



150 LAWS

APPEAL FOR REPEAL

ARUNACHAL PRADESH | ASSAM | MANIPUR | MEGHALAYA
MIZORAM | NAGALAND | SIKKIM | TRIPURA

Northeast States Compendium 2019

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An initiative of



In collaboration with



First published in 2019 by
Centre for Civil Society

Cover design and layout by
Usha Sondhi Kundu, Centre for Civil Society

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ISBN: 978-81-87984-47-4



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CCS is India's leading liberal think tank, ranked 81st worldwide by the annual study conducted by the Think Tanks and Civil Society Program at the University of Pennsylvania.



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With alliance offices in Gurugram (National Capital Region of India), New Delhi, Dubai, Seoul, Singapore, Bangkok, Manila, London and Kuwait, the Kaden Boriss' professionals are uniquely positioned to offer bespoke legal and regulatory advisory services to all businesses, private investors and Governments.

The brand and alliance 'Kaden Boriss' were originally founded by an internationally acclaimed corporate & policy lawyer and author Hemant Batra, who has since moved on to independent law practice. The law firm is now led by a group of managing partners designate namely, Preeti Wahi Batra, Amiya Ranjan Nayak, Swati Sharma Sulalit and Aditya Shankar. The law firm believes in having a strong commitment towards the community. Hence, Kaden Boriss actively supports socio-economic, community & societal initiatives and non-profit organisations, and provide them with pro bono legal services and financial support when required.



About Student Initiative for Promotion of Legal Awareness (SIPLA)

SIPLA is a student-led body at National Law School of India University (NLSIU), Bangalore under the aegis of the Student Bar Association, NLSIU. It is tasked with bridging the gap between theory & practice of the law by reaching out to academics & practitioners for the purposes of organizing single-credit courses, guest lectures and research projects on topical legal issues. It seeks to advance the institution's standards of academic scholarship and research. This objective is achieved by organising lectures, single credit courses and workshops by inviting dignitaries from different fields of law and social activism.



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NALSAR was established in 1998 by a Statute of the State of Andhra Pradesh. Since its inception, the University has been home to vital conversations on law and justice. Using law as an instrument of social change the University has supported crusades for land rights, disability empowerment and against moral policing and hate speech. NALSAR is committed to the creation of an ethical legal culture, which protects and promotes the rule of law. In accord with its liberal outlook, legal education is imparted in an inter-disciplinary manner. Consequently, there is convergence between the disciplines of law, social sciences, humanities, and management studies in both developing and executing the curriculum in the various degree and diploma courses. Teaching, we believe becomes monotonous and mediocre unless accompanied with both theoretical and empirical research. A symbiotic relationship between teaching and research has thus been proactively forged in the operation of the academic programs.

TABLE OF CONTENTS

Introduction	13
A Arunachal Pradesh - Repeal Law Compendium 2019	22
1 North-Eastern Areas Reorganisation Act, 1971	23
2 North-Eastern Hill University Act, 1973	24
3 The Contingency Fund of the Union Territory of Arunachal Pradesh (determination of Amount) Act, 1977	25
4 Arunachal Pradesh Freedom of Religion Act, 1978	26
5 Arunachal Pradesh Weights and Measures (Enforcement) Act, 1979	27
6 Arunachal Pradesh Eyes (Authority to Use Therapeutic Purposes) Act, 1991	28
7 Essential Services Maintenance (Arunachal Pradesh) Act, 1993	29
8 Arunachal Pradesh Excise Act, 1993	30
9 The Central Laws (Extension to Arunachal Pradesh) Act, 1993	31
10 Arunachal Pradesh Prevention of Defacement of Property Act, 1997	32
11 Arunachal Pradesh Homeopathic Council Act, 1998	33
12 Arunachal Pradesh Recording of Marriage Act, 2008	34
B Assam - Repeal Law Compendium 2019	35
13 Hackney Carriage Act, 1879	36
14 Agriculturists Loans Act, 1884	37
15 Bengal, Bihar and Orissa and Assam Laws Act, 1912	38
16 Assam Students and Juvenile Smoking Act, 1923	39
17 Assam Temperance Act, 1926	40

18	Assam Opium Smoking Act, 1927	41
19	Bijni Succession Act, 1931	42
20	Assam Births and Deaths Registration Act, 1935	43
21	Assam Moslem Marriages and Divorces Registration Act, 1935	44
22	Assam Disorderly Houses Act, 1936	45
23	Good Conduct Prisoners' Probational Release Act, 1938	46
24	Assam Hindu Women's Rights to Property (Extension to Agricultural Land) Act, 1943.	47
25	Assam Opium Prohibition Act, 1947	48
26	Assam Drugs (Control) Act, 1950	49
27	Assam Darrang and Lakhimpur Districts (Assimilation of Laws on the State Subjects) Act, 1951	50
28	The Assam Prohibition of Smoking in Show Houses Act, 1951	51
29	Assam (Alteration of Boundaries) Act, 1951	52
30	Assam Nowgong and Sibsagar (Assimilation of Laws) Act, 1953	53
31	The Assam Revenue Recovery (Extension to Lushai Hills) Act, 1954.	54
32	Assam Rhinoceros Preservation Act, 1954	55
33	Press and Registration of Books (Extension to Lushai Hills) Act, 1954	56
34	Assam Lushai Hills District (Acquisition of Chiefs' Rights) Act, 1954	57
35	Assam Prohibition of Smoking in Passenger Vehicles Act, 1954	58
36	Lushai Hills District (Change of Name) Act, 1954	59
37	Naga Hills-Tuensang Area Act, 1957	60
38	Assam Ganja and Bhang Prohibition Act, 1958	61
39	Assam Embankment and Drainage Validation Act, 1960	62

40	The Land Improvement Loans (Extension to Mizo And United Khasi Jaintia Hills District) Act, 1963	63
41	Agriculturists' Loans (Extension to United-Khasi-Jaintia Hills District) Act, 1963	64
42	Assam Prevention of Begging Act, 1964	65
43	The Assam Reorganisation (Meghalaya) Act, 1969	67
44	Armed Forces (Assam and Manipur) Special Powers (Amendment) Act, 1972	68
45	Assam Sillimanite Limited (Acquisition and Transfer of Refractory Plant) Act, 1976	69
46	Assam Right to Information Act, 2001	70

C Manipur - Repeal Law Compendium 2019 71

47	West Bengal Collective Fines Act, 1950	72
48	Orissa Warehouse Act, 1956	73
49	The Madhya Pradesh Land Improvement Schemes Act, 1957 (Manipur)	74
50	Punjab Backward Classes (grant Of Loans) Act, 1957 (Manipur).	75
51	Rajasthan Weights and Measures (Enforcement) Act, 1958 (Manipur)	76
52	Assam Municipal (Manipur Amendment) Act, 1961	77
53	Manipur (Sales of Motor Spirit and Lubricants) Taxation Act, 1962	78
54	The West Bengal Security (Manipur Amendment) Act, 1965	79
55	Orissa Preventive Detention Act, 1970	80
56	Manipur (Hill Areas) District Councils Act, 1971	81
57	Armed Forces (Assam and Manipur) Special Powers (Amendment) Act, 1972	82
58	Manipur State Road Transport (Prevention of Ticketless Passengers) Act, 1976	83
59	Manipur Agricultural Indebtedness (Relief) Act, 1976	84
60	Manipur Passengers and Goods Taxation Act, 1977	85

61	Manipur Professions Trades Callings and Employments Taxation Act, 1981	86
62	The Manipur Electric Supply Line (Unlawful Possession) Act, 1982	87
63	Manipur Essential Services Maintenance Act, 1984	88
64	Manipur Exhibition of Video Films (Regulation) Act,1989	89
65	Manipur Tax on Luxuries (Hotels and Lodging Houses) Act, 2000	90
66	Manipur Fiscal Responsibility and Budget Management Act, 2005	91
67	Manipur Compulsory Registration of Marriages Act, 2008	92

D Meghalaya - Repeal Law Compendium 2019 93

68	Meghalaya Provisional Collection of Taxes Act, 1931	94
69	United Khasi - Jaintia Hills Autonomous District (management And Control of Forests) Act, 1958	95
70	Meghalaya Appropriation (Vote on Account) Act, 1972, 1974, 1977, 1978, 1979, 1980, 1982, 1987, 1989, 1995, 1997, 1998, 1999, 2000, 2001, 2008, 2009	96
71	Meghalaya Finance Act(s), 1973, 1974, 1975, 1976,1977, 1978, 1979, 1980, 1994	97
72	Contingency Fund of Meghalaya (Augmentation of Corpus) Act, 1974	98
73	Meghalaya Rural Indebtedness Relief Act, 1975	99
74	Meghalaya Assembly Proceedings (protection Of Publication) Act, 1977	100
75	Shillong Electricity Supply Undertaking (acquisition) Act, 1977	101
76	National Sports Club of Assam (Taking-over of Management) Act, 1978	102
77	The Gauripur (Gholla) Zamindars' Annuity Rights Abolition and Extinguishment Act, 1979	103
78	Meghalaya Essential Services Maintenance Act, 1980	104

79	Legislative Assembly of Meghalaya (Members' Salaries and Allowances) (Amendment) Act, 1981	105
80	Lepers (Meghalaya Repeal) Act, 1990	106
81	Meghalaya Professions Trades Calling and Employments Taxation (Amendment) Act, 1991	107
82	Meghalaya Preventive Detention Act, 1995	108
83	Meghalaya Appropriation No. 1 Act(s) 1998, 2000	109
84	Meghalaya (Mobile Phone Connection) Cess Act, 2002	110
85	Meghalaya Tax on Luxuries Act, 2005	111

E Mizoram - Repeal Law Compendium 2019 112

86	Mizoram Urban Areas Rent Control Act, 1974	113
87	Mizoram Union Territory Legislature Members (Removal of Disqualification) Act, 1975	114
88	Prisons (Extension to Mizoram) Act, 1980	115
89	Contingency Fund of the State of Mizoram (Determination of Amount) Act, 1987	116
90	Mizoram Sales Tax, 1989	117
91	The Mizoram Maintenance of Essential Services Act, 1990	118
92	Mizoram Public Libraries Act, 1993	119
93	Mizoram (Pension for Members of the Defunct Mizo District Council and of the Pawi-Lakher Regional Council) Act, 1994	120
94	The Mizoram Prevention of Defacement of Property Act, 1995	121
95	Mizoram Professions Trades Callings and Employments Taxation Act, 1995	122
96	Mizoram Motor Vehicles Taxation Act, 1996	123
97	Mizoram (Taxes on Land Buildings and Assessment of Revenue) Act, 2004	124
98	Mizoram Value Added Tax Act, 2005	125

99	Mizoram Passengers and Goods Taxation Act, 2005	126
100	Mizoram Fiscal Responsibility and Budget Management Act, 2006	127
101	Mizoram Road Fund Act, 2007	129
102	Mizoram Clinical & Health Establishment (Regulation) Act, 2007	130
103	Mizoram Compulsory Registration of Marriages Act, 2007	132
104	Mizoram State Agricultural Produce Marketing (Development and Regulation) Act, 2008.	133
105	Mizoram Drug (Controlled Substances) Act, 2016	134

F Nagaland - Repeal Law Compendium 2019 136

106	Nagaland Amusement Tax Act, 1965	137
107	The Nagaland Finance (Sales Tax) Act, 1967	138
108	Nagaland Motor Vehicles Taxation Act, 1967	139
109	The Nagaland Passengers and Goods Taxation Act, 1967.	140
110	Nagaland Professions Trades Callings and Employments Taxation Act, 1968	141
111	Legislative Assembly of Nagaland (change In Representation) Act, 1968	142
112	The Nagaland Essential Services (Maintenance) Act, 1978	143
113	Nagaland Prevention of Defacement of Property Act, 1985	144
114	Nagaland Health Care Establishments Act, 1997	145
115	Nagaland Fiscal Responsibility and Budget Management Act, 2005	146

116	Nagaland Agricultural Produce Marketing (Development And Regulation) Act, 2005	147
-----	--	-----

G Sikkim - Repeal Law Compendium 2019 **148**

117	The Sikkim Cultivators Protection (Temporary Provisions) Act, 1975	149
118	Sikkim Agricultural Land Ceiling and Reforms Act, 1977	150
119	Sikkim Cinemas (regulation) Act, 1978	151
120	The Sikkim Essential Services Maintenance Act: 1978, 1985, 1993	152
121	Sikkim Motor Vehicles Taxation Act, 1982	153
122	The State Bank of Sikkim (Acquisition of Shares) And Miscellaneous Provisions Act, 1982	154
123	Sikkim Prevention of Defacement of Property Act, 1988	155
124	Denzong Agricultural Co-operative Limited (acquisition Of Certain Shares And Miscellaneous Provisions) Act, 1991	156
125	Sikkim Excise Act, 1992	157
126	Sikkim Prohibition of Smoking and Non-smokers Health Protection Act, 1997	158
127	Sikkim Essential Services Maintenance Act, 2000	159
128	Sikkim Prohibition of Beggary Act, 2004	160
129	Sikkim Agricultural Produce Marketing (Development and Regulation) Act, 2005	162
130	Sikkim Tax on Professions, Trades, Callings and Employments Act, 2006	163
131	Sikkim Fiscal Responsibility and Budget Management Act, 2010	164

H Tripura - Repeal Law Compendium 2019 **165**

132	West Bengal Security (Tripura Re-enacting) Act, 1967	166
-----	--	-----

133	Tripura Buildings (Lease and Rent Control) Act, 1975	167
134	Tripura Agricultural Indebtedness Relief Act, 1979	168
135	Tripura Homeo-pathic System of Medicine Act, 1979	169
136	The Tripura Medicare Service Persons and Medicare Service Institutions (Prevention of Violence and Damage to Property) Act, 2013	170
137	Tripura Tea Companies (Taking Over of Management of Certain Tea Units) Act, 1986	171
138	Tripura Excise Act, 1987	173
139	Tripura Additional Sales Tax Act, 1990	174
140	Tripura Educational Institution (Prevention of Ragging Act), 1990	175
141	Tripura Purchase Tax Act, 1990	176
142	Tripura Tax on Luxuries in Hotels and Lodging Houses Act, 1990	177
143	Tripura Entertainment Tax Act, 1997	178
144	Tripura Professions Trades Callings and Employments Taxation Act, 1997	179
145	The Tripura Protection of Interests of Depositors (In Financial Establishments) Act, 2000	180
146	Tripura Security Act, 2000	181
147	Tripura Recording of Marriage Act, 2003	182
148	Tripura Value Added Tax Act, 2004	183
149	Tripura Fiscal Responsibility and Budget Management Act, 2005	184
150	Tripura State Legislature Members (Declaration of Assets and Liabilities) Act, 2006	185

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INTRODUCTION

A modern democratic society finds its basis on the *Rule of Law*.¹ The rule of law explains the behaviour of private agents along with the functionality of public administration. It requires that laws are drafted in a manner that is precise, principle-based, well-written and well-coded. Further, they should fulfill the need of the hour, i.e., they are dynamic and adapt to changes in society. Legislative bodies in India have shown enthusiasm for both drafting new laws, rules, policies, regulations and amending existing ones. But this enthusiasm has led to the formation of laws, at both the central as well as the state level, that are repetitive in nature or have become redundant or obsolete with the advent of time. This results in an environment fraught with substantial legal risk and uncertainty, and an overburdened judicial system. Another factor that has contributed towards laws becoming obsolete is the inconsistency in language and dissemination. This has resulted in difficulty for laymen to retrieve and apprehend legal information. Not only this, but such laws have also proved to be a factor that has encouraged corruption and discouraged firms and individuals to engage with the economy or society at large.

The goal of making India a developed nation bears its roots in sound laws with a focus on developing a State that can enforce these laws. Such a State demands statutory-legal reform on a large scale. The Repeal Laws Initiative, which is a collaborative initiative among the Centre for Civil Society (CCS), Symbiosis Law School, Noida (SLS, Noida) and Kaden Boriss Partners (KDB) aimed at conducting in-depth research into the legal structure of the country. It highlighted the fact that some parts of India demand a re-

structuring of laws, while a deeper analysis in other parts can prove to be beneficial. This is a research and advocacy initiative that aims to identify laws that are redundant or which materially impede the lives of citizens, entrepreneurs, and the government. Each organisation involved has lent staff to analyse laws passed over different periods and review the recommendations of various expert committees. Since this was an experiment to explore how collaborative working may help achieve a common goal, we kept the contours of the project simple: laws that could be repealed wholesale, were not too controversial, were material enough to help initiate reforms, and would help sell the idea of a clean and effective legislative and legal system.

This project is an experiment to demonstrate how external experts may be able to help the government on different issues, and how a thinking machine might further common ideals and help build state capacity. The project does not aim to reinvent the wheel. It simply revisits the work and recommendations of several experts before, and provides a clean compendium of laws that can easily be repealed with minimal discomfort or encumbrances. The project was initiated by first deciding the states to be studied. After rigorous discussion amongst the associates from CCS, KDB, and SLS, Noida, it was decided that the laws in effect in Northeast India comprising of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Tripura, Nagaland, and Sikkim would be analysed for the project.

The next step was to identify all the laws in effect in the concerned states. The team used various law portals, Vidhan Sabha archives, Delhi archives, and several other portals to

¹Authors: Abhi Sharma, Akriti Gupta, Arjun Sahni, Bhavya Sareen, and Soorya B. The authors are grateful to Prof. (Dr.) CJ Rawandale, Director Symbiosis Law School, and Mr. Karan Gulati for their valuable comments and inputs.

identify the laws. Over 1500 laws were identified in the 8 states. After identification of laws, the research team considered various factors, as well as their experiences to intelligibly filter the laws into three categories: (i) need to be repealed; (ii) requires further research, (iii) and laws that have been subsumed by subsequent legislation. These short-listed laws were then divided amongst the students to conduct an in-depth analysis and release a report with the help of the team at CCS. The report was taken into consideration by associates from KDB, who vetted the report and acted as blind reviewers. This vetted report further passed through a dual mechanism of cross-checking, which was undertaken by the teams at CCS and Symbiosis.

The laws were also divided into five categories. This was done based on a scientific 'grading' method, whereby laws were classified into five categories. The grades for each category were assigned after taking into consideration certain factors. Grade 5 provides for all those laws which were recommended by Law Commission Reports or other Government Reports. Grade 4 provides for all those laws which have become redundant pursuant to the re-organisation of the State. Grade 3 provides for all those laws which have been criticised with the help of the judgments. Grade 2 provides for all those laws which have been superseded or subsumed by a subsequent law. Lastly, Grade 1 contains a set of laws that have been criticised by the authors.

REPEAL LAW PROJECT AND ITS BACKGROUND

Laws need to adapt to changes in society. However, this concept is often only true in theory. To implement the same, laws must either be amended or repealed. Hence, the repealing of laws is a necessary part of the functions of any government. Several laws have existed in India for a long time and have now become redundant. These laws need to be repealed. These redundant laws hinder the process of governance. They lead to woes and hardships for the public. For example, Land Ceiling Acts prevent farmers from owning more than a prescribed limit of land and hence not only put a ceiling on land ownership but also income.² Acts may also not align with Fundamental Rights. For example, the Arunachal Pradesh Freedom of Religion Act prevents a person from choosing her religion and thereby may violate the freedom to choose religion.³

The repealing of redundant and obsolete laws has a long history in India. In 2001, the then Government had implemented recommendations put forth by the Law Commission of India (LCI) as well as the Report of the Commission on Review of Administrative Laws, 1998 (PC Jain Commission). These reports advocated for statutory legal reform. Next, during the 2014 General Election campaigns, the Bhartiya Janata Party (BJP)'s primeminister

²Time for India to do away with agricultural land ceiling laws, Ila Patnaik and Shubho Roy, The Print, 8 March 2019,

³Arunachal Pradesh to scrap anti-conversion law: CM Pema Khandu, Rahul Karmakar, The Hindu, June 29th 2018.

⁴Repealing and Amending Act, 2015, Act 17 of 2015, 13th May 2015; Repealing and Amending (second) Act, 2015, Act 19 of 2015, 14th May 2015; Appropriation Acts (Repeal) Act, 2016, Act 22 of 2016, 6th May

rial candidate promised the electorate that his administration would attempt an extensive statutory legal clean up. Keeping up with that promise, the Government has passed seven repealing and amending Acts since 2014.⁴

The process of repealing laws by the 2014 NDA government began with the Repealing and Amending Act, 2015. A total of 125 laws were repealed,⁵ and another 945 were identified to be repealed in the future. This was the first time since 2001 that the government had taken such an initiative concerning the repealing of redundant laws. A bigger repeal of law initiative was taken in the year 2017 when the government decided to repeal 1200 redundant Acts which had lost their value.⁶ It also identified 1824 more laws to be repealed in the future. Ravi Shankar Prasad (the Law Minister) stated that “the government [was] determined to relegate several archaic Acts to history.”⁷ In keeping with the same, the Government, as recently as July of 2019 passed a bill in the Lok Sabha for the repeal of 58 archaic laws that had existed from the pre-colonial period.⁸

To support the initiative of the Government, and to identify the laws that should be repealed, the Centre of Civil Society (CCS), the National Institute of Public Finance and Policy (NIPFP) Macro-Finance Group, and the Vidhi Legal Policy Centre, began what was

called the ‘*Repeal of 100 laws*’ Project.⁹ This was an independent research and advocacy initiative to identify central laws that were either redundant or a material impediment to the lives of citizens, entrepreneurs, and the Government. The results of the initiative were articulated in a report titled 100 Laws Repeal Project.¹⁰ This was further acknowledged by a Report on ‘Obsolete Laws: Warranting Immediate Repeal’,¹¹ published by LCI in September 2014. This project is an experiment to demonstrate how external experts may be able to help the government on different issues, and how a thinking machine might further common ideals and help build state capacity. It simply revisits the work and recommendations of several experts before and provides a clean compendium of recommendations that can easily be executed with minimal discomfort or encumbrances.¹²

After identifying laws to be repealed in the Centre as well as in the states, CCS collaborated with SLS, Noida, NALSAR and NLSIU to study 8 States in Northeastern India. The region faces a varied set of challenges that are unique due to societal differences. Laws such as the Armed Forces (Special Powers) Act (AFSPA) are still in force, which has gained both national and international criticism. Several bodies and experts, includ-

2016; Repealing and Amending Act, 2016, Act 23 of 2016, 6th May 2016; Repealing and Amending Act, 2017, Act 2 of 2018, 5th January 2018; Repealing and Amending (second) Act, 2017, Act 4 of 2018, 5th January 2018; Repealing and Amending Act, 2019, Act 31 of 2019, 8th August 2018.

⁵PTI. “Modi Government Repeals 125 Obsolete Laws; 945 More Facing Axe.” The Economic Times, 27 May 2015.

⁶Nair, Harish V. “Goodbye, Old Laws: Modi Government Scraps 1,200 Redundant Acts, 1,824 More Identified for Repeal.” India Today, 22 June 2017.

⁷*Ibid.*

⁸PTI. “Lok Sabha passes bill to scrap 58 archaic laws.” India Today, 29 July 2019.

⁹Shah, Parth J. “The 100 Laws Project.” Centre for Civil Society, Centre for Civil Society, 2014.

¹⁰PTI. “Repeal Obsolete Laws, Develop Border Areas: Minister of State for Home Kiren Rijiju.” The Economic Times, Economic Times, 2 Aug. 2015.

¹¹*Ibid*

¹²Supra note 8, Shah.

ing the UN Special Rapporteurs¹³ on violence against women, extra-judicial executions and human rights defenders, have also called for the repeal of the AFSPA. A study of these states aligns with the aim of the government to have minimum government and maximum governance.

The aim of the government also requires individually researching each State. Laws redundant in one, may be relevant in another. The region has also been isolated from the rest of the country, leading to varying laws and varying processes. Kiren Rijju, in his interview with the Press Trust of India, stated that “India is a large country but when you reach the border areas you feel we are not that large country or to say we feel small.”¹⁴ He asserted that laws that were made in the 1950s and 60s must be discontinued as they are not based on current technological or social trends in society. The Northeastern region has been facing difficulties due to redundant and archaic laws that have outlived their purpose and therefore need to be repealed within the required time. This would aid in maintaining a sense of peace in the region. This process requires consultation with all stakeholders involved, including citizens, think tanks and NGOs, policymakers, etc.

RESEARCH METHODOLOGY

The identification of laws recommended for repeal in this compendium has been down through a scientific 'grading' method. The grading method has been explained below.

'Grading' of Cases for Repeal

All laws contained herein have been assigned a 'grade point', ranging from 1 to 5. A grade point of 5 indicates the strongest possible case for repeal, whereas 1 indicates a relatively weak case. In assigning grade points, the following factors, inter alia, have been considered:

1. whether the law has been recommended for repeal by Law Commission Reports or other Government Reports,
2. whether there have been judgements that have criticised the law and given a recommendation for repeal,
3. whether the law has become redundant due to the reorganisation of States or the law has outlived its purpose,
4. whether the law has been subsumed or superseded by a new, subsequent Central/State law.
5. whether the law impedes individual liberties.

Key Features

This compendium of "Repeal Law Compendium for Northeastern States of India" has a total of 150 laws ranging from British to more recent times. There are laws dealing with various subjects and the reasons for repeal are also very varied. Few of the key features are:

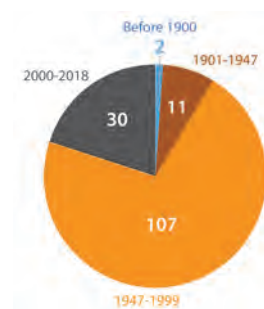


Figure 1: Law Enactment Year

¹³PTI. "Amnesty International Advocates Repeal of AFSPA in North East." The Economic Times, 12 July 2015.

¹⁴Ibid.

