imprisonment up to six months, and a fine up to one thousand rupees.
- **Exemptions:** The Bill will not apply to slaughter of cattle: (i) if the cattle is operated upon for any experimental or research purpose, (ii) if it is required in the interest of public health or the cattle is found to be carrying an incurable or infectious or dangerous disease, and (iii) for supply of flesh (excluding that of cows, heifer, and calves) to the state zoo or a similar set up for feeding the animals there.

## PART B: KEY ISSUES AND ANALYSIS

### Restrictions on inter-state and intra-state transport of cattle

The Bill restricts the transport of cattle: (i) within Assam, (ii) from another state to Assam, (iii) from Assam to any place outside Assam “where slaughter of cattle is not regulated by law”, and (iv) from one state to another (or another country) through Assam. In all these cases, a permit is required, which may be granted only if the transport is for bona fide agricultural or animal husbandry purposes. These restrictions raise a few concerns.

#### Restrictions on transport through Assam

Restricting cattle transport through Assam may make movement of cattle to the entire north-eastern region of the country difficult. First, the unique geographical location of Assam makes it an unavoidable transit state when moving goods to other states in the north-east region of India. Second, it is unclear why Assam may disallow transit through it for any purposes other than agriculture or animal husbandry that are allowed in the origin and destination states. Note that the Madhya Pradesh Govansh Vadh Pratishedh Adhiniyam, 2004 provides for a separate permit called a transit permit for transporting cattle through the state.<sup>13</sup> Such permit is for the *act* of transport, without any conditions as to the *purpose* of transport.

### Restrictions on transporting cattle to a state where slaughter is not regulated by law

The use of the phrase “where slaughter of cattle is not regulated by law” for transport of cattle out of Assam implies that there are no restrictions on transporting cattle to those places outside Assam where their slaughter is regulated by law. It is unclear if this seeks to cover any kind of regulation of cattle slaughter by another state, or if such regulation should be similar to the provisions under this Bill. The rationale for restricting inter-state transport may be to pre-empt the possibility of cattle protected under the Bill being taken to other states for slaughter. If that is the intention, then it is not clear why the Bill exempts states with *any* regulation for cattle slaughter from transport restrictions. Other states may not have similar restrictions on cattle slaughter as in the Bill. Note that cattle preservation laws in other states such as Karnataka and Chhattisgarh do not make such a distinction when restricting cattle transport out of the state.<sup>14,15</sup>

### The Bill does not provide for appeal against refusal to grant transport permit

The Bill allows a competent authority (appointed by the state government) to issue permits for transporting cattle. While the state government may on its own review the authority’s orders, there is no provision for appeal if the authority denies such permit. It may be argued that an applicant should have the right to question such refusal. Note that the Bill provides for appeal against orders denying fit-for-slaughter certificates.

### Powers of search and seizure and the maintenance cost of seized cattle

The Bill empowers certain officers to conduct search and seizure of cattle, vehicles and materials used or likely to be used in the commission of an offence. Such seizure may be made by an officer if he is of the opinion that an offence under the Bill has been committed or is likely to be committed. The seizure must be reported to the Judicial Magistrate of First Class without any unreasonable delay. If the accused is convicted, the seized cattle and materials are forfeited to the state government. These provisions raise a few issues as follows.

### Powers to undertake search and seizure lack certain safeguards available in other laws

Unlike several other existing laws, procedural safeguards for searches have not been specified under the Bill. For instance, the Code of Criminal Procedures, 1973 (CrPC) requires a search warrant issued by the court before a police officer can undertake the search.<sup>16</sup> Search without a warrant may be undertaken by a police officer where he has reasons to believe that such a search is required without undue delay.<sup>17</sup> However, the officer must record the grounds for such action and specify the cause of the search.<sup>17</sup> A copy of this record is to be sent to the judicial magistrate.<sup>17</sup> Further, for undertaking searches, the officer is required to call upon two or more independent and respectable inhabitants of the locality.<sup>18</sup> Search is to be conducted in their presence, and list of any seizure is required to be signed by these witnesses.<sup>18</sup> The Supreme Court has observed that as search is an exceedingly arbitrary process, stringent statutory conditions have been imposed on the exercise of such power under the CrPC.<sup>19</sup> The Immoral Traffic Prevention Act, 1956, which allows search without a warrant, also requires the officer to record the grounds in writing and call upon two or more witnesses to attend the search.<sup>20</sup> Further, laws such as the Immoral Traffic Prevention Act, 1956 and the laws preventing cattle slaughter in Rajasthan and Maharashtra require observance of procedures under CrPC for search or inspection of a place or seizure by a police officer.<sup>21,22</sup> Unlike these laws, no reference to the CrPC has been provided under the Bill.

