

5.Assam Prohibition of Polygamy Bill 2025 – Polity

Recently, the Assam government introduced the Assam Prohibition of Polygamy Bill, 2025 in the State Assembly seeking to criminalize polygamy

Key Provisions of the Bill

1. Jurisdiction and Applicability

General Applicability Across Assam – The Bill, once enacted, applies throughout the State of Assam. Designed to regulate marital practices in the interest of women's rights, gender justice, and social order.

Areas Exempted from the Bill – Not applicable in regions governed by the Sixth Schedule of the Constitution, which enjoy autonomous tribal governance

1. Bodoland Territorial Region (BTR)
2. Dima Hasao
3. Karbi Anglong
4. West Karbi Anglong

Exemption is based on protection of tribal customary laws and autonomous institutions.

Exemption for Scheduled Tribes under Article 342 – Scheduled Tribes who follow customary practices permitting polygamy are exempt. Aligns with constitutional protections for tribal autonomy and cultural preservation.

2. Extra-Territorial Application (Beyond Assam's Borders)

Residents of Assam Engaging in Polygamy Outside the State – A resident cannot evade the law by solemnizing a polygamous marriage in another state or country.

Non-Residents Connected to Assam – Non-residents will be covered if they

1. Own property in Assam, or
2. Avail benefits from welfare schemes, subsidies, or services funded by the Assam government.
3. Ensures that individuals linked to the state adhere to a common legal standard.

3. Punishment and Penalties

Primary Offence – Engaging in Polygamy

1. Punishment – Up to 7 years imprisonment + fine
2. Applies to anyone marrying while having a living spouse.

Concealment of Existing Marriage

1. Punishment – Up to 10 years imprisonment
2. Addresses fraud, deception, and exploitation of women.

Repeat Offenders – Subject to double punishment to deter habitual offenders.

4. Penalties for Religious Officials and Abettors

Penalizing Clerics, Priests, and Qazis – If they knowingly solemnize or facilitate a prohibited marriage

1. Imprisonment + fines up to ₹1.5 lakh.

Village Heads, Parents, Guardians, and Abettors

1. Punishment – Up to 2 years imprisonment + fine up to ₹1 lakh
2. Targets those who assist, coerce, or conceal polygamous marriages.

5. Safeguards and Exemptions

No Retrospective Effect – Polygamous marriages performed before the Bill becomes law and valid under existing personal or customary laws remain unaffected. Ensures fairness and protection from ex post facto criminality.

Proactive Police Intervention – Police officers are empowered to prevent prohibited marriages using preventive legal provisions. Strengthens enforcement and deters unlawful solemnisation.

Compensation Mechanism for Women – A designated authority will be created to

1. Process compensation claims
2. Provide financial and legal support
3. Address grievances of women exploited or abandoned due to polygamy
4. Ensures a survivor-centric framework.

Polygamy in India – Historical and Social Context

Polygamy – Practice of having more than one spouse at the same time. Historical presence in several Indian communities due to cultural, religious, and socio-economic factors.

Polygamy in Pre-Independence Era – Widespread across various castes, religions, and princely states. Justifications included customs, clan alliances, male preference, and patriarchal norms.

Post-Independence Reforms – Towards Monogamy

A. Hindu Marriage Act, 1955

1. Applied to Hindus, Buddhists, Jains, and Sikhs.
2. Made monogamy compulsory.
3. Section 5 – Marriage is invalid if either party has a living spouse.
4. Second marriage constitutes an offence under Section 494 (bigamy) IPC/BNS.

B. Special Marriage Act, 1954

1. Civil marriage law for interfaith or inter-caste couples.
2. Mandates monogamy regardless of religion.
3. Reinforces modern principles of individual choice and equality.

Present Legal Landscape (After 1950s Reforms)

A. Muslim Personal Law (Shariat) – Permits Muslim men to marry up to four wives, subject to equal and fair treatment. However,

1. Rarely practiced in modern India.
2. Under increasing scrutiny.
3. Supreme Court (2017) invalidated triple talaq, indicating judicial willingness to reform discriminatory practices.

B. Christian & Parsi Laws – Both communities are governed by their respective marriage acts, which prohibit polygamy.

C. Tribal and Customary Laws – Certain tribal communities, especially in the Northeast, follow traditions that permit polygamy. Constitution protects such customs, but they are increasingly challenged by –

1. Tribal women's groups
2. Rights-based civil society movements
3. Judicial interventions promoting gender equality

Rationale Behind Assam's Polygamy Prohibition Bill

1. Protection of Women's Rights – Polygamy often leads to

1. Financial insecurity
2. Abandonment
3. Emotional abuse
4. Lack of legal recourse for women

Bill aims to strengthen women's dignity, equality, and welfare.

2. Legal Harmonisation – Creates uniform marriage norms within Assam, barring Sixth Schedule areas. Aims to resolve conflicts among different personal laws.

THE LEGAL CHRONICLE

Conditions for Hindu Marriage

Here are the conditions for a valid Hindu marriage under Section 5 of the Hindu Marriage Act, 1955 :

1. **Monogamy**: Neither party should have a living spouse at the time of marriage.
2. **Sound Mind**: Both parties must be capable of giving valid consent, i.e., they must be of sound mind.
3. **Age**:
 - Bridegroom must be 21 years or above.
 - Bride must be 18 years or above.
4. **Prohibited Relationships**: The parties must not be within the degrees of prohibited relationship, unless allowed by custom.
5. **Sapinda Relationship**: The parties must not be sapindas of each other, unless allowed by custom.

3. Social Stability and Governance – Polygamy-related disputes often result in

1. Family conflict
2. Property disputes
3. Child custody issues

Reducing prevalence improves social order.

4. Child Welfare – Children from polygamous households may face

1. Neglect
2. Fragmented family environments
3. Reduced access to education and nutrition

Constitutional and Policy Implications

1. Article 25 – Religious Freedom – Polygamy is not considered an *essential religious practice* under Article 25. Therefore, the state can regulate it in the interest of –

1. Public order
2. Morality
3. Health
4. Gender justice

2. Intersection with UCC Debate – The Bill may influence broader discussions on a Uniform Civil Code, though it itself is not a UCC. Reflects state-level initiatives to reform personal laws where necessary.

Conclusion

The Assam Polygamy Prohibition Bill represents a major social reform initiative aimed at promoting gender equality, protecting women from exploitation, and harmonising the legal framework surrounding marriage. With strong enforcement provisions, survivor support mechanisms, and safeguards for tribal customary practices, the Bill seeks to balance constitutional values, cultural autonomy, and women's rights.

If enacted, it could become a model for other Indian states seeking similar reforms.



Source - <https://www.thehindu.com/news/national/assam/assam-govt-tables-bill-to-ban-polygamy/article70320800.ece>