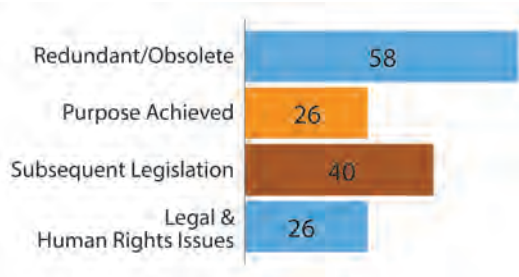


Figure 2: Reasons for Repeal

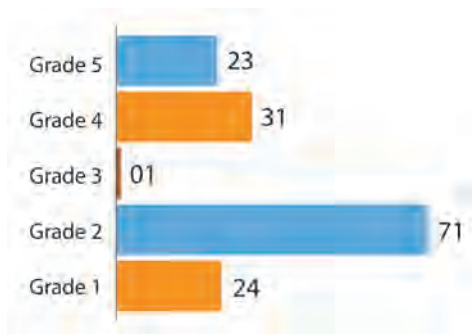


Figure 3: Grading

UNDERSTANDING THE LAWS

Northeastern States are an integral part of India. The Ministry of Development of North Eastern Region and the Northeastern Council, look after government programs in the region and act as the nodal agencies for economic and social development. However, there are still several redundant and obsolete laws still prevalent in these states. With the changing needs of society, there is a need for legal provisions to adapt to the same. Old, redundant, and obsolete laws increase the burden on the justice delivery system and hence should be repealed. The presence of such laws only clutters the statutory books of the nation

and tend to create confusion in the minds of the laypersons. 150 laws have been identified to be recommended for repeal in these states. All the laws identified during the project may be classified into three headers, i.e., administrative and personal, corporate, or criminal by identifying the legal theme behind these provisions.

Administrative and Personal Laws

As per Shah,¹⁵ there is a need for a National Repeal Laws Day to institutionalise the practice of the repeal of archaic and illiberal laws. This would aim at making the legislature more robust and ensure the liberties of all citizens are protected. Several draconian laws are overburdening the legal system of India. The effect of these laws is not untouched in Northeastern States.

Administrative and personal laws form one of the most essential areas in terms of their importance to public administration. However, if not properly implemented, they can become a hindrance in smooth administration. They may lead to time consuming and vexatious litigation. For example, the Indian Motor Vehicles Act, 1914 required that an inspector should have well-brushed teeth or shall be disqualified.¹⁶ This negates any form of individual autonomy of a public official and is an infringement of individual freedom. It may also be said to be violative of Article 19 of the Indian Constitution and acts as an example of poorly conceptualised British era laws.¹⁷ However, repealing these laws is not enough. The repealing legislation has to be cautious of the legal framework created by such repeal. Noorani, discussing the repeal of POTA, highlighted that “the bill intended ...as a replacement for POTA retains some of the bad

¹⁵Shah, P., India Urgently Needs A ‘National Repeal Laws Day’. Spontaneous Order, 15th January, 2019.

¹⁶Indian Motor Vehicles Act, 2014, Act 27 of 1914.

¹⁷Supra note 20, Art. 19.

features of the repealed legislation. Moreover, ...it appears more draconian and violative of the fundamental right to freedom of association.”¹⁸

Another example is the Agriculturists Loans Act, 1884,¹⁹ which was enacted to amend and provide for the extension to certain territories of the Northern India Takkavi Act, 1879.²⁰ The said Act is subsidiary to the Northern India Takkavi Act, 1879. Since the Act of 1879 is not listed in the Chronological List of Central Acts published by the Ministry of Law and Justice and hence, it does not function now, thus, making the current Act obsolete. Apart from being archaic and obsolete, laws in the Northeast have also been subsumed by subsequent legislation. One such example is the Assam Disorderly Houses Act, 1936.²¹ It provides that if a Magistrate is satisfied that a house is used as a brothel; he may direct the owner of the house to discontinue such use. India has enacted a central legislation in lieu of its obligations under Article 253 of the constitution and the New York Convention,²² namely, the Immoral Traffic (Prevention) Act, 1956.²³ Such overlap causes both (i) confusion for a layperson, and (ii) a burden on the judiciary.

Part XI of the Indian Constitution provides for the Relation between the Union and the

State.²⁴ Article 246 provides that when there is a conflict of laws between the Centre and the State, the law made by the Centre shall prevail.²⁵ In such cases, Courts apply legal principles such as the Doctrine of Pith and Substance, and the Doctrine of Ancillary Powers.²⁶ Courts in India have not been too rigid on checking upon a law by either testing on any touchstone or applying various doctrines with an idea to identify whether substantive or procedural ultra vires exist, and thereby declaring the piece of legislation as unconstitutional or invalid. Courts have attempted to provide guidelines to prevent disharmony between laws. However, a proper legislative framework requires that obsolete laws are repealed, both in the Northeast, as well as the rest of India.

Corporate Laws

Due to the dynamic nature of the corporate environment, laws made to regulate the same need to be at par with the ever-changing nature of business. This has often not been accomplished.²⁷ Redundant and obsolete laws often clog the first line of business and become a roadblock to fruitful economic development in a particular area, herein, the Northeast.

¹⁸Noorani, A.G., 2005. Repeal of POTA and UPA's Bill. *Economic and Political Weekly*, pp.11-12.

¹⁹Agriculturists Loans Act, 1914, Act 12 of 1914.

²⁰Northern India Takkavi Act, 1879, Act 10 of 1879.

²¹Disorderly Houses Act, 1936, Act 4 of 1936.

²²Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, art. X, 25 July, 1951, 271 U.N.T.S. 96.

²³The Immoral Traffic (Prevention) Act, 1956, Act. 104 of 1956.

²⁴Supra note 22

²⁵Ibid

²⁶See Tony Blackshield, Working the Metaphor: The Contrasting Use of 'Pith and Substance' in Indian and Australian Law, 50 *J. Ind. L. Ins.* 518, XX (2008); Subrahmanian Chettiar v. Muttuswamy Goundan, 1940, AIR 141 FC. 51, at 201 (India); and G.K. Gahrana, Supreme Court and Legislative Relations between the Union and the States.25 *J. Ind. L. Ins.* 27, XI (1964).

²⁷Cabrelli, D. and Siems, M., 2015. Convergence, legal origins, and transplants in comparative corporate law: a case-based and quantitative analysis. *The American Journal of Comparative Law*, 63(1), pp.109-154.

Much like the laws discussed above, legislations comprising of Corporate Laws have not remained untouched by subsequent legislation. Some instances relating to it are of the Foreign Exchange Regulation Act, 1973 (FERA)²⁸ having been repealed by the Foreign Exchange Management Act (FEMA)²⁹ and the Money Laundering Act, 2002.³⁰ Often when legislation is subsumed by another enactment, newly conferred rights come with new liabilities, often understood as jural correlatives.³¹ Matters related to Corporate law in violation of the Public Trust Doctrine often involve the interest of the State, where parties claim that the law is a colorable exercise of power. The Northeast Development Council in its vision 2020 in resource mobilization for expenditure control has highlighted: “Subsidies which have not served their objectives or have become irrelevant in the present context should be repealed. For instance, with the introduction of a generous industrial policy for the NER States, many State/provided subsidies which have not been able to make a difference should be stopped. This makes a perfect case for regional cooperation.”³²

The laws identified in the repeal law project, including the current class of laws, demonstrate the idea of reform in the legal system. One such law is the Manipur Passengers and Goods Taxation Act³³ 1977. It provides for the levy of a tax on passengers and goods car-

ried by road in motor vehicles or on inland waterways by boats. However, this law has been subsumed by the Manipur Goods and Services Act,³⁴ 2017. Another example is the Nagaland Fiscal Responsibility and Budget Management Act,³⁵ 2005. The Act was enacted to ensure prudence in fiscal management and fiscal stability by reducing revenue deficit and to further the goal of prudent debt management in the state of Nagaland. However, the targets for fiscal and revenue deficit reduction in the present Act and Rules have proved to be malleable. This has led to successive deferment of targets in the State’s compliance with the Act. Instances of understatement of expenditures and an extensive list of transparency issues are continuing causes of concern.

The above-stated examples provide a wider glimpse of the multi-dimensional approach of repeal as a necessary corollary to the law-making process. When a subsequent law is enacted, it is necessary that all laws subsumed by the same are studied, and repealed if necessary. Though courts have been actively providing checks and balances by holding laws unconstitutional or ultra-vires, the duty to repeal laws is on the legislature. Courts are interpretative bodies and do not legislate on matters. This is best described by the following words of the Supreme Court: “If a provision of law is misused and subjected to the

²⁸Foreign Exchange Regulation Act, 1973, Act 46 of 1973.

²⁹Foreign Exchange Management Act, 1999, Act 42 of 1999.

³⁰Prevention of Money Laundering Act, 2003, Act 42 of 2003.

³¹Singer, J.W., 1982. The legal rights debate in analytical jurisprudence from Bentham to Hohfeld. *Wis. L. Rev.*, p.975.

³²North-Eastern Region Vision 2020, Ministry of Development of North-Eastern Region and North-East Council, 2008.

³³Manipur Passengers and Goods Taxation Act, 1978, Act 1 of 1978.

³⁴Manipur Goods and Services Act, 2017, Act 3 of 2017.

³⁵*Nagaland Fiscal Responsibility and Budget Management Act*, 2005, Act 7 of 2005.

³⁶Maulavi Hussein Haji Abraham Umarji v. State of Gujarat, 2004 Cri LJ 3860 (India), Unique Butyle Tube Industries (P) Ltd. v. U.P. Financial Corpn., 2002 Supp. 5 SCR 666 (India) and Padma Sundara Rao v. State of T.N., 2002 255 ITR 147 (India).

abuse of the process of law it is for the legislature to amend, modify or repeal it, if deemed necessary.”³⁶

Criminal Laws

Criminal laws prohibit an act or omission that threatens or endangers the property, health, safety, and moral welfare of others.³⁷ Such criminal commission or omission is an offense. To make sure that such offenses are not repeated in the future, and proper law and order is maintained in the society, these laws prescribe punishments in the form of fines or prison sentences or sometimes certain rehabilitative treatments. Acts such as beggary, smoking certain substances, ragging, etc. are some of the acts, the commission of which, is a penal offense.³⁸ This sub-section analyses the archaic and obsolete penal provisions identified in the Northeastern states of India. This is done based on the grading methodology adopted in the repeal law initiative.³⁹

A majority of the penal provisions analysed in the current study were graded ‘2’ under the grading methodology. This means that most penal laws have been subsumed by subsequent legislation. This leads to dual legislation on the same subjects, leading to repugnancy in the laws.

There are several statutory provisions in Northeastern states that have been subsumed by the issue of subsequent legislation. Le-

gal provisions related to several topics such as anti-begging laws, anti-strike laws by the employees, prevention of violence against the medical practitioners and institutions, proper electricity regulation, etc. are some of the offences upon which subsequent laws have been framed. Due to overlapping central and state provisions, multiple legislations only lead to confusion. This concept of the overlapping of the laws made by the center as well as the state legislators is referred to as ‘repugnancy’.⁴⁰

To ease the process of law-making and prevent any collision between the Central and State legislators, the VIIth Schedule of the constitution contains three lists that distribute law-making power. While list I and II contain subject matter to be covered by central and state legislators respectively, list III contains subject matters upon which both can frame laws. In 1933, the Joint Committee on Indian Constitutional Reforms suggested the presence of list III (concurrent list), in the constitution.⁴¹ This proposal later became a part of the Government of India Act, 1935 and subsequently, the current constitution.⁴² However, a lacuna of this proposal is the redundancy of laws. Due to the formation of subsequent legislations on the same subject matter, statutory books are increasingly burdened with similar laws by both the Center as well as the States.

³⁷Duff, A., 2011. Theories of criminal law. Stanford Encyclopedia of Philosophy.

³⁸See for example Assam Prevention of Begging Act, 1964, Assam Prohibition of Smoking in Passenger Vehicles Act, 1954, Tripura Educational Institution (Prevention of Ragging Act), 1990, etc.

³⁹See section 1 for the grading methodology.

⁴⁰Sevta, P., 2013. Doctrine of Repugnancy. Available at SSRN 2245805.

⁴¹The Constitution of India, 1950, schedule VII.

⁴²Bakshi, P.M., 2013. Concurrent powers of legislation under List III of the Constitution. Ministry of Law and Justice.

⁴³Supra note 20, Art. 246 (Subject-matter of laws made by Parliament and by the Legislatures of States.)

⁴⁴Karunanidhi Vs. Union of India, AIR 1979 SC 898; (1979) Cri LJ 773. See also A.S. Krishna v. State of Madras, AIR 1957 SC 297, H. Naik, Official Liquidator, Puri Bank Ltd. v. Kanhu Charan Das, AIR 1954 Ori 186, Tika Ramji Vs. State of UP, (1956) SCR 393; AIR 1956 SC 676, Ahmedabad Mill Owners’ Association

Thus, the co-existence of Central and State laws in a particular area can give rise to litigation. As per Article 246,⁴³ if there is any overlap in subject matters mentioned in any of the three lists,⁴⁴ the predominance of the Union list will be upheld⁴⁵. In this case, the state government is not entitled to make laws on that subject matter. Even if it is formed, the law made by the central government will prevail. As per the decision of the Supreme Court in the matter of *Prafulla Kumar Mukherjee*,⁴⁶ the doctrine of pith and substance is applied when the legislative competence of a legislature concerning a particular enactment is challenged.⁴⁷ Emphasis is laid on the 'nature and true character of the legislation' and the substance of the legislation. Further, Article 254 (2) of the constitution provides supreme powers to the Centre for making laws on the common subject matters⁴⁸. Despite the presence of the State laws, if a new central law is enacted, the central law will prevail.

While the test of pith and substance gives importance to the purpose of the law, the test of repugnancy confers absolute powers to the central government. This not only creates confusion, but it also increases redundancies as subsequent central legislations are enacted. One such law is the Sikkim Essential Services Maintenance Act, 2000.⁴⁹ It aims to consoli-

date the law relating to employees who go on strikes against bad working conditions, non-payment, etc. The provision to make laws to safeguard the working conditions of employees is governed by a central legislation, i.e., the Essential Services Maintenance Act, 1981.⁵⁰ Along with it, the Act is draconian in nature and suppresses the dissent of employees by imprisoning them and imposing fines along with removing them from employment.⁵¹ Similar laws exist in the states of Nagaland and Manipur, further adding to the redundancy.⁵²

Similarly, the Good Conduct Prisoners Probationary Release Act, 1938,⁵³ prescribes conditions for conditional release from prison under certain special circumstances. But subsequent to it, a central legislation, i.e., the Probation of Offenders Act, 1958 laid down more detailed and objective criteria for conditional release⁵⁴. Since the latter is a central legislation with more detailed provisions, the new Act has become redundant and obsolete. Thus, it should be repealed. There are several punitive laws upon which both the state and central legislators have framed laws. Without being repealed, such laws not only add confusion but also burden the judicial system of the nation.

Vs. I.G., AIR 1967 SC 1091, *Raghubir Vs. State of Haryana*, AIR 1981 SC 2037, *Western Coalfields Vs. Special Area Development*, AIR 1982 SC 697.

⁴⁵*Subramaniam v. Muttuswami*, (1940) 45 CWN 1.

⁴⁶*Prafulla Kumar Mukherjee v. Bank of Commerce Ltd.*, AIR 1947 PC 60.

⁴⁷*State of Rajasthan Vs. G. Chawla*, AIR 1959 SC 544, 547, See also *Southern Pharmaceuticals Vs. State of Kerala*, AIR 1981 1865, paragraph 15, *Prem Vs. Chhabra*, (1984) 2 SCC 302 (Cite more cases on pith and substance here)

⁴⁸*Supra* note 20, Art. 254 (Inconsistency between laws made by Parliament and laws made by the Legislatures of States.)

⁴⁹*Sikkim Essential Services Maintenance Act, 2000*, Act 13 of 2000, 17th April 2000.

⁵⁰*Essential Services Maintenance Act, 1981*, Act 40 of 1981, 23rd September 1981.

⁵¹*M/S Burn & Co. Ltd. V. Their Workmen*, 1960 AIR 896

⁵²*Nagaland Essential Services Maintenance Act, 1978*, Act 4 of 1978, 6th June 1978; and *Manipur Essential Services Maintenance Act, 1984*, Act 14 of 1984, 22nd November 1984.

⁵³*Good Conduct Prisoners Probationary Release Act, 1938*, Assam Act 2 of 1938.

⁵⁴*Probation of Offenders Act, 1958*, Act 20 of 1958, 16th May 1958.

Other factors which also influence the laws to be repealed are existing acts violating the fundamental rights of a citizen, or not having been repealed after constant recommendations from the Law Commission of India, or constitutional courts.⁵⁵

WAY FORWARD

Many factors have been widely discussed in the project and have brought forth the causes for which existing laws must be repealed. Various reports of the LCI along with other higher judicial forums have suggested the repeal of certain laws. India is entering into various treaties and agreements with its allies and forming new laws. However, several redundant and obsolete laws still exist in the legal framework.

As seen above, a majority of the laws identified by the Repeal Law Initiative have become redundant due to subsequent legislation. This hints towards a poor legislative exercise where new laws are made without proper focus on what came before. One reason for this is that laws are not easily accessible. Sometimes, even governments are unable to know all the laws governing a subject matter when framing new laws. This is because most laws are either only available in hard copies, or scanned soft copies. Even the “new” laws uploaded to the concerned websites are not always machine-readable. They require careful manual scrutiny. Hence, when a new law is made, the legislature is expected to keep toll of the thousands of central and state laws that came before and appropriately draft repealing and saving clauses. This is not fair. If they were to do so, this one section would consume more time and energy than the rest of the statute. This too, is not suitable.

One way to cure this ailment would be to upload the laws in machine-readable formats. Every time a new law is made, or a previous law is referred to, a hyperlink is created, linking both the statutes. Any user could then easily conduct checks to make sure that “subsequent legislation” always repeals all the related previous laws. One way to implement this could be to opt for a widely used open-source solution that has sufficient documentation and support. Markdown syntax, a lightweight mark-up language with plain text formatting syntax that is designed to easily convert text to HTML and many other formats meets this requirement. It isn’t a new computer language, but simply a way of adding certain markers before the text to indicate meaning. Better still, it can work across multiple languages, including any Indian language that has keyboard support.

Further, the process of repealing laws requires consultation with all concerned stakeholders. The government, to speed up the process of repealing obsolete laws, may establish committees at various levels, which may have as its members a member representative from the Ministry of Law and Justice, and a retired judge, among others. The committees shall be free from any interference by the government when deciding which laws should be repealed. Another way to compliment this would be to add sunset clauses to legislations. This would mean that unless expressly continued, laws would lapse after given periods of time. This would ensure that old laws do not clog the system, and would also guarantee that resources are not spent on individually repealing these Acts. It would also lead to the legal framework keeping up with changing scenarios, as laws would be periodically reviewed by the legislature.

⁵⁵The West Bengal Security (Tripura Re-Enacting) Act, 1967, See also Prisons (Extension to Mizoram) Act, 1980, Armed Forces (Assam and Manipur) Special Powers (Amendment) Act, 1972, Assam Prevention of Begging Act, 1964, etc.



COMPENDIUM OF LAWS
TO BE REPEALED IN
ARUNACHAL PRADESH

1 NORTH-EASTERN AREAS REORGANISATION ACT, 1971

Subject: Territorial Law

Reason: The Act has outlived its purpose

Grade: 5

What is the Law

The Act provided for the establishment of the States of Manipur, Tripura, Meghalaya, and the formation of Union Territories of Arunachal Pradesh and Mizoram by reorganizing the State of Assam.

Key Features

The Act amended Entry 18 related to States under the First Schedule of Constitution; Amendment of entry 19 to 22 related to Union Territories under Fourth Schedule of Constitution. It further amended the Representation of the People Act, 1950, by inserting a new section to the Act. It provided for the manner of allotment of seats in the House of the People. It also provides for setting up of Parliamentary Constituencies in the State of Manipur and Tripura and allotment of seats in the same.

Reason(s) for Repeal

- The Act has been recommended for repeal by both the Law Commission of India, as well as the PC Jain Commission.
- The entire Act should not be repealed. According to the Law Commission of India Re-

port, State Reorganisation acts have been used after Reorganisation to establish High Courts in the State of Meghalaya, Manipur, and Tripura. Certain provisions of the State Reorganisation Act are still relevant in context to the establishment of Courts, functions, and jurisdiction.

- In the matter of allocation of seats in House of People and strength of Legislative Assembly, the First and Second Schedule of Representation of People Act, 1950, were amended in accordance with the Act and these have fulfilled their purpose. Hence, these provisions related to the allocation of seats may be repealed.
- Further, the delimitation of constituencies, amended to provide for Parliamentary and Assembly Constituencies, have served their purpose and may be repealed.

Issues

There are no legal issues that would impede repeal. However, the repeal shall be restricted to the sections that have achieved their purpose.

2 NORTH-EASTERN HILL UNIVERSITY ACT, 1973

Subject: Education
Reason: The Act is outdated
Grade: 3

What is the Law

The purpose of the North-Eastern Hill University Act, 1973 is incorporation and establishment of teaching and affiliating University for the hill areas of the North-Eastern region and to facilitate in the intellectual, academic as well as cultural development of people of hill areas in the said region.

Key Features

The Act provides the University to determine and make provisions for research, advancement, and dissemination of knowledge. Further, it also provides the University with the powers to take academic steps that would develop economic conditions and welfare of people of the region. The Act also empowers University to award fellowships, scholarships, studentships, medals, and prizes.

Reason(s) for Repeal

- Under section 25 of the Act, the Executive Council has the power to make statutes. Statute 28 of the Schedule dealing with removal of employees other than teachers of the university clause (1) sub-clause(a)

speaks about the removal of an employee other than a teacher based on leprosy. Apart from Statute 28, Statute 37 of the Act, also specifies that a person will be disqualified from being chosen on the ground of having an unsound mind or is deaf, mute or suffers from contagious leprosy. This violates the rights of a citizen.

- The Supreme Court of India, in the matter of Vidhi Centre for Legal policy v Union of India and Ors.⁵⁶ has passed an order whereby, it has clarified that the North Eastern Hills University Act discriminates against a person based on leprosy, as per the Statutes 28 and 37 given under the Act and as such violates the right against discrimination.
- The provisions of the Act in question are outdated and shall be repealed. However, the repeal should be restricted to statutes provided for in the Act.

Issues

There are no legal issues that would impede repeal of the said statutes in Schedule 1 of the Act.

⁵⁶Vidhi Centre for Legal policy v Union of India and Ors, MANU/SCOR/01339/2018

3 THE CONTINGENCY FUND OF THE UNION TERRITORY OF ARUNACHAL PRADESH (DETERMINATION OF AMOUNT) ACT, 1977

Subject: Financial Laws

Reason: The Act has achieved its objective

Grade: 4

What is the Law

A sum of rupees ten lakhs from the Consolidated Fund of Arunachal Pradesh was paid to the Union Territory of Arunachal Pradesh.

Key Features

This Act gives the Union Territory of Arunachal Pradesh funds from the Contingency Fund of the said territory.

Reason(s) for Repeal

- This law has achieved the purpose for which it was enacted. Hence, it may be repealed.

Issues

There are no legal issues that would impede repeal of this law.

4 ARUNACHAL PRADESH FREEDOM OF RELIGION ACT, 1978

Subject: Religion
Reason: The Act is Unconstitutional
Grade: 1

What is the Law

The purpose of the Act to provide for freedom of religion. It does so by prohibiting conversion from one religion to another by the use of force or allurement or by fraudulent means.

Key Features

The Act prohibits forcible conversion and stipulates punishments for the same. This is termed as a cognizable offence under the Act. It further stipulated that permission has to be taken from the district magistrate for conversion from one religion to another.

Reason(s) for Repeal

- The subsidiary rules have been drafted which has made the Act effectively Redundant.
- The Act excludes reconversions to native faiths. Human rights organisations and legal scholars have criticised this aspect since the real intent of the law is to prevent or regulate conversions to faiths such as Chris-

tianity and Islam, and exempt “reconversions”. This has raised the issue of equal protection and treatment under the law.⁵⁷

- The provisions of the Act are similar to the Gujarat Freedom of Religion Act, 2003, which has been challenged before the relevant High Court.
- The provision of taking permission from the district magistrate attacks the right to privacy, similar legislation includes Orissa Freedom of Religion Act and the Madhya Pradesh Act which require prior intimation and not permission for conversion.
- The repeal of the law has also been supported by the State Government, with the Chief Minister stating that “*The anti-conversion law could undermine secularism*”.⁵⁸

Issues

The Act prohibits Forced conversions. If the Act is repealed, the legal vacuum resulting from such a repeal would need to be reviewed.

⁵⁷Chang, W.C., Thio, L.A., Tan, K.Y. and Yeh, J.R., 2014. Constitutionalism in Asia: cases and materials. Bloomsbury Publishing.

⁵⁸Arunachal Pradesh to scrap anti-conversion law: CM Pema Khandu, Rahul Karmakar, June 29th 2018, The Hindu

5 ARUNACHAL PRADESH WEIGHTS AND MEASURES (ENFORCEMENT) ACT, 1979

Subject: Metrology

Reason: The Principal Central Legislation has been repealed by the Legal Metrology Act, 2009

Grade: 1

What is the Law

The Act provides for enforcing the Central Legislation Standards of Weights and Measures Act 1976 in the State of Arunachal Pradesh.

Key Features

The Act does not apply to inter-state trade and commerce in any weight or measure or goods sold. The Government of Arunachal Pradesh by notification, may appoint a Controller of Legal Metrology for the Union territory of Arunachal Pradesh. The Act provides the Controller with the power to authorise the Inspector to adjust weights and measures. The Acts further provides that there is a requirement of a licence to manufacture, repair or sale any measure or weights. This Act prohibits any sale of weights and measures which are unstamped. Provides for provisions on verification of stamped weights or measures. The Act provides for punitive offences under the Act.