### Requiring owners or transporters to pay for maintenance of seized cattle may be onerous

Under the Bill, cattle may be seized by a police officer on the basis of suspicion. The Judicial Magistrate may hand over such seized cattle to a care institution, and the expenditure incurred on the maintenance of such cattle during trial will be recovered from such persons as prescribed. The Bill does not specify who will bear the cost of maintenance, but it may be reasonably expected that the owner or transporter of such cattle will be liable to pay the same. Note that there is no time frame for completing a trial under the Bill. This could potentially mean deprivation of the accused from their source of livelihood for an indefinite period, along with the burden to incur cost for maintaining the seized cattle at a care institution.

### Overly restrictive bar on places where beef may be sold

The Bill prohibits sale of beef and beef products in areas that are: (i) predominantly inhabited by Hindu, Jain, Sikh and other non-beef eating communities, or (ii) within a five kilometre radius of any temple or other Hindu religious institution. No other state has a similar provision excluding specific areas for setting up beef shops in its cattle preservation law. The prohibition on sale within a five kilometre radius of a temple implies that no beef shop can be set up in an area of about 78.5 square kilometres around a temple.<sup>23</sup> This proposed threshold may be overly restrictive.

As per the 2011 census, there are 214 towns in Assam (with average town area at 5.89 square kilometres).<sup>24</sup> Usually, towns have temples dispersed across their entire area. As can be inferred from Tables 1 and 2, even if there were to be only one temple in the middle of the town, no town in Assam, except Guwahati, can have a beef shop within the town area. Similarly, there are 26,395 villages in Assam, with average area at 1.93 square

*Bill:*  
Clause 7 (9),  
(13), Clause  
5 (4)

*Bill:*  
Clause 11 (3),  
(4), (9)

*Bill:*  
Clause 11 (3),  
(6), (7)

*Bill:*  
Proviso to  
Clause 8

kilometres.<sup>25</sup> This implies that if a village were to have even one temple, a beef shop may not be set up in large areas encompassing several adjoining villages. While specific data on the number of temples is not available, as per the 2011 census, Assam has a total of 1,59,818 places of worship.<sup>26</sup>

**Table 1: Ten largest towns of Assam by area**

Town	Area (in square kilometres)
Guwahati (M Corp. + OG)	219.1
Jorhat (MB + OG)	53.5
Dibrugarh (MB + OG)	20.8
Tinsukia (MB + OG)	19.5
Silchar (MB + OG)	17.1
Tezpur (MB + OG)	16.8
Diphu (TC)	16.5
Bongaigaon (MB)	14.3
Lanka (MB)	13.9
North Lakhimpur (MB)	13.7

Note: M. Corp.: Municipal Corporation; OG: Outgrowth; MB: Municipal Board; TC: Town Committee.

Source: District Census Handbook; 2011 Census; PRS.

**Table 2: Area-wise distribution of towns in Assam**

Area (in square kilometres)	Number of towns
> 50	2
20 - 50	1
10 - 20	19
5 - 10	39
< 5	153

Source: District Census Handbook; 2011 Census; PRS.

Therefore, while the Bill aims to restrict the sale of beef to certain places, such a high threshold for places where beef cannot be sold may effectively amount to a complete prohibition on selling beef within the entire state. Note that other states such as Gujarat, Rajasthan, Uttar Pradesh and Haryana completely prohibit the sale or purchase of beef within the state (for a comparison of similar laws across states, see Table 3 at the end of this document).<sup>27,28,29,9</sup> There are two important distinctions between the laws in these states and the Bill: (i) these states completely prohibit the slaughter of cows, bulls and bullocks, and (ii) the definition of beef under these state laws excludes buffalo meat. Further, municipal policy in places such as Delhi permits sale of meat (with a license) at a minimum distance of 150 metres from a temple or other religious place.<sup>30</sup> This requirement does not apply at the time of renewal of license if the religious place comes into existence after the grant of such license. The policy defines a religious place as a permanent structure with a covered area of more than 400 square feet.<sup>30</sup>

The prohibition on sale of beef in areas predominantly inhabited by certain communities may have an unintended consequence. With the food typically consumed by a community becoming unavailable or available only in select locations, it may lead to the segregation of different communities into demarcated residential areas based on their religious beliefs or identity. As per the 2011 census, the population of Assam comprises roughly 61% Hindus, 34% Muslims, and 4% Christians.<sup>31</sup>

## Drafting issues

### Finality of review orders passed by the prescribed authority

*Bill:*  
Clause 5 (4),  
(5), (7)

Under the Bill, a veterinary officer may issue or refuse to issue a fit-for-slaughter certificate. A person aggrieved by the order may appeal to the prescribed authority. The prescribed authority may also, on its own, review any decision of the veterinary officer. The Bill confers finality on the review decision of the prescribed authority. This implies that a person has no recourse to even one round of review or appeal if the certificate issued by the veterinary officer is revoked upon review by the prescribed authority on its own.

