

# Cow Slaughter Laws as State-sanctioned Violence

ALOK PRASANNA KUMAR

The Karnataka Prevention of Slaughter and Preservation of Cattle Bill, 2020 is the most recent attempt of the Bharatiya Janata Party in the state to make for harsh cow slaughter laws, which have been used in the past to disproportionately target Dalits and Muslims across the country. The bill is poorly drafted and offends notions of rule of law and procedural justice, raising questions on whether it is even intended to be applied as a law or is just a tool of state-sanctioned violence.

The Karnataka Prevention of Slaughter and Preservation of Cattle Bill, 2020 was passed by the legislative assembly of the state on 9 December 2020 with no debate (Mohammed 2020). It is required to be passed by the Karnataka Legislative Council as well before it becomes law, but could find passage tough since the ruling Bharatiya Janata Party (BJP) does not enjoy a majority there and both the major opposition parties, the Congress and the Janata Dal (Secular) have indicated their strong opposition to the bill (Joshi 2020). As of going to press, the bill has yet to be tabled in the council as fights broke out between the councillors over a no-confidence motion against the chairperson of the council (Sastry 2020).

This is the second time that a BJP-led government in Karnataka has attempted to introduce harsh cow slaughter laws in the state. The previous attempts, with the Karnataka Prevention of Slaughter and Preservation of Cattle Bill, 2010 and Karnataka Prevention of Cow Slaughter and Preservation (Amendment) Bill, 2012 did not succeed as the bills were not passed but withdrawn by the subsequent Congress government in the state (Kumar 2014).

If the bill passes, Karnataka will join other states, such as Maharashtra, Haryana, and Uttar Pradesh in passing cow slaughter laws that go well beyond the constitutional mandate of Article 48—to improve the status of cows—and, instead, function as laws legitimising state-sanctioned violence against Dalits and Muslims.

In this column, I argue how the bill does not seem to have been drafted in a manner that is intended to be applied neutrally, and how it seeks to legitimise state-sanctioned violence against oppressed communities.

The bill ostensibly replaces the 1964 Karnataka law of the same name, but with significant differences. The 1964 law prohibited only the slaughter of cows, calves, and female buffalos without a certificate from the competent authority. The competent authority could issue such certificates indicating that the cattle in question were over 12 years of age or required to be slaughtered for some reason such as disease, incapacitation, or non-ability to produce milk. Slaughtering a cow, calf, or she-buffalo without such a certificate would result in a fine of up to ₹10,000 or imprisonment of up to six months.

The new law however prohibits the slaughtering of cow, calf, bull, bullock, or buffalo of any sex less than 12 years of age (Clause 4). It covers a much wider variety of animals and narrows the grounds on which a certificate for their slaughter can be obtained to disease and public health grounds (Clause 18). The penalties for the violation of the provisions of the bill have also been dramatically increased to a minimum of three years and a maximum of seven years or a fine of a minimum of ₹50,000 and a maximum of ₹5,00,000 or both (Clause 12). Both laws criminalise the transport and sale of cattle for slaughter contrary to the provisions of the laws, but the bill imposes much higher penalties on this too.

## A Botched Bill

The haste and lack of thought with which this bill has been drawn up is evident in two somewhat incongruous provisions. The term “beef” is defined in subclause (1) of Clause 2 as the flesh of cattle in any form. Yet, the term is never used again in the rest of the bill. This provision is supposed to tell us what the term “beef” in the bill means but the bill never actually uses this term in any context. Furthermore, unlike with certain other cow slaughter laws, this bill does not *per se* criminalise the possession or consumption of beef.<sup>1</sup> It is quite perplexing why this subclause is even present in the bill.

The same confusion arises when we see Clause 9 of the bill. It provides

Alok Prasanna Kumar ([alok.prasanna@vidhilegalpolicy.in](mailto:alok.prasanna@vidhilegalpolicy.in)) is a senior resident fellow at Vidhi Centre for Legal Policy, and is based in Bengaluru.

for the setting up of “Special Courts” for the purpose of “speedy disposal of disputes” under the bill. Yet, in the very next clause (Clause 10) vests the power of hearing appeals from the orders of the magistrates in a sessions judge in a district. Once again, it seems that a clause has been inserted in the law with little thought or even awareness of the rest of the clauses of the bill, suggesting that this is a shoddy, hotchpotch effort carried out by the state government.