Reason(s) for Repeal

- The purpose of the Act was to enforce the Central Legislation on the said matter in the Union Territory of Arunachal Pradesh. But, since Arunachal Pradesh has become a State, therefore it has to either enact a new standard or adopt the said Act enacted for the Union Territory.

- Further, the Central Legislation that was the Principal Act known as Standards of Weights and Measures Act, 1976 has been repealed. The purpose of the Arunachal Pradesh Weights and Measures (Enforcement) Act was to enforce the Central Act in the region, when the Central Act has been repealed by the Legal Meteorology Act, 2009.
- The new Central Legislation is better than the previous Act because registration for export and import is not required for weights and measures as well as no registration is required from the users of such weights and measures. This was a tedious process and the same has been rectified by the Legal Metrology Act of 2009.
- Further, Legal Metrology Act is an Act that contains and covers provisions of Standard of Weights and Measures Act, 1976 and Measures (Enforcement) Act, 1985, providing the Act with a better regulation and more enforcing powers. These changes would make regulation related to consumer affairs way easier than what the Arunachal Pradesh Weights and Measures (Enforcement) Act, 1979 offers.

Issues

There are no legal issues that would impede repeal.

6 ARUNACHAL PRADESH EYES (AUTHORITY TO USE THERAPEUTIC PURPOSES) ACT, 1991

Subject: Organ Transplantation

Reason: The Act is redundant in light of Central Legislation titled The Transplantation of Human Organs Act, 1994

Grade: 2

What is the Law

The Act provides for use of Eyes of a deceased person for therapeutic purposes. The Act was enacted based on a central legislation, i.e., the Eyes (Authority for Use for Therapeutic Purposes) Act, 1982, but the same has been repealed by the Transplantation of Human Organs Act, 1994.⁵⁹

Key Features

The Act provides for Authority for removal of eyes of a deceased person on her will made in writing before her death. The person having the possession of the body of the deceased lawfully on her belief can grant to a registered ophthalmic all reasonable facilities for the removal, for therapeutic purpose, of the eyes. The Act also provides certain conditions when the Removal of eyes are not authorised—where the person has been handed over the body just for cremation or disposal and when the person who has to grant consent or authority in respect of body of the deceased for removal of eyes has a reason to believe that an inquest is required to be held in respect of the body. As well as, the Legislation provides for Authority for removal of eyes from bodies sent for post-mortem examination for medico-legal or pathological.

Reason(s) for Repeal

- The State of Arunachal Pradesh doesn't have any other Organ Transplantation or Removal Act apart from the impugned Act.
- Under the Act, eyes can be removed by any medical practitioner practicing any system of medicine and recognized as a registered practitioner under any law for the time being in force. The removal and preservation of eyes require special skills and facilities. If a person who is not sufficiently qualified removes the eyes, there is a danger of the eyes becoming useless for any purpose. It is, therefore, considered necessary to ensure that only those who qualify as registered medical practitioners, and who have post-graduate qualifications in ophthalmology or who possess adequate experience and training should be permitted to remove eyes from the bodies of deceased persons.
- The said subject matter is better regulated and administered under the Transplantation of Human Organs Act, 1994.

Issues

There are no legal issues that would impede repeal.

⁵⁹Transplantation of Human Organs Act, 1994, Act No. 42 of 1994

7 ESSENTIAL SERVICES MAINTENANCE (ARUNACHAL PRADESH) ACT, 1993

Subject: Labor Laws

Reason: The Act is redundant in light of the Central legislation titled the Essential Services Maintenance Act, 1981

Grade: 2

What is the Law

The Act provides for the maintenance of certain essential services and the normal life of the community that cannot be disrupted. It lays down punishment for disruption and strikes. This Act allows the state government to issue orders to prohibit strikes in any 'Essential Service'.

Key Features

The Act prescribes the maintenance of certain essential services and provides penalties for strikes related to such services. This maximum punishment under the Act is one-year imprisonment with a fine of Rs. Two thousand or with both. This is the case when a strike is declared illegal by way of an order. Participation in a strike can also result in dismissal from employment.

Reason(s) for Repeal

- The provisions of the State Act are covered by the Central Act, and hence can be recommended for repeal.

- This Act has been used by the state government to suppress dissent of employees against bad work conditions, non-payment of salaries and other such basic rights. It allows the government to suppress dissent and redress the grievances of employees through draconian measures.
- It restricts the rights guaranteed by the Supreme Court in the case of *M/S Burn & Co. Ltd. v. Their Workmen*.⁶⁰ In the said case, it was held that mere participation in the strike would not justify suspension or dismissal of workmen.

Issues

There are no legal issues that would impede repeal. However, a savings clause may be added to the repealing legislation concerning any cases pending under the Act, stating that the same shall not be subject to the repealing legislation.

⁶⁰*M/S Burn & Co. Ltd. V. Their Workmen*, 1960 AIR 896

8 ARUNACHAL PRADESH EXCISE ACT, 1993

Subject: Taxation

Reason: The Act is Redundant in light of the Arunachal Pradesh Goods and Services Tax Act, 2017

Grade: 2

What is the Law

The Arunachal Pradesh Excise Act, 1993 was enacted to consolidate and amend the Laws relating to duties of excise in Arunachal Pradesh.

Key Features

The Act provides for restriction on imports and exports of certain goods as well as the requirement of licences, permits, and passes. It also mentions the process of investigation, trial, and a penalty for breach of these provisions.

Reason(s) for Repeal

- Taxation on the sale of goods and services is now governed by the Arunachal Pradesh Goods and Services Tax Act, 2017.⁶¹
- However, the Act also provides for the taxation of certain goods which are not covered by the Sikkim Goods and Services Tax Act (eg. alcoholic liquor), hence, the Act should only be amended or repealed in part.

Issues

The repealing/amending legislation should be restricted to those provisions which have been covered by the Goods and Services Tax Act.

⁶¹Arunachal Pradesh Goods and Services Tax Act 2017, Act No. 7 of 2017, Received the Assent of the Governor on 15th June, 2017

9 THE CENTRAL LAWS (EXTENSION TO ARUNACHAL PRADESH) ACT, 1993

Subject: State Re-organisation and Extension of Laws

Reason: The object of the Act has been achieved

Grade: 5

What is the Law

The aforesaid Act has been enacted to provide for the extension of certain Central laws to the State of Arunachal Pradesh. It came into force from 1st July 1994.

Key Features

The Act extended fourteen laws to the State of Arunachal Pradesh. These included the Government Seal Act, 1862; the Government Savings Banks Act, 1873; the Foreign Recruiting Act, 1874; and the Negotiable Instruments Act, 1881; among others.

Reason(s) for Repeal

- The Act was enacted to provide for the extension of certain Central laws to the State of Arunachal Pradesh. Corresponding amendments have been made to the Short Title, Extent and Commencement

clause of these Acts to provide for their extension to the State of Arunachal Pradesh.

- Hence, this Act has now served its purpose and the Central Government should now repeal this Act.
- The P.C. Jain Commission in its Report at sl. no.97 of Appendix A-1 (166 Central Acts recommended for repeal) had recommended for the repeal of the aforesaid Act.⁶²
- The Law Commission of India in its 250th Report at sl. no. 69 under Chapter 2 of the Report had recommended for the repeal of the aforesaid Act referring to the earlier recommendations of the P.C. Jain Commission.⁶³

Issues

There are no legal issues impeding the repeal of this Act.

⁶²Report of the Commission on Review of Administrative Laws, Volume I, Ministry of Personnel, Public Grievances and Pensions, September 1996.

⁶³“Obsolete Laws: Warranting Immediate Repeal (Third Interim Report), Law Commission of India, October 2014, Report No. 250

10 ARUNACHAL PRADESH PREVENTION OF DEFACEMENT OF PROPERTY ACT, 1997

Subject: Criminal Justice
Reason: The Act is redundant
Grade: 2

What is the Law

The Arunachal Pradesh Prevention of Defacement of Property Act, 1997 provides for the punishment for the defacement of any property within the state of Arunachal Pradesh.

Key Features

The Act seeks to punish the commission, attempt, and abetment of the offence of defacement of property. Besides this, it attributes the offence to all the members of the management of the corporation, in case the corporation is a beneficiary of the offence. It makes the abetment of such an offence punishable. Further, the offence has been classified as a cognizable offence under this Act. It confers the power to erase writing, posters and free any defacement on any property. The Act indemnifies any government official from any

liability under this offence. The offence is to be tried summarily as per the provisions of the Code of Civil Procedure.

Reason(s) for Repeal

- The offence provided by the Act has been covered by the offence of “Mischief” as given in Section 425 of the Indian Penal Code, 1860 which makes this Act redundant.⁶⁴
- In the absence of this Act, the actions of the workers can be penalized under the Central Act.

Issues

There are no legal issues in the repeal of this law. However, a savings clause might be added to save any case decided under this Act.

⁶⁴Indian Penal Code 1860, Act No. 45 of 1860, 6th October, 1860

11 ARUNACHAL PRADESH HOMEOPATHIC COUNCIL ACT, 1998

Subject: Medical Laws

Reason: Requires Amendment in lights of the Central Legislation

Grade: 1

What is the Law

The purpose of the Arunachal Pradesh Homeopathic Council Act, 1998 was to constitute Arunachal Pradesh Homeopathic Council and registering medical practitioners practicing homeopathy in the State of Arunachal Pradesh. It also aims at maintaining the Arunachal Pradesh State Register of Homeopathy and matters related to Homeopathy in the State. The Act was based on a Central Legislation, i.e., the Homeopathy Central Council Act, 1973.

Key Features

The Act provides for setting up of the First State Council, the power to do so has been conferred upon the Government of the State through a notification in the Official Gazette. The term of the First State Council has been set up as 3 years after which the Director of Health Services acting as President of First Council has to notify the Governor 6 months before the expiry of the term of the Council to constitute a Regular State Council. Meeting and procedures to be followed by the State Council have been prescribed by the Act. The State Council will be taking up the task of registering Practitioners of the field in the State Register under the conditions so mentioned in regards to the same.

Reason(s) for Repeal

- The Homeopathy Central Council (Amendment) Bill 2019 that was passed in the Lok Sabha provides for supersession of Central Council. The Bill amends the Central Act to increase the period of supersession of the Central Council from 1 year to 2 years.
- Further, The Homeopathy Central Council Act (Amendment) Bill 2018, through amendment replaced Central Council with the Board of Governors, consisting of not more than 7 persons from the field of Homeopathy. The Amending Bill of 2018 provides for all the Homeopathy Medical colleges that are set up or have exceeded the capacity in admission, have to seek the permission of the Central Government.
- The Arunachal Pradesh Homeopathy Council Act, 1998 should also comply with the central amendments for better Regulation of the objectives of the Act. State Council should be replaced with the Board of Governors and on such standards as prescribed through the amendments in the Central Act.

Issues

The Act needs to be amended in the light of Central Legislation on the subject-matter.

12 ARUNACHAL PRADESH RECORDING OF MARRIAGE ACT, 2008

Subject: Personal Laws

Reason: The Act is Redundant in light of several central legislations

Grade: 5

What is the Law

This law was enacted to ensure the Compulsory Registration of Marriages in the state of Arunachal Pradesh.

Key Features

It mandates that all the marriages within the State of Arunachal Pradesh must be registered as per the provisions of the Recording of Marriage Act. This Act was enacted to ensure that legitimate marriages within the State are recorded and no way is given to illegal marriages and prevent practices like Child Marriage, Bigamy, etc. Additionally, people enjoy the benefits associated with the registration of marriages that accrue to them.

Reason(s) for Repeal

- The Law Commission of India, in July 2017, recommended that registration of

marriages be made compulsory by amending the Registration of Births and Deaths Act, 1969.⁶⁵

- Currently, the enabling provisions for registration of marriage provided under the Act are the same as those mentioned in the central legislations -- Hindu Marriage Act, 1955; Special Marriage Act, 1954; The Indian Christian Marriage Act 1872; The Kazis Act 1880; The Anand Marriage Act, 1909; The Parsi Marriage and Divorce Act, 1936.
- Hence, the Act serves no purpose and may be repealed.

Issues

There are no issues with the repeal of this law.

⁶⁵Compulsory Registration of Marriages, Law Commission of India, July 2017, Report No. 270



COMPENDIUM OF LAWS
TO BE REPEALED IN
ASSAM

13 HACKNEY CARRIAGE ACT, 1879

Subject: Transportation and Infrastructure
Reason: The Act is Redundant
Grade: 5

What is the Law?

The Act provides for the regulation, licensing of hackney carriages, defined as wheeled vehicles drawn by animals for the conveyance of passengers in certain Municipalities and Cantonnments. It would only pertain to municipalities in which the State Government applied the Act by notification, and such states were limited to 'Uttar Pradesh, Punjab as it existed immediately before 1 November 1956, the Central Provinces, Assam, Ajmer or Coorg.

Key Features

Under the said Act, Municipal Committees were given the power to make rules and the Commissioner was given the power to confirm or rescind the same. The drivers of the carriages were, upon paying of certain fixed fees, was issued a licence under the Act for a limited period, which was revoked on completion of the stipulated period. Any disputes arising thereof were to be determined by a Magistrate, under whose local jurisdiction the dispute arose after an application regarding the same was made to that effect.

Reason(s) for Repeal

- Animal-drawn carriages are licensed by police under local laws, rather than under Central laws such as this one. For example, in Mumbai licensing of horse-drawn

carriages is done under The Bombay Public Conveyance Act, 1920. This is a subject matter for local government, and in keeping with this principle, the Government should repeal this Act.

- There is no record of the Act being in use in any of the mentioned states since Independence.
- This Act was recommended for repeal by the Law Commission of India Report on "Obsolete Laws: Warranting Immediate Repeal" (Sl. No. 37, Chapter 2 of Second Interim Report; Report No. 249).
- The Act was also recommended for repeal by the PC Jain Commission Report (Entry 47, Appendix A-5).
- This Act was recommended for repeal by the Report of the Committee to identify the Central Acts which are not relevant or no longer needed or require repeal/reenactment in the present Socio-Economic context.

Issues

There are no legal issues that would impede repeal. However, a savings clause may be added in the repealing legislation concerning any cases pending under the Act, stating that the same shall not be subject to the repealing legislation.

14 AGRICULTURISTS LOANS ACT, 1884

Subject: Agriculture and Animal Husbandry

Reason: The Act is Redundant

Grade: 5

What is the Law

This Act was enacted to amend and provide for the extension to certain territories of the Northern India Takkavi Act, 1879. The 1879 Act was enacted to provide for the recovery of certain advances made to landholders in the territories administered by the Lieutenant-Governors of the North-Western Frontier Provinces and Punjab, and the Chief Commissioners of Oudh, the Central Provinces, Assam, and Ajmer.

Key Features

When a loan is made under this Act to the members of a village community on such terms that all of them are jointly and severally bound to the Government for the payment of the amount, and a statement showing the portion of that amount which as among themselves each is bound to contribute is entered upon the order granting the loan, that statement shall be conclusive evidence of the portion of that amount which as among themselves each of those persons is bound to contribute.

Reason(s) for Repeal

- The said Act is a subsidiary Act of the Northern India Takkavi Act, 1879. Now, since the Act of 1879 is not listed in the Chronological List of Central Acts published by the Ministry of Law and Justice and hence, it does not function now. So, since the Agriculturists Loans Act, 1884, is to be read with the 1879 Act only, it cannot exist independently.
- This Act was recommended for repeal in the Law Commission of India Report on "Obsolete Laws: Warranting Immediate Repeal" (Sl. No. 32, Chapter 4, Interim Report; Report No. 248).⁶⁶
- The P.C. Jain Commission has also recommended its repeal at Sl. No. 1 of Appendix A-5 of its report (114 Central Acts relating to State subjects for repeal by State Governments).⁶⁷

Issues

There are no legal issues that would impede repeal. However, a savings clause may be added in the repealing legislation concerning any cases pending under the Act, stating that the same shall not be subject to the repealing legislation.

⁶⁶ "Obsolete Laws: Warranting Immediate Repeal (Interim Report), Law Commission of India, September 2014, Report No. 248

⁶⁷ Report of the Commission on Review of Administrative Laws, Ministry of Personnel, Public Grievances and Pensions, September 1996.

15 BENGAL, BIHAR AND ORISSA AND ASSAM LAWS ACT, 1912

Subject: State Reorganisation and Extension of Laws

Reason: The Act has is Redundant

Grade: 5

What is the Law

The aforesaid Act has been enacted to make certain provisions regarding the application of the laws in force in the Presidency of Fort William in Bengal, the Province of Bihar and Orissa and the Province of Assam. The aforesaid Act was passed by the Governor-General of India in Council and received the assent of the Governor-General on the 26th March, 1912.

Key Features

The Assam Valley Districts Division, comprising the districts of Darrang, Garo Hills, Goalpara, Kamrup, Lakhimpur, Nowgong and Sib-sagar; and the Surma Valley and Hill Districts Division, comprising the districts of Cachar, Khasi and Jaintia Hills, Lushai Hills, Naga Hills and Sylhet, were made subject to the Act under Schedule C of the same.

Reason(s) for Repeal

- The administrative units to which this law refers no longer exist, and therefore this law should be repealed.
- This law was enacted as a result of the administrative reorganisation of the Provinces of Bengal, Bihar, Orissa, and Assam. The construction of certain references in existing laws were altered as a result of this Act. The administrative needs of this Act have expired, and it may be repealed.
- This was also recommended by the PC Jain Commission in its Appendix A-5.⁶⁸
- The Act has also been recommended for repeal by the 248th and 249th Law Commission Reports.⁶⁹

Issues

There are no legal issues that would the impede repeal of this law.

⁶⁸Report of the Commission on Review of Administrative Laws, Ministry of Personnel, Public Grievances and Pensions, September 1996.

⁶⁹“Obsolete Laws: Warranting Immediate Repeal (Interim Report), Law Commission of India, September 2014, Report No. 248; and “Obsolete Laws: Warranting Immediate Repeal (Second Interim Report), Law Commission of India, October 2014, Report No. 249

16 ASSAM STUDENTS AND JUVENILE SMOKING ACT, 1923

Subject: Juvenile Care

Reason: The Act has been subsumed by subsequent Central legislation, namely the Juvenile Justice (Care and Protection of Children) Act, 2015

Grade: 2

What is the Law

The Act aims to prevent smoking by students and any person apparently under the age of sixteen.

Key Features

Under the Act, no person shall sell tobacco, cigarettes, etc., to any person under the age of sixteen, or any student under the age of seventeen. The Act, however, does not apply when the person to whom such products are sold was at that time employed by manufacturer or dealer of such products.

Reason(s) for Repeal

- Section 77 of the Juvenile Justice (Care and Protection of Children) Act, 2015 is titled 'Penalty for giving intoxicating liquor or narcotic drug or psychotropic substance

to a child.' and provides that whoever provides a child any narcotic or tobacco products shall be punishable under such Act.⁷⁰

- The fine imposed under the Act is insignificant considering the underlying objective of the Act, i.e., not exceeding fifty rupees. On the other hand, the penalty to be imposed under the 2015 Act is a sum of Rs. One Lakh and maximum imprisonment of up to 7 years in case of contravention.
- The Act has hence been subsumed by the Juvenile Justice (Care and Protection of Children) Act, 2015 and does not serve any purpose.

Issues

There are no legal issues that would impede repeal.

⁷⁰Juvenile Justice (Care and Protection of Children) Act, 2015, Act 2 of 2016, 31st December 2015.

17 ASSAM TEMPERANCE ACT, 1926

Subject: Sale of liquor

Reason: The Act has been subsumed by subsequent Central legislation, namely the Representation of People Act, 1951

Grade: 2

What is the Law

The Act authorises the electors in selected areas to exercise the option of limiting the number of liquor shops in such areas.

Key Features

Electors may submit to the Sub-divisional Officer or the Deputy Commissioner a demand for adopting either a no-licence resolution, a limiting resolution, or a no-change resolution, which may limit or restrict the liquor shops in an area.

Reason(s) for Repeal

- Section 135 C of the Representation of People Act, 1951 is titled 'Liquor not to be sold, given or distributed on polling day' and provides that no liquor or substances

of like nature shall be sold at any public or private place within a polling area forty-eight before the conclusion of the poll in that polling area.⁷¹

- Under the 1951 Act, a person may be punishable with imprisonment for up to six months or with fine which may extend to two thousand rupees, or both, whereas the present Act does not discuss penalties except for the restricted scope of fraud as defined under the Indian Penal Code.
- The Act has hence been subsumed by the Representation of People Act, 1951 and does not serve any purpose.

Issues

There are no legal issues that would impede repeal.

⁷¹Representation of People Act, 1951, Act 43 of 1951, 17th July 1951.

18 ASSAM OPIUM SMOKING ACT, 1927

Subject: Drugs and Narcotics

Reason: The Act has been subsumed by a Central legislation, namely the Narcotic Drugs and Psychotropic Substances Act, 1985

Grade: 2

What is the Law

The Act aims to prohibit the smoking of opium in the State of Assam by providing penalizing provisions for the same.

Key Features

Under the Act, it is unlawful for any person to smoke opium. Any person smoking opium is punishable with fine up to fifty rupees and imprisonment for up to one month. It further prohibits the smoking of Opium in a company or as a part of an assembly.

Reason(s) for Repeal

- The Narcotic Drugs and Psychotropic Substances Act, 1985 is more detailed in its

definitions and comprehensive than the Assam Opium Smoking Act, 1927 and subsumes the purposes for which it was enacted.⁷²

- Further, cultivation and manufacture of opium are covered under the Entry 59, List I of the seventh schedule of the Constitution of India, and are hence regulated by the scheme of Article 246 of the same. Thus, the central legislation will have an overriding effect.⁷³

Issues

There are no legal issues that would impede repeal.

⁷²Narcotic Drugs and Psychotropic Substances Act, 1985, Act 61 of 1985, 16th September 1985.

⁷³The Constitution of India, 1950, Schedule VII.

19 BIJNI SUCCESSION ACT, 1931

Subject: Succession

Reason: The Act has been subsumed by a subsequent Central Legislation, namely the Hindu Succession Act, 1956

Grade: 2

What is the Law

The Act demarcates a specific Bijni community/ family and its properties in the Schedule of the Act and seeks to supplement the customary law of that family in matters of succession.

Key Features

The Act lays down the rights of a 'holder' referring to the owner of the Bijni family as per the definition given in the Act. Section 3 of the Act declares that the Bijni Raj is an impartible estate descendible to a single male Holder. The Act expressly mentions the 'holder' of the family up to two generations and thereafter provides that the succeeding holder will be determined by nomination/ appointment in accordance with the Act made under Section 5, which will consequently be confirmed by the Governor of Assam, under Section 6.

Reason(s) for Repeal

- With the effect of Section 4 of the Hindu Succession Act, 1956, the Bijni Succession Act of 1931 stands redundant. The latter

Act provided for provisions relating to succession. Thus, the impugned Act falls under Section 4(1)(a) of the Hindu Act. The Hindu Act, under section 2, states that it applies to Hindus in "any of its forms or developments".⁷⁴

- Further, Section 4(1)(b) of the Hindu Act states that earlier laws inconsistent with the Act will cease to apply to Hindus. The Hindu Act provides for the automatic succession by law, and the need of confirmation by the Governor of Assam is in contravention to this idea. The intervention of the State in personal laws was not the idea envisaged under the Hindu Succession Act.
- The Bijni Act restricts succession only to males. However, with the 2005 Amendment of the Hindu Succession Act that has given equal rights of succession to females, the Act stands inconsistent with the Hindu Act.⁷⁵

Issues

There are no legal issues impeding the repeal of this Act.

⁷⁴Hindu Succession Act, 1956, Act 20 of 1956, 17th June 1956.

⁷⁵Hindu Succession (amendment) Act, 2005, Act 39 of 2005, 5th September 2005.

20 ASSAM BIRTHS AND DEATHS REGISTRATION ACT, 1935

Subject: Records and Statistics

Reason: The Act has been subsumed by the Registration of Births and Deaths Act, 1969

Grade: 2

What is the Law

The Act provides for the registration of the births and deaths of persons and the appointment of registrars for such purpose. The District Magistrate may appoint one or more persons to be registrars of births or deaths and may dismiss any such registrar and may fill up any vacancy in the office of the registrar.

Key Features

Under the Assam Births and Deaths Registration Act, the father or mother of every child born shall within eight days after such birth, intimate to the registrar of the several particulars required under the Act. Further, the nearest male relative of the deceased present at the death shall within eight days after such

death, intimate to the registrar of the several particulars required under the Act.

Reason(s) for Repeal

- Registration of births and deaths is already provided for under the Registration of Births and Deaths Act, 1969, which is “An Act to provide for the regulation of registration of births and deaths and for matters connected therewith”.⁷⁶
- Hence, this Act has become redundant given the Registration of Births and Deaths Act, 1969

Issues

There are no legal issues impeding the repeal of this Act.

⁷⁶Registration of Births and Deaths Act, 1969, Act no 18 of 1969, 31st May 1969.

21 ASSAM MOSLEM MARRIAGES AND DIVORCES REGISTRATION ACT, 1935

Subject: Personal Laws; Registration of Marriages and Divorces

Reason: The Act does not align with the present jurisprudence on registration of marriages and divorces

Grade: 5

What is the Law

The Act empowers the Local Government to grant licence to a person of the Moslem community to function as Mohammaden Marriage/Divorce Registrars, akin to kazis under the Kazis Act, 1880, for registration of Moslem marriages and divorces which have been affected within specified limits, on application. Such person shall maintain 3 books, as specified under Section 6 of the Act.

Key Features

The Registrar is required to maintain 3 books of registration; for marriages, for divorces other than khula, and khula divorces. The expenses of the office of registration are borne by the Government. Entry into the registration books is done by application, and such applications should be made by the concerned parties within one month of marriage or divorce, as the case may be; and payment of an appropriate fee. The entries of the registration books are open for inspection, upon application. The Act provides for appeal by the concerned parties if the Registrar refuses to register the marriage or divorce.