### Inter-district transport of cattle for sale and purchase not allowed

*Bill:*  
Clause 7 (4),  
(6)

The Bill allows inter-district transport of cattle with a permit, issued *only* if such transport is for agricultural or animal husbandry purposes. Intra-district transport of cattle does not require any permit if it is for: (i) agricultural or animal husbandry purposes, or (ii) sale and purchase of cattle at animal markets. While transport within a district is allowed for both these purposes, inter-district transport is allowed only for agricultural or animal husbandry purposes but not for sale and purchase. It is not clear why this distinction is being made.

**Table 3: Comparison of Cattle Preservation Laws of select states**

	Assam <sup>^</sup>	Gujarat	Haryana	Karnataka	Madhya Pradesh	Maharashtra	Rajasthan	Tamil Nadu	Uttar Pradesh
<b>Year of Enactment</b>	-	1954	2015	2021	2004	1976	1995	1958	1955
<b>Last amended in</b>	-	2017	-	-	2010	2015	2018	-	2020
<b>Restriction on Slaughter of Cattle</b>									
<b>Cow</b>	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited <sup>#</sup>	Prohibited
<b>Bulls and Bullocks</b>	Up to the age of 14 years	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Prohibited	Up to the age of 10 years	Prohibited
<b>Buffaloes</b>	Up to the age of 14 years	Not allowed if useful	Not covered	Up to the age of 13 years	Not covered	Not allowed if useful	Not covered	Up to the age of 10 years	Not covered
<b>Certificate for slaughter</b>	Required	Required	-	Required	-	Required	-	Required	-
<b>Restriction on transport of cattle whose slaughter is prohibited (subject to issuance of permit for specified purposes)</b>									
<b>Intra-state</b>	Restricted <sup>*</sup>	Restricted	Not restricted	Restricted	Restricted	Not restricted	Not restricted	Not restricted	Not restricted
<b>Inter-state or outside state</b>	Restricted	Not restricted	Restricted	Restricted	Restricted	Restricted	Restricted	Not restricted	Restricted
<b>Through the state</b>	Restricted	Not restricted	Not restricted	Not restricted	Restricted	Not restricted	Not restricted	Not restricted	Not restricted
<b>Permit where transport is restricted</b>	Required	Required	Required	Required	Required	Not specified	Required	-	Required
<b>Restriction on sale, purchase, and possession of beef or beef products</b>									
<b>Sale and Purchase</b>	Permission needed	Prohibited	Sale prohibited	Not restricted	Not restricted	Not restricted	Prohibited	Not restricted	Sale prohibited
<b>Possession</b>	Not restricted	Not restricted	Not restricted	Not restricted	Prohibited	Prohibited <sup>*</sup>	Prohibited	Not restricted	Not restricted
<b>Penalties (Fine in Rupees)<sup>§</sup></b>									
<b>Slaughter</b>	Imprisonment: 3-8 years, or Fine: 3-5 lakh, or both	Imprisonment: 10 years-Life Imprisonment, and Fine: 1-5 lakh	Imprisonment: 3-10 years, and Fine: 30K-1 lakh	Imprisonment: 3-7 years, or Fine <sup>&amp;</sup> : 50K-5 lakh, or both	Imprisonment: 1-7 years, and Fine: a minimum of 5K	Imprisonment: 6 months-5 years, and Fine: 1K-10K	Imprisonment: 1-10 years, and Fine: up to 10K	Imprisonment: up to 3 years, or Fine: up to 1K, or both	Imprisonment: 3-10 years, and Fine: 3-5 lakh
<b>Transport</b>	Imprisonment: 3-8 years, or Fine: 3-5 lakh, or both	Imprisonment: 7-10 years, and Fine: 3-5 lakh	Imprisonment: 3-7 years, and Fine: 30K-70K	Imprisonment: 3-5 years, or Fine: 50K-5 lakh, or both	Imprisonment: 6 months-3 years, and Fine: a minimum of 5K	Imprisonment: 6 months-5 years, and Fine: 1K-10K	Imprisonment: 6 months-5 years; and Fine: up to 5K	-	Imprisonment: 3-10 years, and Fine: 3-5 lakh
<b>Sale and Purchase of Beef</b>	-	Imprisonment: 7-10 years, and Fine: 3-5 lakh	Imprisonment: 3-5 years, and Fine: 30K-50K	-	-	-	Imprisonment: 6 months-5 years; and Fine: up to 5K	-	Imprisonment: 3-10 years, and Fine: 3-5 lakh
<b>Possession of Beef</b>	-	-	-	-	Imprisonment: 6 months-3 years, and Fine: a minimum of 5K	Imprisonment: up to 1 year, or Fine: up to 2K	Imprisonment: 6 months-5 years and Fine: up to 5K	-	-