These glaring errors in the bill should make us consider whether the Karnataka government really intended for a practicable, implementable, or coherent law to be passed. A detailed examination of the other clauses of this bill suggests otherwise.

### State-sanctioned Violence

The biggest difference between the two laws, however, are the provisions related to the power of search and seizure. Whereas the 1964 act has no such provisions, Clause 8 of the bill details provisions

that allow a police officer above the rank of sub-inspector (or a competent authority appointed by the government) to seize cattle and premises and materials used or intended to be used to commit an offence under the act on a mere “reason to believe” that an offence had been committed. This seizure is not seizure for the purposes of collecting evidence in order to gather and preserve evidence in the context of a crime;<sup>2</sup> rather it is intended to confiscate the property (excluding the cattle) if the subdivisional magistrate (SDM) deems it fit, and sell the same if it is “in the public interest to do so.” The seized cattle are supposed to be sent to a “gau shala” which may have been set up by a government or private body. Even if the accused manages to get the order of confiscation set aside by an appellate court, they have no right to the return of the property or the cattle, but only to the monetary value of their property sold in auction after deducting expenses.

The provisions of the clause are broad and vague, but the implications are clear:

the state is free to seize and dispose of the property of any person accused of the offence even if the accusation has no basis in fact. No order of court is needed and a mere hearing before an SDM with no right of representation, leading evidence, or filing documents is enough before the property is disposed of for whatever reason the SDM deems fit. The SDM is free to come to their own conclusion about whether an offence has been committed without waiting even for the accused to be duly charged of an offence.

The way the bill has been drafted, one gets the sense that the government is less interested in securing a conviction than turning “cow protection” into an excuse for state-sanctioned violence. State-sanctioned violence is defined as “acts of violence committed by an official state, military or sponsored by a sovereign government outside of a context of a declared war, which target civilians or show a disregard for civilian life in attacking targets—either people or facilities” (Delgado 2020: 25). Such state-sanctioned

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violence is often used to subject a marginalised group of people to further atrocities within the framework of law itself. The bill is a fine example of this.

No other law gives the executive such wide, uncontrolled authority to seize and dispose of citizens' property in such a crude manner. The Prevention of Money Laundering Act, 2002 for instance allows the confiscation of property that may be the proceeds of crime, but the property cannot be disposed of until the adjudicating authority (headed by a retired high court judge) has opined on the correctness of such attachment.<sup>3</sup> Even if the property is confiscated, it is kept under the administration of the central government and can be released if an accused is found not guilty of the offence of money laundering.<sup>4</sup>

The bill follows a pattern which was first seen (to the best of my knowledge) in the recently passed Uttar Pradesh Public and Private Property Damages Recovery Ordinance, 2020 in response to the Allahabad High Court refusing to allow the Uttar Pradesh government to intimidate and harass protestors against the Citizenship Amendment Act (Emmanuel 2020). It too makes those who are not proven guilty of an offence liable to pay compensation for any damage that may result in hartal, bandh, etc. Although it creates a Claims Tribunal headed by a retired district judge, which is required to allow legal representation, and take evidence and documentation before directing the accused to pay compensation, the procedures are far from robust and have been left to the discretion of the tribunal. Here too, the law is just a guise being adopted by a state hell-bent on targeting minorities and the vulnerable.

### In Conclusion

Even though it does not ostensibly ban the possession and consumption of beef, it is definitely likely to cause a shortage in supply with terrible consequences for nutrition in Karnataka, a state that is already facing a crisis as data from the National Family Health Survey show (Karpagam 2020). It is also likely to adversely impact the

lot of farmers in a state that is already facing a severe agrarian crisis (Daniyal 2020). Even though there is a constitutional mandate to protect cows and cattle in the interests of animal welfare, nowhere should it be read as a mandate to impoverish farmers, Dalits, or Muslims in a targeted manner. By threatening to do so, the Karnataka bill is an example of state-sanctioned violence being given protection under the cover of law.

### NOTES

- 1 See, for instance, Sections 5C and 5D of the Maharashtra Animal Preservation Act, 1976 introduced in 2015. Section 5D was, however, struck down by the Bombay High Court in *Sheikh Zahid Mukhtar v State of Maharashtra* (2016).
- 2 As provided for in the Code of Criminal Procedure, 1973.
- 3 Section 5(2) of the PMLA.
- 4 Sections 8(6) and 8(7) of the PMLA.

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