Reason(s) for Repeal

- Report No. 270/2017 of the Law Commission of India emphasizes the importance of

compulsory registration marriages in accordance in accordance with the ration laid in the judgment of *Seema v. Ashwani Kumar*, consequently emphasizing the need for a unified legislation to the effect. Legislation for voluntary legislation that has no bearing on the validity of registered or unregistered marriages and divorces is not appropriate in the given situation. Registration is a mere facility provided by law.

- The Law Commission in its Report No. 211 of 2008 has recommended the enactment of a centralized “Marriage and Divorce Registration Act” applicable to the whole of India and its citizens, irrespective of religion and ceremonies. It further, emphasizes on registration being compulsory, which will attract a penalty on non-compliance.
- In light of this recommendation, the Law Commission has suggested the repeal of all pre-existing state laws relating to marriages in general, and registration, including the Assam Moslem Marriages and Divorces Registration Act.

Issues

There is no legal issue that would impede repeal.

22 ASSAM DISORDERLY HOUSES ACT, 1936

Subject: Administration

Reason: The Act is subsumed by a Central Legislation, namely the Immoral Traffic (Prevention) Act, 1956

Grade: 2

What is the Law

The Act prescribes that if the Magistrate is satisfied that a house is used as a brothel, he may direct the owner of such a house to discontinue such use.

Key Features

The Act criminalises any house in the vicinity of any educational institution or any boarding house, hostel or mess, to be used as a brothel, or any house being used as such to the annoyance of the inhabitants of the vicinity, or in the vicinity of Cantonment for such use or habitual prostitution.

Reason(s) for Repeal

- India has enacted a central legislation in lieu of its obligations vis-a-vis Article 253 of the constitution and the New York Convention,⁷⁷ namely, the Immoral Traffic (Prevention) Act, 1956.⁷⁸

- Under the Under the 1936 Act, if a house is being used as a brothel even after an order of the Magistrate against said use, the person against whom the order has been passed shall be punishable with fine that may extend to twenty-five rupees per day of such use, whereas under the ITPA, any person who manages a brothel in contravention of the provision of the Act, shall be punishable u/s 3 of the Act with rigorous imprisonment for a term of not less than two years and not more than five years and also with fine which may extend to two thousand rupees.
- The Act has been subsumed by the Immoral Traffic (Prevention) Act, 1986 and is hence redundant.

Issues

There are no legal issues that would impede repeal.

⁷⁷Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, art. X, 25 July, 1951, 271 U.N.T.S. 96.

⁷⁸The Immoral Traffic (Prevention) Act, 1956, Act. 104 of 1956.

23 GOOD CONDUCT PRISONERS' PROBATIONAL RELEASE ACT, 1938

Subject: Criminal Law

Reason: The Act has been subsumed by a Central Legislation, namely the Probation of Offenders Act, 1958

Grade: 2

What is the Law

The Act prescribes that it is expedient to provide for the conditional release from prison of good conduct prisoners in certain cases before the completion of the term of imprisonment to which they have been sentenced.

Key Features

The State Government may grant leave by a licence to a person who has been confined in prison under a sentence of imprisonment after taking into consideration his antecedents, conduct in prison, nature of the offence and the manner in which he committed it, that he is, if released from prison, not likely to commit a crime within the period of the leave.

Reason(s) for Repeal

- The Probation of Offenders Act, 1958 prescribes the powers of the court to release

certain offenders after admonition and release certain offenders on probation of good conduct after considering a more objective criteria than mentioned in the present Act.⁷⁹

- The present Act has been subsumed by the 1958 Act, which prescribes more detailed and objective provisions and is a central legislation. Thus, the present Act does not serve any purpose and may be repealed.

Issues

There are no legal issues that would impede repeal. However, a savings clause may be added in the repealing legislation concerning any cases pending under the Act, stating that the same shall not be subject to the repealing legislation.

⁷⁹Probation of Offenders Act, 1958, Act no 20 of 1958, 16th May 1958

24 ASSAM HINDU WOMEN'S RIGHTS TO PROPERTY (EXTENSION TO AGRICULTURAL LAND) ACT, 1943

Subject: Property

Reason: Purpose of the Act is served better by a central legislation, namely the Hindu Succession (amendment) Act, 2005

Grade: 2

What is the Law

The Assam Hindu Women's Rights to Property (Extension to Agricultural Land) Act, 1943 was enacted to extend the operation of the Hindu Women's Rights to Property Act, 1937 and the Hindu Women's Rights to Property (Amendment) Act, 1938 to Agricultural Land in the Province of Assam.

Key Features

Extended the application of the central acts to agricultural land for women to better the situation of women's rights in Assam.

Reason(s) for Repeal

- The Hindu Succession (Amendment) Act, 2005 grants women rights over agricultural land and joint property in the Hindu Undivided Family - catering to the purpose of the Assam Hindu Women's Rights to Property (Extension to Agricultural Land) Act, 1943 entirely.⁸⁰
- So, as seen the purpose of the Act is better served by The Hindu Succession (Amendment) Act, 2005, thus, it can be concluded that act is redundant.

Issues

There are no legal issues that would impede repeal.

⁸⁰Hindu Succession (amendment) Act, 2005, Act 39 of 2005, 5th September 2005.

25 ASSAM OPIUM PROHIBITION ACT, 1947

Subject: Drugs and Narcotics

Reason: The purpose of the Act is served better by a central legislation, namely the Narcotic Drugs and Psychotropic Substances Act, 1985

Grade: 2

What is the Law

The Assam Opium Prohibition Act, 1947 was enacted to prohibit the consumption (except for medicinal purposes) and smuggling of opium in the province of Assam.

Key Features

The said Act enlisted non-official support to exercise effective control over the smuggling of opium.

Reason(s) for Repeal

- The Narcotic Drugs and Psychotropic Substances Act, 1985 was established as an umbrella law to 'consolidate and amend the law relating to narcotic drugs, to make stringent provisions for the control and regulation of operations relating to narcotic

drugs, to make stringent provisions for the control and regulation of operations relating to narcotic drugs and psychotropic substances (...)'.⁸¹

- It specifically culls out powers of the Central Government to permit, control and regulate the sale, production, and manufacture of opium - catering to the purpose of the Assam Opium Prohibition Act, 1947 entirely.
- So, as seen the purpose of the Act is better served by The Narcotic Drugs and Psychotropic Substances Act, 1985, thus, it can be concluded that Act is redundant.

Issues

There are no legal issues that would impede repeal.

⁸¹Narcotic Drugs and Psychotropic Substances Act, 1985, Act 61 of 1985, 16th September 1985.

26 ASSAM DRUGS (CONTROL) ACT, 1950

Subject: Public Health

Reason: Purpose of the Act is served better by a central legislation

Grade: 5

What is the Law

An Act to provide for the control of the state, supply, and distribution of drugs.

Key Features

Under the Act, the State Government may fix the maximum price or rate which may be charged by a dealer or producer, the maximum quantity which may at any one time be possessed by a dealer or producer; and the maximum quantity which may in any one transaction be sold to any person in respect of any drug.

Reason(s) for Repeal

- The said Act is similar to an Act enacted by the Centre viz. Drugs (Control Act) 1950.

The Central Act was recommended for repeal in the 251st report of Law Commission of India on “Obsolete Laws: Warranting Immediate Repeal” on 14th November 2014.⁸²

- Also, since “Drugs” have been listed as Essential Commodity under the Essential Commodities Act, 1955, so it can be concluded that the purpose of the said Act is being served by Essential Commodities Act, 1955.⁸³

Issues

There are no legal issues that would impede repeal.

⁸²“Obsolete Laws: Warranting Immediate Repeal” (Fourth Interim Report), Law Commission of India, November 2014, Report No. 251.

⁸³Essential Commodities Act, 1955, Act 10 of 1955, 1st April 1955.

27 ASSAM DARRANG AND LAKHIMPUR DISTRICTS (ASSIMILATION OF LAWS ON THE STATE SUBJECTS) ACT, 1951

Subject: State Reorganisation and Extension of Laws

Reason: Purpose of this Act as been fulfilled

Grade: 5

What is the Law

An Act to cease all the laws in the Scheduled areas of Darrang and Lakhimpur Districts.

Key Features

The Act aims to incorporate certain areas in the districts of Darrang and Lakhimpur and provides for assimilation of all state laws concerning the matters enumerated in List II in the Seventh Schedule in the said areas.

Reason(s) for Repeal

- This Act falls under the Central Legislation Scheduled Areas (Assimilation of Laws) Act, 1951 which has been already recom-

mended for repeal by the Law Commission Report and PC Jain Commission Report.⁸⁴

- The Act assimilated certain laws in force in the scheduled areas to the laws in force in the districts of Darrang and Lakhimpur in the State of Assam. Here the Act stated that all the laws in the scheduled areas were to be ceased after the appointed date. Therefore, all the law in these two areas came into force after the appointed date.
- The purpose of this Act has been fulfilled. Hence it should be recommended for repeal.

Issues

There is no legal issue that would impede repeal.

⁸⁴Report of the Commission on Review of Administrative Laws, Ministry of Personnel, Public Grievances and Pensions, September 1996.

28 THE ASSAM PROHIBITION OF SMOKING IN SHOW HOUSES ACT, 1951

Subject: Health and Family Welfare

Reason: The Act has been subsumed by a subsequent Central Legislation, namely the Cigarettes and Other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003

Grade: 2

What is the Law

An Act to prohibit smoking in cinema halls and other show houses in Assam.

Key Features

Under the Act, whoever smokes, during a demonstration, or exhibition, in any part of a show house reserved for the audience or the spectators shall be punishable with fine up to one hundred rupees. Further, any police officer not below the rank of Sub-Inspector may arrest without warrant any person committing an offence.

Reason(s) for Repeal

- The Act has been subsumed by a more recent Central Government legislation.
- Cigarettes and Other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003 and the rules made thereunder are more comprehensive since the Act also covers various other offences.⁸⁵

- The COTPA, 2003 covers all the provisions of the Assam Prohibition of Smoking in Show Houses Act, 1951, thus making the 1951 Act redundant and causing an overlap in legislation.

- The COTPA, 2003 imposes a stringent penalty and imprisonment commission of any crime committed of this sort in the show houses meaning any building, tent, or any roofed and enclosed structure used for demonstration of an exhibition to the public. However, the penalties imposed by the Assam Prohibition of Smoking in Show Houses, 1951 are disparate and offenders may subvert the penalties of the Central legislation by invoking the Assam Prohibition of Smoking in Show Houses Act, 1951 which imposes lower penalties.

Issues

There are no legal issues that would impede repeal.

⁸⁵Cigarettes and Other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003, Act 34 of 2003, 18th May 2003.

29 ASSAM (ALTERATION OF BOUNDARIES) ACT, 1951

Subject: Post-Independence Reorganisation

Reason: The Act is Redundant

Grade: 4

What is the Law

The Act was brought to alter the boundaries of the State of Assam consequent the cession of a strip of territory comprised in that State to the Government of Bhutan.

Key Features

The boundaries of the Assam State were demarcated by a bilateral agreement concluded between the Bhutan Government and the Government of India. After the commencement of the Constitution, the alteration was affected after complying with the provisions of the Constitution.

Reason(s) for Repeal

- The object of redrawing the boundaries of the state of Assam has been achieved and now stands as a newly formed State.
- The law is set to be repealed since they no longer serve any discernible purpose.

Issues

There are no legal issues that would impede repeal.

30 ASSAM NOWGONG AND SIBSAGAR (ASSIMILATION OF LAWS) ACT, 1953

Subject: State Reorganisation and Extension of Laws
Reason: Purpose of this Act as been fulfilled
Grade: 5

What is the Law

An Act to cease all the laws in the Scheduled areas of Nowgong and Sibsagar.

Key Features

The Act aims to incorporate certain areas in the districts of Nowgong and Sibsagar and the laws in force in the said areas concerning the matters enumerated in List II in the Seventh Schedule to the Constitution, shall be assimilated to the laws in the said districts.

Reason(s) for Repeal

- This Act falls under the Central Legislation Scheduled Areas (Assimilation of Laws) Act, 1953 which has been already recom-

mended for repeal by the Law Commission Report and PC Jain Commission Report.⁸⁶

- The Act assimilated certain laws in force in the scheduled areas to the laws in force in the districts of Nowgong and Sibsagar in the State of Assam. Here the Act stated that all the laws in the scheduled areas were to be ceased after the appointed date. Therefore, all the law in these two areas came into force after the appointed date.
- The purpose of this Act has been fulfilled. Hence it should be recommended for repeal.

Issues

There is no legal issue that would impede repeal.

⁸⁶Report of the Commission on Review of Administrative Laws, Ministry of Personnel, Public Grievances and Pensions, September 1996.

31 THE ASSAM REVENUE RECOVERY (EXTENSION TO LUSHAI HILLS) ACT, 1954

Subject: Land and Revenue
Reason: The Act is Redundant
Grade: 4

What is the Law

This Act was enacted to extend the provisions of Revenue Recovery Act 1890, which was further enacted to make better provision for recovering the Revenue from the public to the Lushai Hills District of erstwhile Assam.

Key Features

Any amendments made to the Revenue Recovery Act, 1890, which apply to Assam would also be extended to the region of Lushai Hills.

Reason(s) for Repeal

- The Act applies to the region of Lushai Hills (named changed to the Mizo District after enactment of Lushai Hills District (Change of Name) Act, 1954) which according to the North-Eastern Areas (Reorganisation) Act, 1971, was transferred to Union Territory of Mizoram which after the enactment of the State of Mizoram Act, 1986, became the State of Mizoram, as listed in the First Schedule to the Constitution of India.⁸⁷

Issues

There are no legal issues that would impede repeal.

⁸⁷The North-Eastern Areas (Reorganisation) Act, 1971, Act 81 of 1971, 30th December 1971.

32 ASSAM RHINOCEROS PRESERVATION ACT, 1954

Subject: Environmental Law

Reason: The Act has been subsumed by a subsequent Central Legislation, namely the Wildlife (Protection) Act, 1972

Grade: 2

What is the Law

The Act ensures the preservation of the One-horned Rhinoceros by prohibiting their hunting and killing. It further provides that every One-horned Rhinoceros captured, and the horn of every One-horned Rhinoceros killed by any person not licensed under this Act shall be the property of Government.

Key Features

Under the provisions of this Act no person shall kill, injure or capture any one-horned Rhinoceros unless in private defense, or granted licence by the State Government. Whoever violates the provisions of this Act shall be punished by the imposition of a fine of Rs. 1000 and with imprisonment for up to one year. Every one-horned Rhinoceros captured, and the horn of every one-horned Rhinoceros killed by any person not licensed under this Act shall be the property of the Government.

Reason(s) for Repeal

- According to the Wildlife Protection Act, 1972, the One-horned Rhinoceros has been

accorded with the highest-level of possible protection.

- The Wildlife (Protection) Act, 1972 imposes a fine of Rs. 25,000 and maximum imprisonment of up to 7 years in case of contraventions of any provisions.⁸⁸ However, the penalties imposed by the Assam Rhinoceros Preservation Act, 1954 are disparate and offenders may subvert the penalties of the Central legislation by invoking the Assam Rhinoceros Preservation Act, 1954 which imposes lower penalties.
- After the enactment of the 42nd Amendment, Protection of Wildlife has come under Entry 17B of List III of the Seventh Schedule of the Constitution of India and is hence regulated by the scheme of Article 246 of the same. Thus, the Central legislation will have an overriding effect.⁸⁹

Issues

There are no legal issues that would impede repeal. However, a saving clause may be added in the repealing legislation concerning any cases pending under the Act, stating that the same shall not be subject to the repealing legislation.

⁸⁸The Wildlife (Protection) Act, 1972, Act 53 of 1972, 9th September 1972.

⁸⁹The Constitution of India, 1950, Schedule VII.

33 PRESS AND REGISTRATION OF BOOKS (EXTENSION TO LUSHAI HILLS) ACT, 1954

Subject: Administration
Reason: The Act is Redundant
Grade: 4

What is the Law

The said Act was enacted to extend the provisions of Press and Registration of Books Act, 1867 to which was further enacted to provide for the regulation of printing, for the preservation of copies of every book and newspaper printed in India and for the registration of such books and newspapers, to the Lushai Hills District of erstwhile Assam.

Key Features

Any amendments made to the Press and Registration of Books Act, 1867, which apply to Assam would also be extended to the region of Lushai Hills.

Reason(s) for Repeal

- The Act applies to the region of Lushai Hills (named changed to the Mizo District after enactment of Lushai Hills District (Change of Name) Act, 1954) which according to The North-Eastern Areas (Reorganisation) Act, 1971, was transferred to Union Territory of Mizoram which after the enactment of the State of Mizoram Act, 1986, became the State of Mizoram, as listed in the First Schedule of the Constitution of India.⁹⁰

Issues

There are no legal issues that would impede repeal.

⁹⁰The North-Eastern Areas (Reorganisation) Act, 1971, Act 81 of 1971, 30th December 1971.

34 ASSAM LUSHAI HILLS DISTRICT (ACQUISITION OF CHIEFS' RIGHTS) ACT, 1954

Subject: Administration
Reason: The Act is Redundant
Grade: 4

What is the Law

The said Act was enacted to provide for the acquisition by the state of certain rights and interests of Chiefs in and over the land in the Lushai Hills District.

Key Features

Under the provisions of this Act, the state may, if it feels so, may by notification acquire the rights and interests of the Chief in his Ram (Area) free from all encumbrances. For the said Acquisition, a Compensation Officer would be appointed by the State Government, who would based on the Act give the Chief the Compensation.

Reason(s) for Repeal

- The Act applies to the region of Lushai Hills (named changed to the Mizo District after enactment of Lushai Hills District (Change of Name) Act, 1954) which according to The North-Eastern Areas (Reorganisation) Act, 1971,⁹¹ was transferred to Union Territory of Mizoram which after the enactment of the State of Mizoram Act, 1986, became the State of Mizoram, as listed in the First Schedule of the Constitution of India.

Issues

There are no legal issues that would impede repeal.

⁹¹Ibid.

35 ASSAM PROHIBITION OF SMOKING IN PASSENGER VEHICLES ACT, 1954

Subject: Health and Family Welfare

Reason: The Act has been subsumed by a subsequent Central Legislation, namely the Cigarettes and Other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003

Grade: 2

What is the Law

The Act was enacted to prohibit people from smoking in Passenger Vehicles in the interest of public welfare.

Key Features

The most important feature of the Act is that it prohibits the Act of smoking in public vehicles. It further provides that a person who smokes in a passenger vehicle can be removed should s/he refuse to desist from smoking after being asked by the conductor. Anyone found in contravention of the provision of the said Act shall be punishable with fine which for a first offence may extend to twenty rupees and for a second or subsequent offence to one hundred rupees.

Reason(s) for Repeal

- The Act has been subsumed by a more recent Central Government legislation.
- Cigarettes and Other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production,

Supply and Distribution) Act, 2003 and the rules made thereunder are more comprehensive since the Act also covers various other offences.⁹²

- The COTPA, 2003 covers all the provisions of the Assam Prohibition of Smoking in Passenger Vehicles Act, 1954, thus making the 1954 Act redundant and causing an overlap in legislation.
- The COTPA, 2003 imposes a stringent penalty and imprisonment commission of any crime committed of this sort in the Passenger vehicles. However, the penalties imposed by the Assam Prohibition of Smoking in Passenger Vehicles Act, 1954 are disparate and offenders may subvert the penalties of the Central legislation by invoking the Assam Prohibition of Smoking in Passenger Vehicles Act, 1954 which imposes lower penalties.

Issues

There are no legal issues that would impede repeal.

⁹²Cigarettes and Other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003, Act 34 of 2003, 18th May 2003.

36 LUSHAI HILLS DISTRICT (CHANGE OF NAME) ACT, 1954

Subject: Administration

Reason: The Act no longer serves any purpose

Grade: 5

What is the Law

The said Act was enacted to change the name of the Lushai Hills District to Mizo Districts.

Key Features

The Act led to the Amendment of the Sixth Schedule to the Constitution where all the references to Lushai Hills District were changed to the Mizo District.

Reason(s) for Repeal

- The Act has become redundant as the area for more than 64 years has been a part of the state of Mizoram. And there has been no dispute as to that effect from either of the above-mentioned states.

- The Law Commission in its 249th Report at Sl. No 72 under Chapter 2 has categorized the aforesaid Act under the Category, namely the State Re-organisation and Extension of Laws and recommended Repeal of the aforesaid Act without mentioning consultation with the stakeholders.⁹³
- The Act has also been recommended for review in Appendix -- B under Sl. No. 19 of the P. C. Jain Commission Report.⁹⁴

Issues

There are no legal issues that would impede repeal.

⁹³“Obsolete Laws: Warranting Immediate Repeal (Second Interim Report), Law Commission of India, October 2014, Report No. 249.

⁹⁴Report of the Commission on Review of Administrative Laws, Ministry of Personnel, Public Grievances and Pensions, September 1996.

37 NAGA HILLS-TUENSANG AREA ACT, 1957

Subject: State-reorganisation
Reason: The Act no longer serves any purpose
Grade: 4

What is the Law

The said Act was enacted to provide for the formation of the Naga Hills- Tuensang Area of Assam as an administrative unit.

Key Features

After the commencement of the said Act, there was a new Administrative unit State of Assam by the name of Naga Hills- Tuensang Area comprising the tribal areas which at such commencement were known as the Naga Hills District and Tuensang Frontier Division of the North-East Frontier Agency.

Reason(s) for Repeal

- The Act has become redundant as after the enactment of the State of Nagaland Act, 1962 the area of Naga Hills-Tuensang has ceased to be part of Assam and is now a part of the state of Nagaland, a state of India as listed in Schedule I to the Constitution.

Issues

There are no legal issues that would impede repeal.

38 ASSAM GANJA AND BHANG PROHIBITION ACT, 1958

Subject: Health and Family Welfare

Reason: The Act has been subsumed by a subsequent Central Legislation, namely the Narcotic Drugs and Psychotropic Substances Act, 1985

Grade: 2

What is the Law

The Act was enacted to prohibit cultivation, collection, possession, consumption, manufacture or sale of Narcotic Bhang and Ganja in and of smuggling thereof into the state of Assam.

Key Features

Under the provisions of this Act, no person shall cultivate, collect, import, use or keep Ganja or Bhang. Whoever violates the provisions of this Act shall be punished with a fine of Rs. 1000 and imprisonment for a period which may extend up to two years.

Reason(s) for Repeal

- The Narcotic Drugs and Psychotropic Substances Act, 1985 is far more detailed in its definitions and comprehensive than the Assam Act and subsumes the purposes for which it was enacted.⁹⁵

- The Narcotic Drugs and Psychotropic Substances Act, 1985 imposes a strict fine and imprisonment in case of contraventions of any provisions. However, the penalties imposed by the Assam Ganja and Bhang Prohibition Act, 1959 are disparate and offenders may subvert the penalties of the Central legislation by invoking the Assam Ganja and Bhang Prohibition Act, 1959 which imposes lower penalties.
- Further, cultivation and manufacture of opium are covered under the Entry 59, List I of the seventh schedule of the Constitution of India and are hence regulated by the scheme of Article 246 of the same. Thus, the central legislation will have an overriding effect.

Issues

There are no legal issues that would impede repeal.

⁹⁵Narcotic Drugs and Psychotropic Substances Act, 1985, Act 61 of 1985, 16th September 1985.

39 ASSAM EMBANKMENT AND DRAINAGE VALIDATION ACT, 1960

Subject: Validation of embankments and drainage schemes
Reason: The Act has served its purpose
Grade: 4

What is the Law

The Act validates any scheme for embankments and drainage in the state of Assam between the period of 1st February, 1955 and the date of commencement of the Act, and shall not be questioned on the grounds of certain procedural ultra vires.

Key Features

Any claims concerning schemes in the specified period will be decided in accordance with provisions of the Act of 1953. Any water rate, betterment cess or premium will also be deter-

mined in accordance with the 1953 Act, under Section 11, by the State Government.

Reason(s) for Repeal

- The Act was only made for validating schemes within the specified period. New schemes and policies have long replaced schemes within this period, and hence, the Act has served its purpose.

Issues

There is no legal issue that would impede repeal.

40 THE LAND IMPROVEMENT LOANS (EXTENSION TO MIZO AND UNITED KHASI JAINTIA HILLS DISTRICT) ACT, 1963

Subject: Land and Revenue
Reason: The Act is Redundant
Grade: 5

What is the Law

The Act Land Improvement Loans Act did not apply to the said regions before independence. With the inclusion of these regions into the territory of India. The said Act extends the force of the Land Improvement Loans Act to these regions.

Key Features

The Act extended all the provisions of the Land Improvement Loans Act, 1883, as amended from time to time, to the Mizo And United Khasi-Jaintia Hills District.

Reason(s) for Repeal

- The parent Act, the Land Improvement Loans Act, 1883 has been recommended for repeal, time and again. The purpose of this Act has become redundant has its objective is replaced by the Land Mortgage Bank Act, as opined by the Law Commission of Report No. 249 of 2014 (Second Interim Report).⁹⁶
- The extension of the said Act to the specified regions serves no purpose.

Issues

There is no legal issue that would impede repeal.

⁹⁶ “Obsolete Laws: Warranting Immediate Repeal (Second Interim Report), Law Commission of India, October 2014, Report No. 249.

41 AGRICULTURISTS' LOANS (EXTENSION TO UNITED-KHASI-JAINTIA HILLS DISTRICT) ACT, 1963

Subject: Agriculture
Reason: The Act is Redundant
Grade: 5

What is the Law

This Act was enacted to provide for the extension of the Agriculturists' Loans Act, 1884 (Central Act No. XII of 1884) to the United Khasi-Jaintia Hills District. The 1884 Act was enacted to provide for the recovery of certain advances made to landholders in the territories administered by the Lieutenant-Governors of the North-Western Frontier Provinces and Punjab, and the Chief Commissioners of Oudh, the Central Provinces, Assam, and Ajmer.