Note: <sup>^</sup>As per the Assam Cattle Preservation Bill, 2021. <sup>\*</sup>Exception for Intra-District transport, not restricted for certain specified purposes. <sup>#</sup>Prohibited through a government order in 1976. <sup>§</sup> K – Thousands. <sup>&</sup>In Karnataka, fine is per cattle.

<sup>\*</sup>The Bombay High Court (2016) held that possession will mean conscious possession.

Source: Respective State Laws; PRS.

1. Article 48, [The Constitution of India](#).
2. Section 4, [The Chhattisgarh Agricultural Cattle Preservation Act, 2004](#).
3. Section 4, [The Tamil Nadu Animal Preservation Act, 1958](#).
4. [Mohd. Hanif Quareshi and Others vs the State of Bihar](#), Supreme Court of India, April 23, 1958.
5. [State of Gujarat vs Mirzapur Kureshi Kassab Jamat & Others](#), Supreme Court of India, October 26, 2005.
6. [The Madhya Pradesh Govansh Vadh Pratishedh Adhiniyam, 2004](#).
7. [The Chhattisgarh Agricultural Cattle Preservation Act, 2004](#).
8. [The Maharashtra Animal Preservation \(Amendment\) Act, 1995 \(notified in 2015\)](#).
9. [The Haryana Gauvansh Sanrakshan and Guasamvardhan Act, 2015](#).
10. [The Karnataka Prevention of Slaughter and Preservation of Cattle Act, 2021](#).
11. [The Assam Cattle Preservation Bill, 2021](#).
12. [The Assam Cattle Preservation Act, 1950](#).
13. Sections 6, 6A, 6B, [The Madhya Pradesh Govansh Vadh Pratishedh Adhiniyam, 2004](#).
14. Section 6, [The Karnataka Prevention of Slaughter and Preservation of Cattle Ordinance, 2020](#).
15. Section 6, [The Chhattisgarh Agricultural Cattle Preservation Act, 2004](#).
16. Sections 93-105, [The Code of Criminal Procedure, 1973](#).
17. Section 165, [The Code of Criminal Procedure, 1973](#).
18. Section 100, [The Code of Criminal Procedure, 1973](#).
19. [State of Rajasthan vs. Rehman](#), Supreme Court of India, October 14, 1959.
20. Section 15, [The Immoral Traffic \(Prevention\) Act, 1956](#).
21. Section 12 (3), [The Rajasthan Bovine Animal \(Prohibition of Slaughter and Regulation of Temporary Migration or Export\) Act, 1995](#).
22. Section 7 (4), [The Maharashtra Animal Preservation \(Amendment\) Act, 1995](#).
23. Area of circle is pi times the radius squared. Thus,  $3.14 * 5 \text{ km} * 5 \text{ km} = 78.5 \text{ sq. km}$ .
24. "[Town Amenities-Assam](#)", District Census Handbook, 2011 Census, Office of Registrar General and Census Commissioner, Ministry of Home Affairs.
25. "[Village Amenities-Assam](#)", District Census Handbook, 2011 Census, Office of Registrar General and Census Commissioner, Ministry of Home Affairs.
26. "[Census Houses and the Uses to Which they are Put-Assam](#)", Houselisting and Housing Data, 2011 Census, Office of Registrar General and Census Commissioner, Ministry of Home Affairs.
27. [The Gujarat Animal Preservation \(Amendment\) Act, 2011](#).
28. Section 4, [The Rajasthan Bovine Animal \(Prohibition of Slaughter and Regulation of Temporary Migration or Export\) Act, 1995](#).
29. Section 5, [The Uttar Pradesh Prevention of Cow Slaughter Act, 1955](#).
30. [Policy for grant of license to the Meat Shops and Meat Processing Plants/Meat Storage Units of South Delhi Municipal Corporation \(SDMC\)](#), Veterinary Services Department, South Delhi Municipal Corporation, March 12, 2021.
31. "[Religion PCA-Assam](#)", Data on Religion, Population Enumeration Data (Final Population), 2011 Census, Office of Registrar General and Census Commissioner, Ministry of Home Affairs.

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