Key Features

The Act extends the provisions of the Agriculturists' Loans Act to the United Khasi-Jaintia Hills District, which provides that when a loan is made under such Act to the members of a village community on such terms that all of them are jointly and severally bound to the Government for the payment of the amount, and a statement showing the portion of that amount which as among themselves each is bound to contribute is entered upon the order granting the loan, that statement shall be conclusive evidence of the portion of that amount which as among themselves each of those persons is bound to contribute.

Reason(s) for Repeal

- This Act was enacted to extend the applicability of the Agriculturists' Loans Act, which itself amended and provided for the extension of the Northern India Takkavi Act, 1879.
- The 1879 Act does not find mention in the Chronological List of Central Acts published by the Ministry of Law and Justice and hence, does not function now. The current Act is meant to be read with the 1879 Act and thus cannot exist independently.
- The current Act is meant to be read with the Agriculturists' Loans Act, which has been recommended for repeal in the Law Commission of India Report on "Obsolete Laws: Warranting Immediate Repeal" (Sl. No. 32, Chapter 4, Interim Report; Report No. 248), and the P.C. Jain report at Sl. No. 1 of Appendix A-5 of its report (114 Central Acts relating to State subjects for repeal by State Governments).

Issues

There are no legal issues that would impede repeal. However, a savings clause may be added in the repealing legislation concerning any cases pending under the Act, stating that the same shall not be subject to the repealing legislation.

42 ASSAM PREVENTION OF BEGGING ACT, 1964

Subject: Public Welfare
Reason: Violative of Protection of Life & Liberty
Grade: 1

What is the Law

The Act has been adapted from the Bombay Prevention of Begging Act, 1959. The Act is to consolidate the law relating to beggars and to provide for the prevention of begging, for the detention, training, and employment of beggars and their dependents in certified institutions. The Act provides for the custody, trial, and punishment of beggar offenders in the State of Assam.

Key Features

Under the Act, the State is empowered to detain persons who are not engaged in begging, whether they are daily wagers, and/or having family members to support. The Act provides that police officers or other person authorised in this behalf in accordance with rules made by the State Government to arrest without a warrant any person who is found begging

Reason(s) for Repeal

- The Act treats beggars as criminals. If convicted under this law, a person can spend anything between 1 to 10 years in beggars' home.
- It imposes impediments to freedom of life and personal liberty guaranteed under the Constitution of India not just of the beggars, but also their dependents.

- The present Act gives discretionary and arbitrary powers to the police to pick up anyone on a hunch that the individual is a beggar or a destitute with no means of fending for himself.
- The Hon'ble Delhi High Court in *Ram Lakhan vs. State* held that the detention of persons begging because of poverty is dehumanizing to them, and is a disgrace and a failure of the State.⁹⁷
- The Hon'ble High Court in the matter of *Harsh Mander v. Union of India* struck down twenty-five sections of the Bombay Prevention of Begging Act, 1959,⁹⁸ and held as under:

If we want to eradicate begging, artificial means to make beggars invisible will not suffice. A move to criminalise them will make them invisible without addressing the root cause of the problem. The root cause is poverty, which has many structural reasons: no access to education, social protection, discrimination based on caste and ethnicity, landlessness, physical and mental challenges, and isolation.

- The Central Government has brought a draft bill "Persons in Destitution (Protection Care and Intervention)" Model Bill,

⁹⁷Ram Lakhan vs. State, 137 (2007) DLT 173.

⁹⁸Harsh Mander & Anr. vs UOI & Ors., on 8 August, 2018.

2016, to be implemented by all State Governments that will give rights to destitute to demand help from the states. It aims to do away with the laws that criminalise begging and to “provide protection, support training and other services to all persons in destitution.”

- The model bill states that “Persons in destitution” refers to homeless persons, persons in begging, persons with physical and mental disabilities, the old, infirm and other such persons who are above 18 years of age and in a state of poverty or abandonment arising from economic or social de-

privation and sustained unemployment. It further provides for “procedure for dealing with beggar offenders” and that the infrastructure, human resource, and institutions established under the Beggary.

Issues

There are no legal issues that would impede repeal. However, a savings clause may be added in the repealing legislation concerning any cases pending under the Act, stating that the same shall not be subject to the repealing legislation.

43 THE ASSAM REORGANISATION (MEGHALAYA) ACT, 1969

Subject: Reorganisation of states
Reason: The purpose of the Act has been fulfilled
Grade: 4

What is the Law

The Act creates an autonomous state of Meghalaya within the state of Assam reserving executive powers of Meghalaya to the Governor of Assam to subject-matters on which the state of Meghalaya does not have the power to frame rules.

Key Features

The Act prescribes that there shall an autonomous State of Meghalaya within the State of Assam. It further elucidates the functioning of such an autonomous State by providing for an executive, legislature, advocate general, etc.

Reason(s) for Repeal

- The object of creating a self-governing state of Meghalaya has been achieved which has been going about with its administration in an effective manner.
- An Act laying down the administrative set up for another state is no longer necessary and has served its purpose.

Issues

There is no legal issue that would impede repeal.

44 ARMED FORCES (ASSAM AND MANIPUR) SPECIAL POWERS (AMENDMENT) ACT, 1972

Subject: Armed Forces
Reason: Challenge of Constitutionality
Grade: 1

What is the Law

The Act amends the Armed Forces (Assam and Manipur) Special Powers Act, 1958.

Key Features

The Act substituted the words “Assam, Manipur, Meghalaya, Mizoram, Nagaland and Tripura and the Union Territory of Arunachal Pradesh” to “the Armed Forces (Assam and Manipur) Special Powers Act, 1958” from the title of the Principal Act which grants special powers to the armed forces.

Reason(s) for Repeal

- Under relevant international human rights and humanitarian law standards, there is no justification for such an Act as the AFSPA. The AFSPA, by its form and in its application, violates the Universal Declaration of Human Rights (the “UDHR”), the International Covenant on Civil and Political Rights (the “ICCPR”), the Convention Against Torture, the UN Code of Conduct for Law Enforcement Officials, the UN Body of Principles for Protection of All Persons Under any form of Detention, and the UN Principles on Effective Prevention and Investigation of Extralegal and

summary executions and the Justice Jeevan Reddy Commission recommended to repeal AFSPA as “the Act is a symbol of hate, oppression, and instrument of high handedness” but Government of India has not taken any decision in this direction.

- The second Administratively Reforms Commission (ARC) in its fifth report on “Public Order,” recommended to repeal of Armed Forces Special Powers Act, 1958 commented that the repeal of the present Act would remove sentiments of discrimination and alienation among the people of North East India. The commission recommended amending the Unlawful Activities (Prevention) Act, 1967 inserting a new chapter to deploy the armed forces of the Union in the Northeastern States. It supported a new doctrine of policing and criminal justice inherent in an inclusive approach to governance.

Issues

There are no legal issues that would impede repeal. However, a savings clause may be added in the repealing legislation concerning any cases pending under the Act, stating that the same shall not be subject to the repealing legislation.

45 ASSAM SILLIMANITE LIMITED (ACQUISITION AND TRANSFER OF REFRACTORY PLANT) ACT, 1976

Subject: Transfer of Property
Reason: The Act has served its purpose
Grade: 4

What is the Law

The Act provides for the acquisition and transfer of the right, title and interest of the Assam Sillimanite Limited in respect of its Refractory Plant to the Central Government on the appointed day.

Key Features

The Central Government will have the power to direct vesting of the Government Company and also control over management of the Re-

fractory Plant. The Company will continue to be liable for certain prior liabilities.

Reason(s) for Repeal

- The transfer of the said plant has taken place and there is no dispute on the rights of the Central Government over the plant. The Act has, thus, served its purpose.

Issues

There is no legal issue that would impede repeal.

46 ASSAM RIGHT TO INFORMATION ACT, 2001

Subject: Statutory Right

Reason: The Act has been subsumed by subsequent legislation, namely the Right to Information Act, 2005

Grade: 2

What is the Law

The Act provides that public authorities in Assam must maintain records in the manner laid down. It further prescribes that citizens have a statutory Right to Information and may access the aforesaid records, subject to the exceptions laid down by the Act. This Act is a precursor to the Right to Information Act, 2005 enacted by the Central Government.

Key Features

The Act acknowledges the necessity to have a legislation to provide the right of access to information to the citizens of the State which would promote openness, transparency, and accountability in administration and ensure the effective participation of people in the administration.

Reason(s) for Repeal

- The subsequent Right to Information Act, 2005 enacted by the Central Government performs the same function as this Act. This is currently not used, as public authorities in Assam as well are governed by the Central Legislation. Applications to public authorities in Assam must be made as per the Central Legislation and not the present Act.⁹⁹
- The Act has thus been subsumed by a subsequent legislation, namely the Right to Information Act, 2005.

Issues

There are no legal issues that would impede repeal. However, a savings clause may be added in the repealing legislation concerning any cases pending under the Act, stating that the same shall not be subject to the repealing legislation.

⁹⁹The Right to Information Act, 2005, Act 22 of 2005, 15th June 2005.



COMPENDIUM OF LAWS
TO BE REPEALED IN
MANIPUR

47 WEST BENGAL COLLECTIVE FINES ACT, 1950

Subject: Taxation and Revenue

Reason: This Act is redundant in light of a state legislation West Bengal Maintenance of Public Order Act, 1972

Grade: 4

What is the Law

This Act was passed for the imposition of the collective fines to be collected if anyone affects the maintenance of public order or public harmony of an area.

Key Features

This Act was passed by the parliament in the exercise of the powers conferred by section 2 of the Union Territories (Laws) Act, 1950 (30 of 1950), the Central Government extended to the Union Territory of Manipur.

Reason(s) for Repeal

- The Act was passed for the Union Territory of Manipur however, Manipur became a State in 1972 but after becoming a state the state of Manipur has not passed any necessary bill or acts for the maintenance of public order in the state till now and thus still now follows the West Bengal Collective Fines Act of 1950.
- The West Bengal Collective Fines Act 1950 is redundant as the state of West Bengal

passed a better legislation for the maintenance of public order and its penalties i.e. West Bengal Maintenance of Public Order Act 1972.¹⁰⁰

- Since this Act is no longer useful to the state of West Bengal as it has a better legislation it should be recommended for repeal. However, the state of Manipur still doesn't have a legislation for the maintenance of public order and penalties in matters related to it.
- It should be recommended that the Act of 1950 should be repealed and also it should be recommended to the state of Manipur to pass a relevant legislation for the maintenance of public order and penalties in matters related to it in its state.

Issues

There are no legal issues that would impede repeal. However, a savings clause may be added in the repealing legislation concerning any cases pending under the Act, stating that the same shall not be subject to the repealing legislation.

¹⁰⁰West Bengal Maintenance of Public Order Act 1972, Act 9 of 1972, 4th May 1972

48 ORISSA WAREHOUSE ACT, 1956

Subject: Business and Economy

Reason: The Act has been subsumed by a more recent Central Government legislations, namely the Customs Act, 1962, and the Warehousing (Development & Regulation) Act, 2007

Grade: 2

What is the Law

The Act was enacted to provide for the establishment and regulation of warehouses in the State of Orissa. It additionally seeks to encourage the establishment of licensed warehouses and make provision for their proper supervision and control. The Act also provides for the procedure of licensing of warehouses, conditions warranting a grant and suspension of licence. The Act is applicable to the State of Manipur.

Key Features

The Act prohibits persons without a licence from carrying on the business of a warehouseman. It also prescribes certain duties for a warehouseman such as taking reasonable care of the goods deposited, preserving the identity of the goods and delivering goods on time without deterioration of the depositor's goods.

Reason(s) for Repeal

- The subject matter and provisions of the Act have been subsumed by the Warehousing (Development & Regulation) Act, 2007,¹⁰¹ and the Customs Act, 1962¹⁰² which are more comprehensive in nature. The later Act also prescribes the conditions under which a licence may be granted.

- The Act of 2007 mandates the negotiability of warehouse receipt and it prescribes the form and manner of registration of warehouses. It further prescribes the issue of Negotiable Warehouse Receipts, including electronic format and the establishment of the Warehousing Development and Regulatory Authority (WDRA). Hence, the Central legislation includes the provisions that form part of the State legislation, further making provisions for the establishment of an independent authority for the proper implementation of the regulations.
- The Act, hence, does not serve any purpose and, should be repealed. On the other hand, two legislations governing the same subject matter may lead to confusion and therefore, the current legislation which is not in use should be repealed. Additionally, the Customs Act, 1962 is employed to obtain licences for operating warehouses. The purpose of the Act is served by other laws.

Issues

There are no legal issues that would impede repeal. However, a savings clause may be added in the repealing legislation concerning any cases pending under the Act, stating that the same shall not be subject to the repealing legislation.

¹⁰¹Warehousing (Development & Regulation) Act, 2007, 25th October 2010.

¹⁰²Customs Act, 1962, Act 52 of 1962, 13th December 1962.

49 THE MADHYA PRADESH LAND IMPROVEMENT SCHEMES ACT, 1957 (MANIPUR)

Subject: Property Law

Reason: This Act is redundant in light of a state legislation titled Manipur Land Revenue and Land Reforms Act 1960

Grade: 4

What is the Law

This Act was established to provide for the preparation and execution of land improvement schemes including schemes for the conservation and improvement of soil resources, the prevention or mitigation of soil erosion the protection of land against damage.

Key Features

This Act was passed by the parliament in the exercise of the powers conferred by section 2 of the Union Territories (Laws) Act, 1950 (30 of 1950), the Central Government hereby extended to the Union Territory of Manipur.

Reason(s) for Repeal

- This Act was prevalent at that time when the state of Manipur was a Union Territory. However the Union Territory of Manipur on 1960 passed a legislation titled Manipur Land Revenue and Land Reforms Act 1960 and this Act has been in force and prevalent in Manipur even after it became a state in 1972 and since then the state of Manipur has also imposed necessary amendments from time to time to the Manipur Land Revenue and Land Reforms Act 1960.
- In the Act of 1960 it has been mentioned in section 170 that “On and from the date on

which any of the provisions of this Act are brought into force in any area in the Union territory of Manipur, the enactments specified in the Schedule or so much thereof as relate to the matters covered by the provisions so brought into force shall stand repealed in such area.” But the schedule only mentioned the Assam Land and Revenue Regulation, 1886 and the Bombay Vidarbha Region Agricultural Tenants (Protection from Eviction and Amendment of Tenancy Laws) Act, 1957 to be repealed.

- Since the state of Madhya Pradesh also has a better legislation for land reforms titled Madhya Pradesh Land Revenue Code 1959 the previous Act of 1957 i.e. The Madhya Pradesh Land Improvement Scheme Act should be recommended for repeal.
- Also, the state of Manipur should try to bring an amendment to their present Act i.e. Manipur Land Revenue and Land Reforms 1960 to repeal the Madhya Pradesh Land Improvement Schemes Act 1957 which was extended to the union territory of Manipur.

Issues

There are no legal issues that would impede repeal.

50 PUNJAB BACKWARD CLASSES (GRANT OF LOANS) ACT, 1957 (MANIPUR)

Subject: Social Welfare

Reason: This Act is redundant in light of a state legislation titled Manipur State Minorities Commission Act, 2010

Grade: 4

What is the Law

This Act states the provisions to provide loans to the other backward classes in the region of Punjab.

Key Features

This Act was passed by the parliament in exercise of the powers conferred by section 2 of the Union Territories (Laws) Act, 1950 (30 of 1950), the Central Government hereby extended to the Union Territory of Manipur, the Punjab Backward Classes (Grant of Loans) Act, 1957 (17 of 1957).

Reason(s) for Repeal

- This Act was prevalent at the time the state of Manipur was a Union territory and this Act was extended to the union territory of Manipur. However, Manipur became a state in the year in 1972 and passed the more relevant legislation titled Manipur State Minorities Commission Act 2010.¹⁰³

- The provision of the Manipur State Minorities Commission Act, 2010 provides better legislation and more relevant in today's time for the commission of the minorities (including other backward classes) and matters connected therewith. The state of Punjab also has a better legislation titled Punjab Backward Classes Land Development and Financial Corporation Act 1976.
- Hence the previous Act of Punjab Backward Classes (grant Of Loans) Act, 1957 for the state of Manipur as well as for the state of Punjab should be recommended for repeal as it no longer stands for any use.

Issues

There are no legal issues that would impede repeal. However, a savings clause may be added in the repealing legislation concerning any cases pending under the Act, stating that the same shall not be subject to the repealing legislation.

¹⁰³Manipur State Minorities Commission Act, 2010, Act 9 of 2010, 22nd October 2010.

51 RAJASTHAN WEIGHTS AND MEASURES (ENFORCEMENT) ACT, 1958 (MANIPUR)

Subject: Consumer Affairs

Reason: This Act is redundant in light of a central legislation titled Legal Metrology Act, 2009

Grade: 2

What is the Law

This Act is to provide for the enforcement of standard weights and measures and matters connected there within the state of Rajasthan.

Key Features

This Act was passed by the parliament in the exercise of the powers conferred by section 2 of the Union Territories (Laws) Act, 1950 (30 of 1950), the Central Government hereby extended to the Union Territory of Manipur, the Rajasthan Weights and Measures (Enforcement) Act 1958.

Reason(s) for Repeal

- The provisions of this Act are better served by the provision of the Central Act titled Legal Metrology Act of 2009.¹⁰⁴

- The objective of the Legal Metrology Act, 2009 is to enforce standards of weights and measures, regulate trade and commerce in weights, measures and other goods which are sold or distributed by weights, measure or number and for matters connected and it extends to the whole of India except the state of Jammu and Kashmir.
- Hence the Rajasthan Weights and Measures (Enforcement) Act, 1958 (Manipur) should now be recommended for repeal as it no longer stands for any use in light of the central legislation.

Issues

There are no legal issues that would impede repeal.

¹⁰⁴Legal Metrology Act, 2009, Act 1 of 2010.

52 ASSAM MUNICIPAL (MANIPUR AMENDMENT) ACT, 1961

Subject: State Reorganisation and Extension of Laws

Reason: The Act is Redundant

Grade: 5

What is the Law

The aforesaid Act was enacted to amend the Assam Municipal Act, 1956 as in force in the Union Territory of Manipur.

Key Features

The Act was brought forth to amend the Assam Municipal Act, 1956 when it was applicable in the Union territory of Manipur (as it was then). It amended three sections, substituted one section, and inserted two sections to the Parent Act (Assam Municipal Act, 1956) as applicable in Manipur.

Reason(s) for Repeal

- When the Act was enacted, Manipur was a Union territory and now it has become a State. Hence, there is no requirement for the present Act.
- The P.C. Jain Commission at Serial No. 3 of Appendix-A-5 (114 Central Acts for repeal by the State Government) in its report recommended for the repeal of the aforesaid Act.¹⁰⁵

Issues

There are no legal issues that would impede repeal.

¹⁰⁵Report of the Commission on Review of Administrative Laws, Volume I, Ministry of Personnel, Public Grievances and Pensions, September 1996.

53 MANIPUR (SALES OF MOTOR SPIRIT AND LUBRICANTS) TAXATION ACT, 1962

Subject: Taxes and Revenue

Reason: The Act has been subsumed by a subsequent legislation, namely the Manipur Goods and Services Tax Act, 2017

Grade: 2

What is the Law

The Act was enacted to levy and collect a tax from every retail dealer on the sales of motor spirit and lubricants, at a particular rate, on the value of such sales in the State of Manipur.

Key Features

The Act provides for compulsory registration to carry on business as a dealer in the above products and identifies “taxing authorities”. It provides for a penalty in case of evasion by unregistered persons and mechanism for appeal against such penalty, and criminal consequences like entry, inspection, search, seizure, detention, and arrest without a warrant by public servants.

Reason(s) for Repeal

- The Act has been subsumed by the Manipur Goods and Services Tax Act, 2017.¹⁰⁶
- The Manipur Goods and Services Tax Act, 2017 is now applicable in the state and therefore this Act has no application in the State.

Issues

The Act should only be amended/repealed to the extent that it has been subsumed by the Goods and Services Tax Act. Hence, provisions governing registration of dealers, cancellation of registration certificate etc. may be saved.

¹⁰⁶Manipur Goods and Services Tax Act, 2017, Act. No. 3 of 2017, received the assent of the Governor of Manipur on June 14, 2017

54 THE WEST BENGAL SECURITY (MANIPUR AMENDMENT) ACT, 1965

Subject: Criminal Justice

Reason: The Act has achieved its purpose

Grade: 4

What is the Law

The Act amended the West Bengal Security Act, 1950 to re-enact the West Bengal Security Act, 1950 and extend its operation. The Act was extended from 25th January 1966 to 25th January 1971.

Key Features

The Act amended the West Bengal Security Act, 1950 to extend its operation for longer, extending it from 25th January 1966 to 25th January 1971.

Reason(s) for Repeal

- The Act was only supposed to remain in force until the 25th day of January 1971.
- Manipur is no longer a Union Territory and has the power to enact its statutory law through the State Legislative Assembly to govern its territory.
- The Act has achieved its purpose of providing a security framework for the state, and can now be repealed.

Issues

There are no legal issues impeding the repeal of this law.

55 ORISSA PREVENTIVE DETENTION ACT, 1970

Subject: Criminal Law

Reason: The provisions of the Act are subsumed by the National Security Act, 1980

Grade: 2

What is the Law

The Act provides for preventive detention to check certain activities as specified in the legislation. The Act has been extended to the State of Manipur.

Key Features

It lays down certain conditions to be fulfilled to issue an order of Preventive Detention and specifies who has the powers to do so. It also deals with the constitution of an Advisory Board for certain cases and revocation of the Orders etc. There is protection provided for action taken in good faith nonetheless.

Reason(s) for Repeal

- The National Security Act, 1980 (which came into being after repealing the Preventive Detention Act, 1950) covers the ambit of the Act and serves the same purpose.¹⁰⁷
- Hence, there is no need for the present Act and it may be repealed.

Issues

There are no legal issues that would impede repeal. However, a savings clause may be added in the repealing legislation concerning any cases pending under the Act, stating that the same shall not be subject to the repealing legislation.

¹⁰⁷National Security Act, 1950, Act 65 of 1980, 27th December 1980.

56 MANIPUR (HILL AREAS) DISTRICT COUNCILS ACT, 1971

Subject: Administration and Governance
Reason: The Act fails to meet its objective
Grade: 1

What is the Law

This Act was passed to provide for the establishment of District Councils in the Hill Areas in the Union territory of Manipur. The Act also provided for the functions of the district councils in the union territory of Manipur and the procedures for qualification and disqualification of memberships in the council.

Key Features

- The “Manipur (Hill Areas) District Council Act, 1971,” passed by Parliament and paved the way for the establishment of six Autonomous District Councils in Manipur.
- This Act was repealed by the Manipur Legislative Assembly when they enacted the Manipur Hill Areas Autonomous District Councils Act, 2000 (Manipur Act No.11 of 2000). However, the 2000 Act was never brought into force.
- The Manipur Legislative Assembly enacted the Manipur (Hill Areas) District Councils (Second Amendment) Act, 2006 repealed the 2000 Act, and the Manipur Hill Areas Autonomous District Councils Bill 2008 was introduced in the Manipur Legislative Assembly during the Third Session of the Ninth Legislative Assembly of Manipur. However, this too was withdrawn.
- Subsequently, the Manipur (Hill Areas) District Councils (Third Amendment) Act,

2008 was passed which provided that the Act of 1971 should continue in force.

Reason(s) for Repeal

- This Act should be recommended for repeal as the provisions of this Act fail to meet the objectives of the autonomous district council and how to govern the members of the council.
- Various bills were introduced in the legislative assembly of Manipur for repealing this Act but due to various circumstances the following bills were not passed by the legislative assembly and hence having no option the state legislative assembly decided to go with the Act of 1971 though they thought that it was expedient to continue with the Act of 1971. This is explained in the Manipur (Hill Areas) District Councils (Third Amendment) Act, 2008.
- The Act of 1971 is not relevant in today’s time and hence should be recommended for repeal and a more relevant law should be passed by the Manipur Legislative Assembly for better governance of the autonomous district councils and matters related therewith.

Issues

There are no legal issues that would impede the repeal of this law.

57 ARMED FORCES (ASSAM AND MANIPUR) SPECIAL POWERS (AMENDMENT) ACT, 1972

Subject: Armed Forces
Reason: Challenge of Constitutionality
Grade: 2

What is the Law

The Act amends the Armed Forces (Assam and Manipur) Special Powers Act, 1958.

Key Features

The Act substituted the words “Assam, Manipur, Meghalaya, Mizoram, Nagaland and Tripura and the Union Territory of Arunachal Pradesh” to “the Armed Forces (Assam and Manipur) Special Powers Act, 1958” from the title of the Principal Act which grants special powers to the armed forces.

Reason(s) for Repeal

- Under relevant international human rights and humanitarian law standards, there is no justification for such an Act as the AFSPA. The AFSPA, by its form and in its application, violates the Universal Declaration of Human Rights (the “UDHR”), the International Covenant on Civil and Political Rights (the “ICCPR”), the Convention Against Torture, the UN Code of Conduct for Law Enforcement Officials, the UN Body of Principles for Protection of All Persons Under any form of Detention, and the UN Principles on Effective Prevention and Investigation of Extralegal and

summary executions and the Justice Jeevan Reddy Commission recommended to repeal AFSPA as “the Act is a symbol of hate, oppression, and instrument of high handedness” but Government of India has not taken any decision in this direction.

- The second Administratively Reforms Commission (ARC) in its fifth report on “Public Order,” recommended to repeal the Armed Forces Special Powers Act, 1958 and commented that the repeal of the present Act would remove sentiments of discrimination and alienation among the people of North East India. The commission recommended amending the Unlawful Activities (Prevention) Act, 1967 inserting a new chapter to deploy the armed forces of the Union in the Northeastern States. It supported a new doctrine of policing and criminal justice inherent in an inclusive approach to governance.

Issues

There are no legal issues that would impede repeal. However, a savings clause may be added in the repealing legislation concerning any cases pending under the Act, stating that the same shall not be subject to the repealing legislation.

58 MANIPUR STATE ROAD TRANSPORT (PREVENTION OF TICKETLESS PASSENGERS) ACT, 1976

Subject: Transport

Reason: The Act has been subsumed by a subsequent central legislation, i.e., the Motor Vehicles Act 1988

Grade: 2

What is the Law

The Act was made to prohibit ticketless travel in Road Transport Services that were carried on by the State.

Key Features

Under the Act, every person desirous of travelling on a road transport service shall only do so if a proper ticket has been issued to him by a servant of the State Transport Undertaking authorised in this behalf or an agent duly appointed by the State Transport Undertaking. If he fails to do so, he may be punishable with imprisonment for a term which may extend to one month or with fine which may extend to two hundred and fifty rupees or with both.

Reason(s) for Repeal

- Section 124 of the Motor Vehicles Act 1988 is titled "Prohibition against traveling with-

out pass or ticket".¹⁰⁸ As per the 1988 Act, no person shall enter or remain in any stage carriage to travel therein unless he has a proper ticket.

- If an individual travels without a ticket, she shall be punishable with fine which may extend to five hundred rupees. Here, "stage carriage" means a commercial vehicle constructed to carry more than six passengers.
- Hence, the provisions of the Act, i.e., the prohibition and penalty for ticketless travel are subsumed by the 1988 Act.
- Thus, the present Act shall be repealed, as it serves no purpose in light of the subsequent central legislation.

Issues

There are no legal issues that would impede the repeal of this law.

¹⁰⁸The Motor Vehicles Act 1988, Act No. 59 of 1988, 14th October, 1988

59 MANIPUR AGRICULTURAL INDEBTEDNESS (RELIEF) ACT, 1976

Subject: Revenue

Reason: The Act has achieved its purpose

Grade: 4

What is the Law

The Act aims to provide relief to agricultural laborers, artisans, marginal and small farmers for the loans advanced to them.

Key Features

Every debt advanced to a debtor was suspended for one year from the date of commencement of the Act, and any proceeding in a Civil Court was accordingly postponed.

Reason(s) for Repeal

- The Act provides relief to farmers etc. by suspending any debt advanced to them for one year.
- This period has since lapsed, and the Act has achieved its purpose. Thus, it may be repealed.

Issues

There are no legal issues impeding the repeal of this law.

60 MANIPUR PASSENGERS AND GOODS TAXATION ACT, 1977

Subject: Taxation and Revenue

Reason: The Act is redundant in light of the Manipur Goods and Services Tax Act, 2017

Grade: 2

What is the Law

It is an Act to provide for the levy of a tax on passengers and goods carried by road in motor vehicles or on inland waterways by boats.

Key Features

This Act specifies the rate of tax and the manner of assessment, taxing authority, exemptions, the penalty for non-payment of tax, manner of appeal and other such matters. It further allows for the seizure of books of accounts, setting up of checkpoints and specifies which vehicles cannot be used in the event of non-payment of taxes.

Reason(s) for Repeal

- All the areas of taxation provided in this Act are now governed by the Manipur Goods and Services Act, 2017.¹⁰⁹

Issues

The Act should only be amended/repealed to the extent that it has been subsumed by the Goods and Services Tax Act. Hence, provisions governing implementation etc. may be saved.

¹⁰⁹Manipur Goods and Services Tax Act, 2017, Act. No. 3 of 2017, received the assent of the Governor of Manipur on June 14, 2017

61 MANIPUR PROFESSIONS TRADES CALLINGS AND EMPLOYMENTS TAXATION ACT, 1981

Subject: Taxation and Revenue

Reason: The Act is redundant in light of the Manipur Goods and Services Tax Act, 2017

Grade: 2

What is the Law

The Manipur Professions Trades Callings and Employments Taxation Act, 1981 provides for the levy and collection of tax on professions, trades, callings and employments for raising additional resources for the benefit of the State.

Key Features

It provides a framework for the levy and charges of the tax and specifies the Employer's liability to deduct and pay tax on behalf of employees. It lays down the process of Registration and enrolment as well as Payment of Tax, Penalty to be imposed and authorities that will regulate this process.

Reason(s) for Repeal

- With the enforcement of the Goods and Services Tax Act, 2017 the taxes on pro-

fessions, trades, callings, and employments levied by this Act are no longer applicable in any of the States.¹¹⁰

- The Manipur Goods and Services Tax Act, 2017 is now applicable in the state and therefore this Act has no application in the state.

Issues

The Act should only be amended/repealed to the extent that it has been subsumed by the Goods and Services Tax Act. Hence, provisions governing implementation etc. may be saved. Further, a savings clause may be added in the repealing legislation concerning any cases pending under the Act, stating that the same shall not be subject to the repealing legislation.

¹¹⁰Ibid

62 THE MANIPUR ELECTRIC SUPPLY LINE (UNLAWFUL POSSESSION) ACT, 1982

Subject: Energy Law

Reason: This Act is redundant in light of central legislation titled Electricity Act, 2003

Grade: 2

What is the Law

This Act was passed to regulate the possession of electric supply lines and to provide for the punishment of the offence of unlawful possession and related matters related.

Key Features

This Act mentions the different types of offences one might commit in connection to electricity supply and the Act also provides the necessary punishments of the offences committed and fines to be paid in related matters.

Reason(s) for Repeal

- The provisions of this State Act are better covered by the Central Act Electricity Supply Act 2003.¹¹¹

- The Electricity Supply Act, 2003 describes the offences that one might commit in connection to electricity supply and consumption of electricity supply under part XIV from section 135 to section 150.
- Hence the Manipur Electric Supply-Line (Unlawful Possession) Act, 1982 should be recommended for repeal.

Issues

There is no issue that would impede the repeal of this law. However, a savings clause may be added in the repealing legislation concerning any cases pending under the Act, stating that the same shall not be subject to the repealing legislation.

¹¹¹Electricity Act, 2003, Act 26 of 2003, 26th May 2003.

63 MANIPUR ESSENTIAL SERVICES MAINTENANCE ACT, 1984

Subject: Labor Laws

Reason: The Act is redundant in light of the Central legislation titled the Essential Services Maintenance Act, 1981

Grade: 2

What is the Law

The Act provides for the maintenance of certain essential services and the normal life of the community that cannot be disrupted. It lays down punishment for disruption and strikes. This Act allows the state government to issue orders to prohibit strikes in any 'Essential Service'.

Key Features

The Act prescribes the maintenance of certain essential services and provides penalties for strikes related to such services. This maximum punishment under the Act is one-year imprisonment with a fine of Rs. two thousand or with both. This is the case when a strike is declared illegal by way of an order. Participation in a strike can also result in dismissal from employment.

Reason(s) for Repeal

- The provisions of the State Act are covered by the Central Act, and hence can be recommended for repeal.

- This Act has been used by the state government to suppress dissent of employees against bad work conditions, non-payment of salaries and other such basic rights. It allows the government to suppress dissent and redress the grievances of employees through draconian measures.

- It restricts the rights guaranteed by the Supreme Court in the case of M/S Burn & Co. Ltd. v. Their Workmen.¹¹² In the said case, it was held that mere participation in the strike would not justify suspension or dismissal of workmen.

Issues

There are no legal issues that would impede repeal. However, a savings clause may be added in the repealing legislation concerning any cases pending under the Act, stating that the same shall not be subject to the repealing legislation.

¹¹²M/S Burn & Co. Ltd. V. Their Workmen, 1960 AIR 896

64 MANIPUR EXHIBITION OF VIDEO FILMS (REGULATION) ACT, 1989

Subject: Cultural Affairs

Reason: The Act is redundant in light of a central legislation, i.e., the Cinematographs Act, 1952

Grade: 2

What is the Law

The Act aims at regulating exhibitions by Cinematographs' in the State of Manipur.

Key Features

As per the Act, no person shall give a public exhibition by cinematographs without a licence. For such purpose, the authority having the power to grant licences is the District Magistrate within whose jurisdiction the place, where the exhibitions by cinematographs are proposed to be given.

Reason(s) for Repeal

- The provisions of the Act are covered by a Central Act, namely the Cinematograph Act, 1952.¹¹³

- The 1952 Act provides for the process of certification of films for public exhibition, and licensing and regulation of cinemas.
- The power of the State to regulate cinemas is governed by item 33 of the State List under the VIIth Schedule of the Constitution of India, which is subject to entry 60 of the Union list. Hence, the power of the Manipur government to regulate exhibitions by cinematographs is subject to any laws made by the Central Government.¹¹⁴
- Hence, the current Act serves no purpose and may be repealed.

Issues

There are no legal issues that would impede repeal.

¹¹³The Cinematograph Act, 1952, Act no. 37 of 1952, 21st March 1952

¹¹⁴Schedule VII, Constitution of India, Published by Government of India Ministry of Law and Justice (Legislative Department)

65 MANIPUR TAX ON LUXURIES (HOTELS AND LODGING HOUSES) ACT, 2000

Subject: Taxation and Revenue

Reason: The Act is redundant in light of a subsequent legislation, i.e., the Manipur Goods and Services Tax Act, 2017.

Grade: 2

What is the Law

The Manipur Tax on Luxuries (Hotels and Lodging Houses) Act, 2000 was enacted to provide for the levy, collection and penalty of Tax on Luxuries provided in Hotels and lodging Houses.

Key Features

It provides for the Appointment of an Appellate Authority and determines the powers and functions of Assessing Authorities. It also specifies the mode of collection and assess-

ment of tax, and imposition of penalty in certain cases.

Reason(s) for Repeal

- Taxation on the sale of goods and services is now governed by the Manipur Goods and Services Tax Act, 2017.¹¹⁵

Issues

There are no legal issues impeding the repeal of this Act.

¹¹⁵Manipur Goods and Services Tax Act, 2017, Act. No. 3 of 2017, received the assent of the Governor of Manipur on June 14, 2017

66 MANIPUR FISCAL RESPONSIBILITY AND BUDGET MANAGEMENT ACT, 2005

Subject: Taxation and Revenue
Reason: The Act is Redundant
Grade: 5

What is the Law

The Act was enacted to ensure prudence in fiscal management and fiscal stability by reducing revenue deficit and to further the goal of prudent debt management in the state of Manipur.

Key Features

After the Fiscal Responsibility and Budget Management Act, 2003 for the Central government, several states enacted laws to ensure fiscal discipline and transparency within the state. This law provides for the State to release the Macroeconomic Framework Statement, the Medium Terms Fiscal Policy Statement, and the Fiscal Policy Strategy Statement on an annual basis. It delineates Measures for Fiscal Transparency, and grants state legislature the power to make FRMB Rules.

Reason(s) for Repeal

- The Central Act after which the Act is closely modeled was recommended for repeal by the 'Law Commission of India'. Similarly, the 'N.K. Singh Committee on FRBM' recommended a new Debt and Fiscal Responsibility Act.¹¹⁶

- The Fiscal Management projection of 3% has become dated. A new and flexible method to calculate fiscal policy and the fiscal deficit to Gross State Domestic Product (GSDP) ratio is the need of the times.¹¹⁷ This is necessary to estimate whether eliminating the revenue deficit in a specified time frame is feasible.
- The targets for fiscal and revenue deficit reduction in the present Act and Rules have proved to be malleable, leading to successive deferment of targets in the State's compliance with the FRBM Act. Instances of understatement of expenditures and an extensive list of transparency issues are continuing causes of concern.
- The present Act also doesn't provide for a periodic review of the state government's statement of accounts with mandatory review by the State Comptroller and Auditor General (SCAG).

Issues

There are no issues with the repeal of this law, however, a savings clause for the Rules drafted under the present Act.

¹¹⁶The FRBM Review Committee, Chairperson: Mr. N.K. Singh, January 2017

¹¹⁷Chakraborty, L. and Sinha, D., 2018. Has Fiscal Rule changed the Fiscal Marksmanship of Union Government? National Institute of Public Finance and Policy, Working Paper, (234).

67 MANIPUR COMPULSORY REGISTRATION OF MARRIAGES ACT, 2008

Subject: Personal Laws

Reason: The Act is Redundant in light of several central legislations

Grade: 5

What is the Law

This law was enacted to ensure the Compulsory Registration of Marriages in the state of Manipur.

Key Features

It mandates that all the marriages within the State of Manipur must be registered as per the provisions of the Recording of Marriage Act. This Act was enacted to ensure that legitimate marriages within the State are recorded and no way is given to illegal marriages and prevent practices like Child Marriage, Bigamy, etc. Additionally, people enjoy the benefits associated with the registration of marriages that accrue to them.

Reason(s) for Repeal

- The Law Commission of India, in July 2017, recommended that registration of

marriages be made compulsory by amending the Registration of Births and Deaths Act, 1969.¹¹⁸

- Currently, the enabling provisions for registration of marriage provided under the Act are the same as those mentioned in the central legislations – Hindu Marriage Act, 1955; Special Marriage Act, 1954; The Indian Christian Marriage Act 1872; The Kazis Act 1880; The Anand Marriage Act, 1909; The Parsi Marriage and Divorce Act, 1936.
- Hence, the current Act serves no purpose and may be repealed.

Issues

There are no issues with the repeal of this law.

¹¹⁸Compulsory Registration of Marriages, Law Commission of India, July 2017, Report No. 270



COMPENDIUM OF LAWS
TO BE REPEALED IN
MEGHALAYA

68 MEGHALAYA PROVISIONAL COLLECTION OF TAXES ACT, 1931

Subject: Taxation

Reason: The Act has been subsumed by a subsequent Central Legislation, namely the Goods and Services Act, 2017

Grade: 2

What is the Law

The Act was enacted to provide for the provisional collection of taxes in the state of Meghalaya.

Reason(s) for Repeal

- The Act has been subsumed by Central Legislation titled Goods and Services Act, 2017.¹¹⁹

Key Features

The Act provides for the immediate effect being given for a limited period to provisions in Acts relating to the imposition or increase of taxes.

Issues

There are no legal issues that would impede repeal.

¹¹⁹The Goods and Services Act, 2017, Act 12 of 2017, 12th April 2017.

69 UNITED KHASI - JAINTIA HILLS AUTONOMOUS DISTRICT (MANAGEMENT AND CONTROL OF FORESTS) ACT, 1958

Subject: Forestry and Agriculture

Reason: The Act is redundant.

Grade: 4

What is the Law

The Act was enacted to provide for the management and control of forests in the United Khasi -- Jaintia Hills Autonomous District.

Key Features

The Act classifies forests, as well as provides for management and control mechanisms of forest produce and land as well as providing for penalty and confiscation in case of violation of restrictions so laid down. It was enacted by the District Council of the United Khasi -- Jaintia Hills Autonomous District which received the assent of the Governor of Assam on 22nd January 195.

Reason(s) for Repeal

- After Meghalaya became a separate state in 1972, the United Khasi Jaintia Hills Autonomous District was re-organised into the Khasi Hills Autonomous District Council and the Jaintia Hills Autonomous District Council; and this Act applies only to the United Khasi Jaintia Hills Autonomous District. Thus, the Act must be repealed.

Issues

There are no legal issues with repeal however, considering the nature and objective of the Act, perhaps it may be amended to apply to the whole of Meghalaya or a similar savings clause may be inserted.

70 MEGHALAYA APPROPRIATION (VOTE ON ACCOUNT) ACT, 1972, 1974, 1977, 1978, 1979, 1980, 1982, 1987, 1989, 1995, 1997, 1998, 1999, 2000, 2001, 2008, 2009

Subject: Government Expenditure
Reason: The Acts are redundant.
Grade: 4

What is the Law

These acts allowed the government of Meghalaya to withdraw amounts from the Consolidated Fund of Meghalaya for one fiscal year.

Key Features

Valid only for one year.

Reason(s) for Repeal

- The Acts have become ineffective and redundant after the expiry of the financial year for which they were enacted.

Issues

There are no legal issues that would impede repeal.

71 MEGHALAYA FINANCE ACT(S), 1973, 1974, 1975, 1976, 1977, 1978, 1979, 1980, 1994

Subject: Government Expenditure
Reason: The Object of the Act has been achieved
Grade: 4

What is the Law

These acts fixed the rates at which the Meghalaya Agricultural Income-tax and the Meghalaya Purchase Tax shall be levied and charged for the financial years.

Key Features

Purchase tax and agricultural taxes were fixed at different rates concerning different incomes and items respectively for one financial year.

Reason(s) for Repeal

- The Acts have become ineffective and redundant after the expiry of the financial year for which they were enacted.

Issues

There are no legal issues that would impede repeal.

72 CONTINGENCY FUND OF MEGHALAYA (AUGMENTATION OF CORPUS) ACT, 1974

Subject: Finance

Reason: The Act has been subsumed by a subsequent Central Legislation, namely the Contingency Fund of Meghalaya (Amendment) Act, 1979

Grade: 2

What is the Law

The Act was enacted to augment permanently the Corpus of the Contingency Fund of Meghalaya.

Key Features

The Act enables the Government of Meghalaya to pay a further sum of rupees twenty-five lakhs out of the revenues of the State to the Contingency Fund of Meghalaya to augment the Corpus of the Fund to rupees seventy-five lakhs from the existing Corpus of rupee fifty lakhs.

Reason(s) for Repeal

- The Act is superseded by the Contingency Fund of Meghalaya (Amendment) Act, 1979 as per the explanation of Amendment to Section 2, Contingency Fund of Meghalaya (Amendment) Act, 1979. Further, as a secondary observation, it may be noted that there exists no litigation. This indicates the redundancy of the Act in the present context.

Issues

There are no legal issues that would impede repeal.

73 MEGHALAYA RURAL INDEBTEDNESS RELIEF ACT, 1975

Subject: Finance
Reason: The Act is redundant.
Grade: 4

What is the Law

The Act was enacted to provide for the relief of rural indebtedness in Meghalaya.

Key Features

The Act provides a moratorium on the recovery of debts. Further, it provides for the remission of interest and the stay of suits.

Reason(s) for Repeal

- The moratorium on the recovery of the debt and stay of suits was only for one year (1975), which is the important and signif-

icant part of the statute thus, inseparable from the statute per the doctrine of separability. Further, Section 4 of the Act also provides for further amendments to increase the duration for not more than one year at a time. However, this was not done.

- As a secondary observation, it may be noted that there exists no litigation. This indicates the redundancy of the Act in the present context.

Issues

There are no legal issues that would impede repeal.

74 MEGHALAYA ASSEMBLY PROCEEDINGS (PROTECTION OF PUBLICATION) ACT, 1977

Subject: Telecommunication Laws

Reason: The Act has been subsumed by the 44th Constitutional Amendment, 1978

Grade: 4

What is the Law

The legislation was enacted to provide for the protection of publication of reports of the proceedings of the Assembly.

Key Features

This legislation was enacted as a result of the Emergency and its repercussions on the freedom to press. This legislation promotes the publication of the legislative proceedings and materials only for the public good. This legislation is well in consonance with the Right to Know and other Constitutional aspirations.

Reason(s) for Repeal

- After the legislation was passed, the 44th Constitutional Amendment came into being in 1978 inserting Article 361-A with the same text as the State legislation and serving the same purpose as this Act serves thus, making it a Constitutional right.¹²⁰

Issues

There are no legal issues that would impede repeal.

¹²⁰The Constitution of India, 1950, Article 361-A.

75 SHILLONG ELECTRICITY SUPPLY UNDERTAKING (ACQUISITION) ACT, 1977

Subject: Electricity Laws

Reason: The Act has been subsumed by the Central Act, i.e., the Electricity Act, 2003

Grade: 2

What is the Law

This Act was enacted to provide for the acquisition of the Shillong Electricity Supply Undertaking for a public purpose.

Key Features

The Act establishes an Electricity Board to regulate the supply of electricity and collect the revenue regarding the same. The Act contains provisions regarding the method of collection of amounts, penalties that shall be levied from households to Corporations and provisions regarding arbitration if required. This Act was enacted after repealing The Shillong Electric Supply Undertaking (Acquisition) Ordinance, 1977.

Reason(s) for Repeal

- This statute is liable to be repealed on the ground that it is subsumed by a central legislation - Electricity Act, 2003.¹²¹
- According to the latter Central legislation, the State can only make rules and regulations to implement the Central Act by virtue of s.180 and s.181 of the Central Act.

Issues

There are no legal issues that would impede repeal. However, a savings clause may be added in the repealing legislation concerning any cases pending under the Act, stating that the same shall not be subject to the repealing legislation.

¹²¹Electricity Act, 2003, Act 26 of 2003, 26th May 2003.

76 NATIONAL SPORTS CLUB OF ASSAM (TAKING-OVER OF MANAGEMENT) ACT, 1978

Subject: Administration
Reason: Objective of Act achieved
Grade: 4

What is the Law

The Act provides for the temporary transfer of management and control of the affairs of the National Sports Club of Assam from the erstwhile executive committee.

Key Features

Section 3 of the Act provides for a temporary transfer of management and control of the Board for five years and the management and the control of the Club within the State of Meghalaya to the State Government. S. 8 provides for the control and management of

the Club to revert to the Club or an Ad-hoc committee.

Reason(s) for Repeal

- The objective of the Act was to grant the State with authority and control over the Club for five years. On the lapse of the five years, the management would be returned to the Club.

Issues

There are no legal issues that would impede repeal

77 THE GAURIPUR (GHOLLA) ZAMINDARS' ANNUITY RIGHTS ABOLITION AND EXTINGUISHMENT ACT, 1979

Subject: Land and Revenue

Reason: Objective of the Act has been achieved.

Grade: 4

What is the Law

The Act provides for the abolition and extinguishment of annuity rights which were accorded to the Gauripur Raj who were Zamindars of Gauripur (Gholla) within West Garo Hills District.

Key Features

The Act focuses on removal of annuity to the sum of Rs.7,16.40 paise paid by the Government to Raj Protap Chandra Barua Bahadur who was the proprietor/ Zamindar of Gauripur Rah Estate, his heirs, successors, executors and assignees as consideration for giving up his rights to Kalumalupara and Aurangabad under an agreement between the Zamindar and the Secretary of State of India, dated 30th April, 1878. S. 3 of the Act provides for the abolishment of the said annuities and extinguishment all zamindari rights associated with the Gauripur Raj. While S.4 of the Act

provides for a lumpsum amount to be paid in turn of abolishment.

Reason(s) for Repeal

- The objective of the Act was to abolish annuity rights to the Zamindars of the Gauripur Raj, and the same has been achieved.
- The Constitution advocates Zamindari abolition and associated rights. The 44th Amendment did away with the 'Right to Property' under Article 31 and Article 19(1)(f) and made it a constitutional right. Article 31 A, 31 B, 31 C and amendments in the 9th Schedule were introduced to prevent Zamindars from having any legal recourse.

Issues

There are no legal issues that would impede repeal.

78 MEGHALAYA ESSENTIAL SERVICES MAINTENANCE ACT, 1980

Subject: Administration

Reasons: The Act is covered by a Central Legislation, namely the Essential Services Maintenance Act, 1981

Grade: 2

What is the Law

The Act provides for the maintenance of certain essential services and the normal life of the community that cannot be disrupted, and lays down punishment for disruption/strikes

Key Features

The Act under S.2(a) enlists the maintenance of certain essential services like establishment or undertaking wholly or substantially owned, controlled or managed by the Government of Meghalaya connected with the production, generation, storage, transmission, supply or distribution of gas water or electricity. It provides for penalty for illegal strikes. The Act repeals The Meghalaya Essential Services Maintenance Ordinance, 1980.

Reason(s) for Repeal

- Although, States have discretion to have specific enactments of their own prescrib-

ing “essential services”. The Central Legislation is much more comprehensive in comparison to the State legislation and includes in “essential services” in S.2. (a) everything prescribed in S.2. (a) of the State enactment. The recent amendment introduces ‘ground handling’ as an essential service. However, the amendment for ground-handling at the airport is included in the Central Act.

- The provisions of State Act are same as the Central Act, and hence can be recommended for repeal.

Issues

There are no legal issues that would impede repeal. However, a savings clause may be added in the repealing legislation concerning any cases pending under the Act, stating that the same shall not be subject to the repealing legislation.

79 LEGISLATIVE ASSEMBLY OF MEGHALAYA (MEMBERS' SALARIES AND ALLOWANCES) (AMENDMENT) ACT, 1981

Subject: Finance (Members of Legislative Assembly)

Reason: The Act has been subsumed by a subsequent State Legislation, namely the Legislative Assembly of Meghalaya (Members' Salaries and Allowances) (Amendment) Act, 1985

Grade: 2

What is the Law

The Act was enacted to amend the Legislative Assembly of Meghalaya (Members' Salaries and Allowances Act, 1972).

Key Features

The Act amends Section 4 of the Principal Act to increase the salary of legislators from Rs. 300 to Rs. 450. Further, the Act inserts Section 6 of the Principal Act thereby providing travel allowances to members.

Reason(s) for Repeal

- The Act is superseded by Legislative Assembly of Meghalaya (Members' Salaries and Allowances) (Amendment) Act, 1985. The latter nullifies amendments brought by the Act to Section 4. Further, the latter also replaces Section 6, which was inserted by the Act.

Issues

There are no legal issues that would impede repeal.

80 LEPERS (MEGHALAYA REPEAL) ACT, 1990

Subject: Medical Law

Reason: The Act has been subsumed by the Central Act, namely the Repealing and Amending Act, 2016.

Grade: 2

What is the Law

This legislation was enacted to repeal the Lepers Act, 1898 in its application to the State of Meghalaya.

Key Features

This Act repeals the Central Act 3 of 1898 in Meghalaya. This repeal came in a time when there were a lot of protests and demonstrations from activists and even legal luminaries regarding the discriminatory nature of the said Act which got repealed subsequently by a Central Act.

Reason(s) for Repeal

- The Repealing and Amending Act, 2016, a Central legislation which repeals several other redundant legislations also repeals this Act. Hence, both serve the same purpose.¹²²

Issues

There are no legal issues that would impede repeal.

¹²²Repealing and Amending Act, 2016, Act 23 of 2016, 6th May 2016.

81 MEGHALAYA PROFESSIONS TRADES CALLING AND EMPLOYMENTS TAXATION (AMENDMENT) ACT, 1991

Subject: Taxation

Reasons: The Act has been subsumed by a subsequent State Legislation, namely the Meghalaya Professions, Trades, Callings, and Employments Taxation (Amendment) Act, 2012

Grade: 2

What is the Law

The Act amends the Meghalaya Professions, Trades, Callings and Employments Taxation Act (Assam Act VI of 1947 as adapted by Meghalaya)

Key Features

Section 2 of the Act amends Section 5 of the Meghalaya Professions, Trades, Callings and Employments Taxation Act, 1947. The amendment completely substitutes the Schedule in the 1947 Act.

Reason(s) for Repeal

- The Act has been made redundant by the Meghalaya Professions, Trades, Callings, and Employments Taxation (Amendment) Act, 2012, which entirely substitutes the schedule of the Act of 1991.¹²³

Issues

There are no legal issues that would impede repeal

¹²³Meghalaya Professions, Trades, Callings, and Employments Taxation (Amendment) Act, 2012, Act 6 of 2012, 30th March 2012.

82 MEGHALAYA PREVENTIVE DETENTION ACT, 1995

Subject: Criminal Law

Reason: There was already a similar Central Act in force, namely the National Security Act, 1980.

Grade: Grade not found

What is the Law

To provide for preventive detention in certain cases as specified in the legislation.

Key Features

It lays down certain conditions to be fulfilled to issue an order of Preventive Detention and specifies to who has the powers to do so. It also deals with the constitution of an Advisory Board for certain cases and revocation of the Orders etc. There is protection provided for action taken in good faith nonetheless.

Reason(s) for Repeal

- This statute came into being when there was already a Central Legislation enacted exclusively for this purpose.

- The National Security, 1980 (which came into being after repealing the Preventive Detention Act, 1950) contains the same provisions as this does and serves the same purpose.¹²⁴

Issues

There are no legal issues that would impede repeal. However, a savings clause may be added in the repealing legislation concerning any cases pending under the Act, stating that the same shall not be subject to the repealing legislation.

¹²⁴National Security Act, 1950, Act 65 of 1980, 27th December 1980.

83 MEGHALAYA APPROPRIATION NO. 1 ACT(S) 1998, 2000

Subject: Government Expenditure
Reason: The Object is achieved.
Grade: 4

What is the Law

These acts authorised payment and appropriation of certain further sums from and out of the Consolidated Fund of Meghalaya for the services of the financial year 1998-99 and 2000-2001 respectively.

Key Features

A total of Rs.34,76,32,020 in 1998 and Rs. 43,58,18,225 in 2000 was to be paid to all the services in the State according to the split-up given in the Schedule

Reason(s) for Repeal

- The legislation is time-specific which is only in force for one year i.e., 1998-99 or 2000-01 and not more than that. Hence, it is not valid anymore.

Issues

There are no legal issues that would impede repeal.

84 MEGHALAYA (MOBILE PHONE CONNECTION) CESS ACT, 2002

Subject: Taxation

Reason: The Act has been subsumed by a subsequent Central Legislation, i.e., the Goods and Services Act, 2017.

Grade: 2

What is the Law

The law stipulates that mobile network operators have to pay a one-time tax of 500 rupees per mobile phone connection.

Reason(s) for Repeal

- The Act is superseded by the Goods and Services Tax Act, 2017.¹²⁵

Key Features

Imposes a tax on mobile network providers for providing new connections.

Issues

There are no legal issues that would impede repeal.

¹²⁵Ibid.

85 MEGHALAYA TAX ON LUXURIES ACT, 2005

Subject: Taxation

Reason: The Act has been subsumed by a subsequent Central Legislation, namely the Goods and Services Tax Act, 2017

Grade: 2

What is the Law

The Act imposed taxes on luxury items, namely cigarettes and cigars.

Reason(s) for Repeal

- The Act has been subsumed by the Goods and Services Tax (GST) Act.¹²⁶

Key Features

Imposes a tax on cigars and cigarettes.

Issues

There are no legal issues that would impede repeal.

¹²⁶The Goods and Services Act, 2017, Act 12 of 2017, 12th April 2017.



COMPENDIUM OF LAWS
TO BE REPEALED IN
MIZORAM

86 MIZORAM URBAN AREAS RENT CONTROL ACT, 1974

Subject: Rent and Tenancy
Reason: Unreasonable
Grade: 1

What is the Law

The Act aims to fix fair rents of houses situated within the local limits of urban areas in the state of Mizoram.

Key Features

The Act provides the procedure for the determination of 'fair rent'. It is also a bar against passing and executing decrees and orders for ejection under certain specific conditions.

Reason(s) for Repeal

- There are no provisions dealing with the Rights and Duties of the Landlord
- Fair rent provisions state that according to the procedure provided, no landlord shall be

entitled to charge rent for any house at a figure higher than the standard rent.

- There are also no provisions for the Rights of Tenants.
- The current developments point to a Committee on "*Mizoram Urban Areas Rent Control Bill, 2017*" being constituted under the chairmanship of the General Secretary has been constituted and the matter of amendments is under active consideration.

Issues

There are no legal issues in the repeal of this law.

87 MIZORAM UNION TERRITORY LEGISLATURE MEMBERS (REMOVAL OF DISQUALIFICATION) ACT, 1975

Subject: Delimitation and Elections
Reason: Redundant/ Obsolete
Grade: 4

What is the Law

This is an Act to amend the Mizoram Union Territory Legislature Member's (Removal of Disqualification) Act, 1975.

Key Features

This Act substitutes, the words office of the 'Chairman' in the Schedule to the Mizoram Union Territory Legislature Member's (Removal of Disqualification) Act, 1975, in Item 4, for the words "*Office of the Chief Executive Member, Executive Member, Chairman, etc.*".

Reason(s) for Repeal

- Mizoram attained full statehood in the year 1987 and the Mizoram State Legislature members (Removal of Disqualification) (Amendment) Act, 2006 amended the Act of 1975 to make the provisions therein applicable to the state legislature.
- Hence, the changes this Act made to the Act of 1975 are no longer required.

Issue

There are no legal issues in the repeal of this law.

88 PRISONS (EXTENSION TO MIZORAM) ACT, 1980

Subject: Criminal Justice
Reason: Redundant/ Obsolete
Grade: 4

What is the Law

This Act provides for the extension of the Prisons Act 1894, to the state of Mizoram.

Key Features

The present jail management and administration operate in India based on the Prisons Act, 1894. All officers of a prison have to obey the directions of the Superintendent. The Act also provides for admission, removal, and discharge of prisoners and covers discipline, health, and offences related to prisons.

Reason(s) for Repeal

- The Act is redundant after 'The Constitution (53rd Amendment) Act, 1986'. It confers Statehood on Mizoram and ensures against unnecessary interference by the Central Government with the laws relating to spheres of social relationship and community conduct applicable to Mizoram.
- Mizoram is now a State, and is governed by the Prisons Act, 1894.¹²⁷

Issues

There are no legal issues in the repeal of this law.

¹²⁷Prisons Act, 1894, Act 9 of 1894, 22nd March 1894.

89 CONTINGENCY FUND OF THE STATE OF MIZORAM (DETERMINATION OF AMOUNT) ACT, 1987

Subject: Financial Laws

Reason: The Act has achieved its objective.

Grade: 4

What is the Law

A sum of rupees ten lakhs from the Consolidated Fund of Mizoram was paid to the Government of Mizoram.

Key Features

This Act gives the Government of Mizoram funds from the Contingency Fund of Mizoram.

Reason(s) for Repeal

- This law has achieved the purpose for which it was enacted. Hence, it may be repealed.

Issues

No issues hinder the repeal of this law.

90 MIZORAM SALES TAX, 1989

Subject: Taxes, Tolls and Cess Laws

Reason: The Act has been subsumed by a subsequent State Legislation, namely the Mizoram Goods and Services Act, 2017

Grade: 2

What is the Law

It is an Act that provides for the levy of a tax on the sale of goods in the state of Mizoram.

Key Features

This Act specifies the rate of tax and the manner of assessment, taxing authority, manner of registration, returns on taxes, power of the commissioner, offences and penalties, etc., related to tax on the sale of goods.

Reason(s) for Repeal

- Taxation on the sale of goods and services is now governed by the Mizoram Goods and Services Tax Act, 2017.¹²⁸ Hence, this Act is redundant and may be repealed.

Issues

The Act should only be amended/repealed to the extent that it has been subsumed by the Goods and Services Tax Act. Hence, provisions governing implementation etc. may be saved.

¹²⁸Ibid

91 THE MIZORAM MAINTENANCE OF ESSENTIAL SERVICES ACT, 1990

Subject: Labor Laws

Reason: The Act has been covered by a Central Legislation, namely the Essential Services Maintenance Act, 1981

Grade: 2

What is the Law

This Act allows the state government to issue orders to prohibit strikes in any 'Essential Service'.

Key Features

Services that qualify as essential can be specified by the state government. This Act prescribes a maximum punishment of one year with a fine of Rs. 2000 for the Act of participating in a strike that is declared illegal by way of an order. The offence is cognizable and non-bailable. Participation in a strike can also result in dismissal from employment.

Reason(s) for Repeal

- This Act has been used by the state government to suppress dissent of employees against bad work conditions, non-payment of salaries and other such basic rights.

- This law also allows the government to suppress dissent and redress the grievances of employees through draconian measures.
- This Act was used in Mizoram in 2008 to prevent agitating nurses from withholding services who were demanding improvement in work conditions.
- It restricts the rights guaranteed by the Supreme Court in the case of *M/S Burn & Co. Ltd. v. Their Workmen*.¹²⁹ In the said case, it was held that mere participation in the strike would not justify suspension or dismissal of workmen.

Issue

There are no legal issues in the repeal of this law.

¹²⁹*M/S Burn & Co. Ltd. V. Their Workmen*, 1960 AIR 896.

92 MIZORAM PUBLIC LIBRARIES ACT, 1993

Subject: Media, Communications, and Publishing
Reason: Non-implementation
Grade: 4

What is the Law

This law has been enacted with an objective for the establishment, maintenance and development of a comprehensive library system in the state of Mizoram.

Key Features

This law seeks to constitute a state library council to advise the government regarding the promotion and development of library services in the state of Mizoram and other matters in the Act. It also seeks to constitute a department of public libraries in the state. It further divides the public libraries into various categories, provides for the establishment of

each kind of libraries, lays down the function of the libraries, etc.

Reason(s) for Repeal

- Despite the state having its first library as early as in 1969, the Act has not been implemented to date. The libraries are being managed as per the procedure which was being followed before the enactment of this Act. Therefore, this Act remains to be a dead letter law.

Issues

There are no legal issues in the repeal of this law.

93 MIZORAM (PENSION FOR MEMBERS OF THE DEFUNCT MIZO DISTRICT COUNCIL AND OF THE PAWI-LAKHER REGIONAL COUNCIL) ACT, 1994

Subject: Financial Laws

Reason: The Act has achieved its purpose.

Grade: 4

What is the Law

This law provides for the pension to the members of the defunct Mizo District Council and of the defunct Pawi-Lakher Regional Council in the state of Mizoram.

Key Features

This Act provides the amount of pension the members of these defunct councils are to be paid and sanction and payment of the fund.

Reason(s) for Repeal

- The defunct councils mentioned in the Act were dissolved in the 1970s and there is no beneficiary of this Act at the present.
- Therefore, the Act has completed its purpose.

Issues

There are no issues with the repeal of this law. However, a savings clause might be added to protect the beneficiaries of this Act who are still alive.

94 THE MIZORAM PREVENTION OF DEFACEMENT OF PROPERTY ACT, 1995

Subject: Criminal Justice
Reason: The Act is redundant
Grade: 2

What is the Law

The Mizoram Prevention of Defacement of Property Act, 1995 provides for the punishment for the defacement of any property within the state of Mizoram.

Key Features

The Act seeks to punish the commission, attempt, and abetment of the offence of defacement of property. Besides this, it attributes the offence to all the members of the management of the corporation, in case the corporation is a beneficiary of the offence. It further makes the abetment of such an offence punishable. The offence is cognizable and bailable under this Act. It confers the power to erase writing, posters and free any defacement on any property. The Act indemnifies any government official from any liability under this

offence. The offence is to be tried summarily as per the provisions of CrPC.

Reason(s) for Repeal

- The offence provided by this Act has already covered under the offence of Mischief as given in Section 425 of the Indian Penal Code, 1860 which makes this Act redundant.¹³⁰
- In the absence of this Act, the actions of the workers can be penalized under the Central Act.

Issues

There are no legal issues in the repeal of this law. However, a savings clause might be added to save any case decided under this Act.

¹³⁰Indian Penal Code 1860, Act No. 45 of 1860, 6th October, 1860.

95 MIZORAM PROFESSIONS TRADES CALLINGS AND EMPLOYMENTS TAXATION ACT, 1995

Subject: Taxes, Tolls and Cess Laws

Reason: The Act has been subsumed by a subsequent State Legislation, namely the Mizoram Goods and Services Act, 2017

Grade: 2

What is the Law

This law seeks to levy a tax on professions, trades, callings, and employments in the state of Mizoram.

Key Features

This Act provides for the rate of tax, subject matter of the tax as well as various matters regarding the levying of the tax such as liability of the tax, determination of the tax, taxing authorities, returns, assessment, assessment of escaped tax, the rectification of mistakes, indemnity, appeals, etc.

Reason(s) for Repeal

- With the enforcement of the Goods and Services Tax Act, 2017 the taxes on pro-

fessions, trades, callings, and employments levied by this Act is no longer applicable in any of the States.

- The Mizoram Goods and Services Tax Act, 2017 is now applicable in the state and therefore this Act has no application in the state.¹³¹

Issues

The Act should only be amended/repealed to the extent that it has been subsumed by the Goods and Services Tax Act. Hence, provisions governing implementation etc. may be saved.

¹³¹Mizoram Goods and Services Act, 2017, Act 6 of 2017, 26th May 2017.

96 MIZORAM MOTOR VEHICLES TAXATION ACT, 1996

Subject: Taxes, Tolls and Cess Laws

Reason: The Act has been subsumed by a subsequent State Legislation, namely the Mizoram Goods and Services Act, 2017

Grade: 2

What is the Law

This law seeks to levy a tax on motor vehicles, grant licence and regulate related matters in the state of Mizoram.

Key Features

This Act provides for the tax which is to be levied upon and licence to be granted by the state government. It also provides for the display of licence on the motor vehicle and the duty of the vehicle owner to stop it on demand by certain officers. Furthermore, the Act provides for the penalty in case of a failure to pay the tax and the recovery of tax, penalty or fine in certain circumstances. The Act grants the concerned officers the power to seize and detain motor vehicles in case of non-payment of tax and grants the government the power to grant an exemption, reduction or other modification of tax. The Act also lays down certain motor vehicles on which provisions of this Act won't be applicable and certain other provisions like appeal, the trial of offences under this Act, etc.

Reason(s) for Repeal

- With the enforcement of the Goods and Services Tax Act, 2017 the tax on motor vehicles levied by this Act are no longer applicable in any of the States.¹³²
- The Mizoram Goods and Services Tax Act, 2017 is now applicable in the state and therefore this Act has no application in the State.

Issues

Some provisions are very crucial such as the grant of a licence, various powers like the power to seize or detain a motor vehicle in case of non-payment of tax, the power to grant exemption, reduction or other modification of tax, penalty for failure to pay, exemption of certain motor vehicles from tax payment, etc. These provisions have to be saved for the good governance and effective levying of tax. The government can do it either by enacting a new law or saving certain provisions of the present Act.

¹³²Ibid.

97 MIZORAM (TAXES ON LAND BUILDINGS AND ASSESSMENT OF REVENUE) ACT, 2004

Subject: Taxes, Tolls and Cess Laws

Reason: The Act has been subsumed by a subsequent State Legislation, namely the Mizoram Goods and Services Act, 2017

Grade: 2

What is the Law

This Act provides for the levying and collection of taxes on lands, buildings, and land-related uses.

Key Features

This Act provides for the rate of tax, the subject matter of the tax and other matters regarding the levying of the tax such as the authorities for the purposes of the Act, collecting agent, exemptions of certain lands and buildings from the tax, assessment, appeal, rectification of mistakes, etc.

Reason(s) for Repeal

- With the enforcement of the Goods and Services Tax Act, 2017 the taxes on lands,

buildings and land-related uses levied by this Act are no longer applicable in any of the States.¹³³

- The Mizoram Goods and Services Tax Act, 2017 is now applicable in the state and therefore this Act has no application in the State.

Issues

The Act should only be amended/repealed to the extent that it has been subsumed by the Goods and Services Tax Act. Hence, provisions governing implementation etc. may be saved.

¹³³Ibid.

98 MIZORAM VALUE ADDED TAX ACT, 2005

Subject: Taxes, Tolls & Cess Laws

Reason: Most functions of the Act have been subsumed by subsequent central legislation i.e., the Goods and Services Act, 2017.

Grade: 2

What is the Law

The Act provided for the levy of value-added tax on sales or purchases of goods in the state of Mizoram and related matters.

Key Features

Entry 54 of the State List (Seventh Schedule to the Constitution) allows the state to make tax laws for the sale and purchase of goods. The earlier the system of taxation in vogue was the Value Added Tax (which replaced the Sales Tax) and therefore the Mizoram Value Added Tax Act, 2005 laid down the application of all such taxes in the State.

Reason(s) for Repeal

- Taxation on the sale of goods and services is now governed by the Mizoram Goods and Services Tax Act, 2017.
- A 2018 bill seeks to introduce, among other things, a single schedule instead of the 3 VAT schedules previously.¹³⁴ Henceforth, while the majority of the state's value-added tax (VAT) on the production of

goods has been subsumed into GST, certain products like crude oil, diesel, petrol, natural gas, and jet fuel have been temporarily kept out of the new tax regime¹³⁵ along with electricity.¹³⁶ It is up to the GST Council, to decide when to bring these items into the purview of GST. Furthermore, liquor has been kept out of GST as a constitutional provision and hence an amendment to Constitution will be required if it is to be brought into the GST net.¹³⁷

- The proposed amendment also seeks to omit more than 30 major clauses of the principal Act, in effect rendering the legislation a mere shadow of its original form.

Issues

If required, a savings clause may be added in the repealing legislation itself with respect to any cases pending under the Act, stating that the same shall not be to subject to the repealing legislation in all matters except with respect to goods included in Entry 54 of the State List of the Seventh Schedule to the Constitution.

¹³⁴The Mizoram Value Added Tax (Amendment) Bill 2017.

¹³⁵As they find mention in both Sch 7 List I (Entry 84) and List II (Entry 54).

¹³⁶Constitution of India, Sch 7 List III (Entry 34) and List II (Entry 53).

¹³⁷Constitution of India, Sch 7 List II (Entry 54).

99 MIZORAM PASSENGERS AND GOODS TAXATION ACT, 2005

Subject: Taxes, Tolls & Cess Laws

Reason: The Act has been subsumed by a subsequent State Legislation, namely the Mizoram Goods and Services Act, 2017

Grade: 2

What is the Law

The Act provides for levy of taxes on passengers and goods carried by road in motor vehicles or on inland waterways by boats in the state of Mizoram.

Key Features

The State List gives the respective states the power to impose “*Taxes on goods and passengers carried by road or on inland Waterways*”¹³⁸ and while the Union List also provides for “*Terminal taxes on goods or passengers, carried by railway, sea or air; taxes on railway fares and freights*”.¹³⁹ The Act provides for levy and collection of taxes on fares along with taxation rates of goods or passengers carried in a taxable vehicle. The Transport Department is the ‘enforcing agency’ as

per the Act and the Rules made thereunder. Punitive measures- like compounding of offences, seizure, the power of entry and inspection and seizure of books of accounts-are enumerated for non-payment of taxes. Further, penalties for individuals and companies as well. Also, a mechanism for appeal against such penalties as mentioned herein is also provided.

Reason(s) for Repeal

- All the areas of taxation provided in this Act are now governed by section 17 of the Mizoram Goods and Services Act, 2017.¹⁴⁰

Issues

There are no legal issues impeding the repeal of this Act.

¹³⁸Constitution of India, Sch 7 List II (Entry 56).

¹³⁹Constitution of India, Sch 7 List I (Entry 89).

¹⁴⁰Mizoram Goods and Services Act, 2017, Act 6 of 2017, 26th May 2017.

100 MIZORAM FISCAL RESPONSIBILITY AND BUDGET MANAGEMENT ACT, 2006

Subject: Taxes, Tolls and Cess Laws

Reason: The Act is liable to be rendered redundant/ obsolete by subsequent newer legislations.

Grade: 5

What is the Law

It was enacted to ensure prudence in fiscal management and fiscal stability by reducing revenue deficit and to further the goal of prudent debt management in the state of Mizoram.

Key Features

After the Fiscal Responsibility and Budget Management Act, 2003 for the central government, several states enacted laws to ensure fiscal discipline and transparency within the state. This law provides for the state to release the Macroeconomic Framework Statement, the Medium Terms Fiscal Policy Statement, and the Fiscal Policy Strategy Statement on an annual basis. It delineates Measures for Fiscal Transparency, and grants state legislature the power to make FRMB Rules.

Reason(s) for Repeal

- The Central Act¹⁴¹ on which the Mizoram Fiscal Responsibility and Budget Management Act, 2005 is closely modeled on, was

recommended for repeal by the 'Law Commission of India'¹⁴² and the 'N.K. Singh Committee on FRBM' recommended a new Debt and Fiscal Responsibility Act.¹⁴³

- The Fiscal Management projection of 3% has become dated. A new and flexible method to calculate fiscal policy and the fiscal deficit to Gross State Domestic Product (GSDP) ratio is the need of the times. This is necessary to estimate whether eliminating the revenue deficit in a specified time frame is feasible.
- The words "... such other exceptional circumstances beyond the control of the State Government" in the proviso to section 6(7) are vague and liable to expedient interpretation to suit the needs of the government in office. If required, certain precise escape clauses may be added which allow for temporary deviation from the target only under pressing circumstances on lines of section 7 of the draft "Debt Management and Fiscal Responsibility Bill, 2017".¹⁴⁴

¹⁴¹The Mizoram Fiscal Responsibility and Budget Management Act 2003.

¹⁴²Law Commission of India, *Obsolete Laws: Warranting Immediate Repeal (Interim Report)* (Law Com No. 248).

¹⁴³PRS India, *Responsible Growth: A Debt and Fiscal Framework for 21st Century India FRBM Review Committee*

¹⁴⁴FRBM Review Committee Report, Volume-I, *Responsible Growth: A Debt and Fiscal Framework for 21st Century India (FRBM Review Committee)* (January 2017) 149-156.

- The targets for fiscal and revenue deficit reduction in the present Act and Rules have proved to be malleable, leading to successive deferment of targets in the State's compliance with the FRBM Act. Instances of understatement of expenditures and an extensive list of transparency issues are continuing causes of concern.
- The present Act also doesn't provide for a periodic review of the state government's statement of accounts with mandatory re-

view by the State Comptroller and Auditor General (SCAG).

Issues

The Mizoram Fiscal Responsibility and Budget Management Rules, 2007 were made under section 10 of this Act. If required, new state Act and Rules may be drafted before the repeal of the same on lines of the draft "*Debt Management and Fiscal Responsibility Bill, 2017*".

101 MIZORAM ROAD FUND ACT, 2007

Subject: Transportation and Infrastructure

Reason: Inadequacy

Grade: 5

What is the Law

The Act provides for the establishment of the Mizoram Road Fund for the rehabilitation and maintenance of roads in the state of Mizoram.

Key Features

The Act establishes the 'Mizoram Road Fund' for the rehabilitation repair and maintenance of roads in Mizoram. It constitutes a 'Road Fund Board' for the administration of the Fund and to monitor the activities financed from the Fund. It further elaborates on the composition, powers, function and duties of the board which includes, but are not limited to, framing road safety and traffic management policies, coordinating road sector agencies where more than one agency is involved, recommending collection of such fees and charges (including toll fees for services and benefits in relation to the use of roads), etc.

Reason(s) for Repeal

- The Central Road Fund Act, 2000 which precedes the above state legislation, was

recommended for repeal by the Law Commission.¹⁴⁵

- The Rules as required by the Mizoram Road Fund Act (provided for under Section 12 of the Act) are yet to be made. The law in the absence of a mechanism to enforce the same is therefore without teeth.

Issues

A Secretariat has been established under the State Road Fund Board which is expected to bring about improved and innovative methods for better maintenance of state roads. Rs. 50 crores have been earmarked for a newly created head called 'State Road Fund'.¹⁴⁶ However, an amendment providing for a steady stream of funds derived from either the Consolidated Fund of the State or levy and collect by way of cess, a duty of excise and a duty of customs on petrol and high-speed diesel oil, may be required for making the projects undertaken under it a reality.

¹⁴⁵Law Commission of India, *Obsolete Laws: Warranting Immediate Repeal (Interim Report)* (Law Com No. 248, 2014) 113.

¹⁴⁶Newmai News Network, 'Mizoram Finance Minister presents over Rs. 9,672 crore Surplus Budget', *The Morung Express* (Aizawl, 15 March 2018), accessed 11 November 2018.

102 MIZORAM CLINICAL & HEALTH ESTABLISHMENT (REGULATION) ACT, 2007

Subject: Public Health; Medical and Healthcare
Reason: Inadequacy
Grade: 1

What is the Law

The Act provides for the regulation of clinical establishments in the state of Mizoram.

Key Features

The Act provides for registration and licensing of said establishments as mandatory requirements for the operation of a clinical establishment while setting out terms and conditions for grant and renewal of licences. It further constitutes a 'State Health Authority' and terms of employment of its officials. It sets out the procedure for closure of clinical establishment and appoints the District Medical Superintendent Chief Medical Officer as 'Inspecting Officer' to inspect the clinical establishments. Further, the Act prescribes penalties for the establishment or maintenance of clinical establishment in contravention of the provision of this Act and the Rules.

Reason(s) for Repeal

- Section 2(c) of the Act defines the term "Clinical Establishment". The term includes "hospital, nursing home, polyclinic, sanatorium, maternity home, immunization or vaccination clinic, dispensary, dental clinic, special camps" and similar facilities. The Act also brings within its ambit

any laboratory which offers "pathological, bacteriological, genetic, radiological, chemical, biological and other diagnostic or investigative services". Be it an establishment owned by the Government or a department of the Government, a trust (public or private), a corporation (including a cooperative society), a local authority or a single doctor establishment.

- Thus, the basic drawback of the present Act is that it applies to the private sector and also the entire health care delivery systems in India. This is obviously because in India both these sectors are very large and complex. Both the systems have different categories, subcategories, and subgroups; in that case, it is not advisable to have a single piece of legislation regulating both the private and public sectors. Hence, using a single yardstick to regulate these systems will cause chaos and confusion.
- At the State level, as per the Act, there will be a 'State Health Authority' for clinical establishments.¹⁴⁷ Here also there will not be any new appointment to manage the work envisaged. Here too the bulk of the work has to be supervised by an already overburdened Commissioner/Secretary of the Health and Family Welfare Services who

¹⁴⁷The Mizoram Clinical and Health Establishment (Regulation) Act 2007, s 4.

¹⁴⁸The Clinical Establishments (Registration and Regulation) Act 2010, s 8.

will be the ex-officio Chairman and Secretary respectively.¹⁴⁸

- At the district level, the State Government shall set up the district registering authority. The situation at the district level will be even worse because the chairperson and the secretary of the district registering authority will be the District Collector and the District Health Officer¹⁴⁹ respectively.

All these functionaries are already overburdened by the daily chores of governance.

Issues

There are no legal issues that would impede repeal. However, a savings clause may be added to the repealing legislation for necessary provisions.

¹⁴⁹The Mizoram Clinical and Health Establishment (Regulation) Act 2007, s 15.

103 MIZORAM COMPULSORY REGISTRATION OF MARRIAGES ACT, 2007

Subject: Personal Laws
Reason: Inadequacy
Grade: 1

What is the Law

The Act provides for compulsory registration of marriage in the state of Mizoram.

Key Features

The Act empowers the state government to appoint 'Registrars of Marriages' and public inspection of the marriage register. It prescribes penalties for those who fail to register their marriage. However, according to the Act, non-registration does not invalidate a marriage. The Act also provides for framing of rules to be made under this Act.

Reason(s) for Repeal

- There is no procedure given for solemnization hence leading to confusion while registering marriages. This is often faced in cases of elopement where the parties may not have proof of solemnization of marriage due to there being no real and ready documentation or paperwork for proving whether a marriage had been solemnized or not.

Issues

The current Act may be amended for including a uniform procedure for solemnization of marriage.

104 MIZORAM STATE AGRICULTURAL PRODUCE MARKETING (DEVELOPMENT AND REGULATION) ACT, 2008

Subject: Agriculture and Animal Husbandry; Infrastructure

Reason: Inadequacy bordering on redundancy

Grade: 1

What is the Law

The Act provides for improvement in market regulations, domestic agricultural trade, and development of the farming community in the state of Mizoram.

Key Features

The Act empowers the state government to declare a specified area to be a 'Market Area' under the Act. It provides for every market area to have a 'Market Committee' having jurisdiction over the entire market area and procedure of acquisition of property by the same. The procedure and form of the 'Contract Farming Agreement' have also been provided. It prescribes the establishment of the 'State Agricultural Marketing Board' for coordinating activities of markets and for development, promotion, and regulation of agricultural markets.

Reason(s) for Repeal

- The current framework doesn't allow for farmer-producer to realise the optimal value on his produce and increase farm income. Organised wholesale marketing in the country is promoted through a network of regulated markets set up under the States' Agricultural Produce Marketing (Regulation) Acts. Over time these markets have largely become restrictive and monopolistic.

- Furthermore, current regulations do not facilitate the free flow of agricultural produce and a direct interface between farmers with processors/exporters/bulk buyers/end users.
- A comprehensive central law superseding the Mizoram State Agricultural Produce Marketing (Development and Regulation) Act and Rules are recommended along with the abolition of the fragmentation of the market within the State/UT by removing the concept of the market area. Also, provisions for a single point levy of market fee across the state and unified single trading licence.
- The Delhi Agricultural Produce Marketing (Regulation) Act, 1976 was repealed in 1998. Several commentators have called for the repeal of such Acts in other States. Furthermore, the promotion of a national market for agricultural produce through provisioning inter-state trading licence, grading, standardisation, and quality certification is the need of the times.

Issues

There are no legal issues that would impede repeal. However, a savings clause may be added to the repealing legislation for necessary provisions.

105 MIZORAM DRUG (CONTROLLED SUBSTANCES) ACT, 2016

Subject: Drugs and Public Welfare; Criminal Justice

Reason: Humanitarian and Constitutional Rights may be violated.

Grade: 1

What is the Law

The legislation aims to provide for control of abuse, possession and sale of certain substances that tend to addiction and misuse, which are not effectively dealt with under the existing laws in force like the Drugs and Cosmetics Act, Assam Drugs Control Act and the Narcotic Drugs and Psychotropic Substances Act, etc., in the state of Mizoram.

Key Features

The Act authorises law enforcement agencies to seize and prosecute people possessing selling and using drugs, including those legally manufactured in the country. It provides for accreditation, certification and authorised of 'Treatment-cum-Rehabilitation Centres' by the government agency to ensure quality treatment of addicts and related services. The new local law aims simplification of procedures, thus, increasing conviction rates in Mizoram which under the Narcotic Drugs and Psychotropic Substances Act, 1985 was extremely low due to complex procedures and stringent provisions laid down in the Act. The Act prohibits the possession, sale or stock of sale of any of the controlled substances. Activities in contravention with the Act are punishable with imprisonment-the consequences are penal in nature.

Reason(s) for Repeal

- Presently, there are no pending criminal proceedings under the Act.
- Additionally, the Act does not make provisions for periodic checking of stock registers at storage sites.
- The line between drug peddlers and users is often blurred as "seven out of the 10 peddlers themselves are drug users, and they peddle drugs to fund their use"¹⁵⁰
- The Act also raises the concern whether drug addicts are being effectively rehabilitated into society in Mizoram under the present Act which prescribes in section 38 for immunity from prosecution of addicts charged for an offence under section 9.
- It criminalises the mere possession of the prohibited substance and therefore fails to address the issue of misuse of the said substances.
- The law should treat drug addiction as a disease rather than a crime.
- Section 4 of the Act provides for a 'Government Nodal Officer'. An authority like this requires a more detailed description of the role and powers attached to the position.
- Further, a clear-cut hierarchy of command is missing in the current Act or Rules and

¹⁵⁰Rajeev Ravidas, 'Sikkim Disease Tag on Drug Use' *The Telegraph* (Gangtok, 9 August 2018)

therefore, the powers attached to the post are vague, leaving room for discretion and arbitrariness.

Issues

While there are no pending legal proceedings in any court to impede its repeal, its repeal is not advised. However, parts of it may be amended or repealed and buttressed by a supporting legislation. For example, an authority like the Nodal Officer may require a more de-

tailed and specialized enumeration and elaboration of the role and powers attached with the position (either in the existing legislation or in the form of an amendment or separate legislation). The current enacting provisions are vague, leaving much room for discretion. However, the saving grace of this legislation is that the Mizoram Drug Act, being a relatively new legislation, has successfully accounted for the lacunae of the NDPS Act, ancillary legislations and additional glaring problems in other state legislation on the same subject.



COMPENDIUM OF LAWS
TO BE REPEALED IN
NAGALAND

106 NAGALAND AMUSEMENT TAX ACT, 1965

Subject: Taxation and Revenue

Reason: The Act has been subsumed by a subsequent legislation, i.e., the Goods and Services Act, 2017

Grade: 2

What is the Law

The Act provides for levy of a tax on entertainment and other amusements for generating revenue for the state of Nagaland.

Key Features

Section 5 of the Act provides for the levy of taxes on admission to any theatre, cinematograph exhibition, or circus or any class of entertainment to which the State Government at a rate specified in Section 5(1)(a) and (b) of the Act. The burden of payment of the tax lies on the 'proprietor' of the services. Section 8 of the Act lays down the penalty for non-payment of the tax.

Reason(s) for Repeal

- Taxation of services has been subsumed within the Central Goods and Services Act, 2017.¹⁵¹
- The later Act is more comprehensive and in consonance with the economic policy of the nation. Hence, this Act has become redundant.

Issues

The Act should only be amended/repealed to the extent that it has been subsumed by the Goods and Services Tax Act. Hence, provisions governing implementation etc. may be saved.

¹⁵¹The Central Goods and Services Tax Act, 2017, Act No. 12 of 2017

107 THE NAGALAND FINANCE (SALES TAX) ACT, 1967

Subject: Taxation and Revenue

Reason: The Act has been subsumed by a subsequent legislation, i.e., the Goods and Services Act, 2017

Grade: 2

What is the Law

The Act provides for levy of a tax on the sale of certain goods at the first stage of the sale in Nagaland for generating revenue for the state of Nagaland.

Key Features

Section 5, 6 and 7 talk about Compulsory-registration, Registration by Commissioner and Certificate of Registration respectively. Section 8 of the Act provides that every registered dealer shall furnish returns of his turnover by such dates and to such authorities as may be prescribed. Section 13 and 28 of the Act lays down the penalty for non-payment of the tax.

Reason(s) for Repeal

- Taxation of services has been subsumed within the Central Goods and Services Act, 2017.¹⁵²
- The later Act is more comprehensive and in consonance with the economic policy of the nation. Hence, this Act has become redundant.

Issues

There are no legal issues that would impede repeal.

¹⁵²Ibid

108 NAGALAND MOTOR VEHICLES TAXATION ACT, 1967

Subject: Taxation and Revenue

Reason: The Act is redundant in light of the Nagaland Goods and Services Tax Act, 2017

Grade: 2

What is the Law

This law has been adapted to levy a tax on motor vehicles, grant licence and regulate related matters in the state of Nagaland.

Key Features

This Act provides for the tax which is to be levied upon and licence to be granted by the state government. It also provides for the display of licence on the motor vehicle and the duty of the vehicle owner to stop it on demand by certain officers. Furthermore, the Act provides for the penalty in case of a failure to pay the tax and the recovery of tax, penalty or fine in certain circumstances. The Act grants the concerned officers the power to seize and detain motor vehicles in case of non-payment of tax. It grants the government the power to grant an exemption, reduction or other modification of tax. The Act also lays down certain motor vehicles on which provisions of this Act won't be applicable and certain other provisions like appeal, the trial of offences, etc.

Reason(s) for Repeal

- With the enforcement of the Goods and Services Tax Act, 2017 the tax on motor vehicles levied by this Act are no longer applicable in any of the States.¹⁵³
- The Nagaland Goods and Services Tax Act, 2017 is now applicable in the state and therefore this Act has no application in the State.

Issues

Certain provisions such as the grant of licences, the power to seize or detain a motor vehicle in case of non-payment of tax, the power to grant exemptions, reduction or other modification of tax, the penalty for failure to pay, exemption of certain motor vehicles from tax payment, etc. are crucial. These provisions should be saved for good governance and effective levying of the tax. This can be done by either enacting a new law or saving certain provisions of the present Act.

¹⁵³The Nagaland Goods and Services Tax Act, 2017, Act No. 4 of 2017

109 THE NAGALAND PASSENGERS AND GOODS TAXATION ACT, 1967

Subject: Taxation and Revenue

Reason: The Act is redundant in light of the Nagaland Goods and Services Tax Act, 2017

Grade: 2

What is the Law

It is an Act to provide for the levy of a tax on passengers and goods carried by road in motor vehicles.

Key Features

This Act specifies the rate of tax and the manner of assessment, taxing authority, exemptions, the penalty for non-payment of tax, manner of appeal and other such matters. It further allows for the seizure of books of accounts, setting up of checkpoints and specifies which vehicles cannot be used in the event of non-payment of taxes.

Reason(s) for Repeal

- All the areas of taxation provided in this Act are now governed by the Nagaland Goods and Services Act, 2017.¹⁵⁴

Issues

The Act should only be amended/repealed to the extent that it has been subsumed by the Goods and Services Tax Act. Hence, provisions governing implementation etc. may be saved.

¹⁵⁴Ibid

110 NAGALAND PROFESSIONS TRADES CALLINGS AND EMPLOYMENTS TAXATION ACT, 1968

Subject: Taxation and Revenue

Reason: The Act is redundant in light of the Nagaland Goods and Services Tax Act, 2017

Grade: 2

What is the Law

The Nagaland Professions Trades Callings and Employments Taxation Act, 1968 provides for the levy and collection of tax on professions, trades, callings and employments for raising additional resources for the benefit of the State.

Key Features

It provides a framework for the levy and charges of the tax and specifies the Employer's liability to deduct and pay tax on behalf of employees. It lays down the process of Registration and enrolment as well as Payment of Tax, Penalty to be imposed and authorities that will regulate this process.

Reason(s) for Repeal

- With the enforcement of the Goods and Services Tax Act, 2017 the taxes on pro-

fessions, trades, callings, and employments levied by this Act is no longer applicable in any of the States.¹⁵⁵

- The Nagaland Goods and Services Tax Act, 2017 is now applicable in the state and therefore this Act has no application in the state.

Issues

The Act should only be amended/repealed to the extent that it has been subsumed by the Goods and Services Tax Act. Hence, provisions governing implementation etc. may be saved. Further, a savings clause may be added in the repealing legislation concerning any cases pending under the Act, stating that the same shall not be subject to the repealing legislation.

¹⁵⁵Ibid

111 LEGISLATIVE ASSEMBLY OF NAGALAND (CHANGE IN REPRESENTATION) ACT, 1968

Subject: Administration and Governance
Reason: The Act has achieved its purpose
Grade: 5

What is the Law

The aforesaid Act was enacted to provide for a change in representation in the Legislative Assembly of Nagaland and for that purpose to make consequential amendments in the State of Nagaland Act, 1962 and the Representation of the People Act, 1950.

Key Features

The Act provides for a change in representation in the Legislative Assembly of Nagaland, and makes consequential amendments to the State of Nagaland Act, 1962 and the Representation of the People Act, 1950. The Act amends Section 11 of the State of Nagaland Act, 1962 and also, the proviso to Section 7 (1) of the Representation of the People Act, 1950 along with the Second Schedule of the Act.

Reason(s) for Repeal

- This Act has been recommended for review by the PC Jain Commission Report (Appendix B).¹⁵⁶
- The Law Commission of India in its 249th Report at SI. No. 75 under Chapter 2 of the Report recommended for the repeal of the aforesaid Act without mentioning consultation with relevant State(s) and mentioning the earlier recommendations of the PC Jain Commission.¹⁵⁷
- Since the amendments have been duly made, the purpose of the Act has been fulfilled. Hence, the same should be repealed with a suitable savings clause.

Issues

A savings clause shall be made to the repealing legislation that the repeal of the Act shall not impact the amendments so made under it.

¹⁵⁶Report of the Commission on Review of Administrative Laws, Volume I, Ministry of Personnel, Public Grievances and Pensions, September 1996.

¹⁵⁷“Obsolete Laws: Warranting Immediate Repeal (Second Interim Report), Law Commission of India, October 2014, Report No. 249

112 THE NAGALAND ESSENTIAL SERVICES (MAINTENANCE) ACT, 1978

Subject: Labor Laws

Reason: The Act is redundant in light of the Central legislation titled the Essential Services Maintenance Act, 1981

Grade: 2

What is the Law

The Act provides for the maintenance of certain essential services and the normal life of the community that cannot be disrupted. It lays down punishment for disruption and strikes. This Act allows the state government to issue orders to prohibit strikes in any 'Essential Service'.

Key Features

The Act prescribes the maintenance of certain essential services and provides penalties for strikes related to such services. This maximum punishment under the Act is two years imprisonment with a fine of Rs. Two thousand or with both. This is the case when a strike is declared illegal by way of an order. Participation in a strike can also result in dismissal from employment.

Reason(s) for Repeal

- The provisions of the State Act are covered by the Central Act, and hence can be recommended for repeal.

- This Act has been used by the state government to suppress dissent of employees against bad work conditions, non-payment of salaries and other such basic rights. It allows the government to suppress dissent and redress the grievances of employees through draconian measures.
- It restricts the rights guaranteed by the Supreme Court in the case of *M/S Burn & Co. Ltd. v. Their Workmen*.¹⁵⁸ In the said case, it was held that mere participation in the strike would not justify suspension or dismissal of workmen.

Issues

There are no legal issues that would impede repeal. However, a savings clause may be added in the repealing legislation concerning any cases pending under the Act, stating that the same shall not be subject to the repealing legislation.

¹⁵⁸M/S Burn & Co. Ltd. V. Their Workmen, 1960 AIR 896

113 NAGALAND PREVENTION OF DEFACEMENT OF PROPERTY ACT, 1985

Subject: Criminal Justice
Reason: The Act is Redundant
Grade: 2

What is the Law

The Nagaland Prevention of Defacement of Property Act, 1985 provides for the punishment for the defacement of any property within the state of Nagaland.

Key Features

The Act seeks to punish the commission, attempt, and abetment of the offence of defacement of property. Besides this, it attributes the offence to all the members of the management of the corporation, in case the corporation is a beneficiary of the offence. It makes the abetment of such an offence punishable. Further, the offence under the Act has been classified to be a cognizable offence. It confers the power to erase writing, posters and free any defacement on any property. The Act indemnifies any government official from

any liability under this offence. The offence is to be tried summarily as per the provisions of the Code of Civil Procedure.

Reason(s) for Repeal

- The offence provided by the Act has been covered by the offence of “Mischief” as given in Section 425 of the Indian Penal Code, 1860 which makes this Act redundant.¹⁵⁹
- In the absence of this Act, the actions of the workers can be penalized under the Central Act.

Issues

There are no legal issues in the repeal of this law. However, a savings clause might be added to save any case decided under this Act.

¹⁵⁹Indian Penal Code 1860, Act No. 45 of 1860, 6th October, 1860

114 NAGALAND HEALTH CARE ESTABLISHMENTS ACT, 1997

Subject: Public Health

Reason: The Act fails to meet its objective

Grade: 1

What is the Law

The Act aims to regulate the setting up of Private Hospitals, Nursing Homes, Clinics and other such Centers run by voluntary organisations catering to diagnostic, investigative, operative and other health care services.

Key Features

The Act provides for registration and licensing of said establishments as mandatory requirements for the operation of a clinical establishment while setting out terms and conditions for grant and renewal of licences. It further constitutes a 'Nagaland Health Care Establishment Authority' and terms of employment of its officials. Further, the Act prescribes penalties for the establishment or maintenance of clinical establishment in contravention of the provision of this Act and the Rules.

Reason(s) for Repeal

- The Act covers under its ambit "A Clinic where patients are admitted for examination and treatment with or without the aid of operative procedures" among other categories. Hence, it applies to private and

public health care delivery systems. These systems are large and complex. Both the systems have different categories, subcategories, and subgroups; in that case, it is not advisable to have a single legislation regulating both systems.

- At the State level, as per the Act, there will be a 'Nagaland Health Care Establishment Authority' for clinical establishments. There will not be any new appointment to manage the work envisaged. The bulk of the work has to be supervised by an already overburdened Commissioner/Secretary of the Health and Family Welfare Services who will be the ex-officio Chairman and Secretary respectively.
- This is an example of the poor planning envisaged by the Act which fails to provide proper mechanisms to regulate the aforesaid systems.

Issues

The present legislation should be replaced with separate more detailed legislation. This would also require transposing compliances and analyzing whether the new Act should be retrospective or prospective in nature.

115 NAGALAND FISCAL RESPONSIBILITY AND BUDGET MANAGEMENT ACT, 2005

Subject: Taxation and Revenue
Reason: The Act is Redundant
Grade: 5

What is the Law

The Act was enacted to ensure prudence in fiscal management and fiscal stability by reducing revenue deficit and to further the goal of prudent debt management in the state of Nagaland.

Key Features

After the Fiscal Responsibility and Budget Management Act, 2003 for the Central government, several states enacted laws to ensure fiscal discipline and transparency within the state. This law provides for the State to release the Macroeconomic Framework Statement, the Medium Terms Fiscal Policy Statement, and the Fiscal Policy Strategy Statement on an annual basis. It delineates Measures for Fiscal Transparency, and grants state legislature the power to make FRMB Rules.

Reason(s) for Repeal

- The Central Act after which the Act is closely modeled was recommended for repeal by the 'Law Commission of India'. Similarly, the 'N.K. Singh Committee on FRBM' recommended a new Debt and Fiscal Responsibility Act.¹⁶⁰

- The Fiscal Management projection of 3% has become dated. A new and flexible method to calculate fiscal policy and the fiscal deficit to Gross State Domestic Product (GSDP) ratio is the need of the times.¹⁶¹ This is necessary to estimate whether eliminating the revenue deficit in a specified time frame is feasible.
- The targets for fiscal and revenue deficit reduction in the present Act and Rules have proved to be malleable, leading to successive deferment of targets in the State's compliance with the FRBM Act. Instances of understatement of expenditures and an extensive list of transparency issues are continuing causes of concern.
- The present Act also doesn't provide for a periodic review of the state government's statement of accounts with mandatory review by the State Comptroller and Auditor General (SCAG).

Issues

There are no issues with the repeal of this law, however, a savings clause for the Rules drafted under the present Act should be inserted.

¹⁶⁰The FRBM Review Committee, Chairperson: Mr. N.K. Singh, January 2017

¹⁶¹Chakraborty, L. and Sinha, D., 2018. Has Fiscal Rule changed the Fiscal Marksmanship of Union Government? National Institute of Public Finance and Policy, Working Paper, (234).

116 NAGALAND AGRICULTURAL PRODUCE MARKETING (DEVELOPMENT AND REGULATION) ACT, 2005

Subject: Agriculture and Animal Husbandry
Reason: The Act fails to meet its objective
Grade: 1

What is the Law

The Act provides for improvement in market regulations, domestic agricultural trade, and development of the farming community in the state of Nagaland.

Key Features

The Act empowers the state government to declare a specified area to be a 'Market Area' under the Act. It provides for every market area to have a 'Market Committee' having jurisdiction over the entire market area and procedure of acquisition of property by the same. The procedure and form of the 'Contract Farming Agreement' has also been provided. It prescribes the establishment of the 'State Agricultural Marketing Board' for coordinating activities of markets and for development, promotion, and regulation of agricultural markets.

Reason(s) for Repeal

- The current framework doesn't allow for farmer-producer to realise the optimal value on his produce and increase farm income. Organised wholesale marketing in the country is promoted through a network of regu-

lated markets set up under States' Agricultural Produce Marketing (Regulation) Acts. Over time these markets have largely become restrictive and monopolistic.

- Furthermore, current regulations do not facilitate the free flow of agricultural produce and a direct interface between farmers with processors/exporters/bulk buyers/end users.
- The Delhi Agricultural Produce Marketing (Regulation) Act, 1976 was repealed in 1998. Several commentators have called for the repeal of such Acts in other States.¹⁶²
- Furthermore, the promotion of a national market for agricultural produce through provisioning inter-state trading licence, grading, standardisation, and quality certification is the need of the times.

Issues

There are no legal issues that would impede repeal. However, a savings clause may be added in the repealing legislation for necessary provisions.

¹⁶²See Want to help farmers, remove middlemen? Scrap the law governing Agri markets, Ila Patnaik and Shubho Roy, 22nd February 2019, The Print; and Leaving farmers to reap the bitter harvest, Devinder Sharma, 20th January 2014, Hindustan Times.



COMPENDIUM OF LAWS
TO BE REPEALED IN
SIKKIM

117 THE SIKKIM CULTIVATORS PROTECTION (TEMPORARY PROVISIONS) ACT, 1975

Subject: Agriculture

Reason: The purpose of the Act has been achieved

Grade: 4

What is the Law

The Act made temporary provisions for the protection of cultivators against termination of cultivation of lands cultivated by them. It further aimed to restore such lands in case of illegal termination, and limit the liability of the cultivators.

Key Features

As per the Act, no owner is entitled to terminate the cultivation of his land by a cultivator except in execution of an order made by the prescribed authority on the ground that the cultivator has without any reasonable cause failed to cultivate the land. For this purpose, Prescribed Authority means the District Officer, within whose jurisdiction the land is situated.

Reason(s) for Repeal

- As per section 1 (3) of the Act, it shall remain in force for two years from the date of its commencement. This was amended in 1981, and the period was extended to six years.¹⁶³
- The Act commenced on 8th September 1975, and as such ceased to have effect after 8th September 1981. The Act has been achieved its purpose and has become obsolete.

Issues

There are no legal issues in the repeal of this law.

¹⁶³The Sikkim Cultivators Protection (Temporary Provisions) Amendment Act, 1981 Act No. 11 of 1981, 30th September 1981

118 SIKKIM AGRICULTURAL LAND CEILING AND REFORMS ACT, 1977

Subject: Agriculture

Reason: The Act restricts the freedom of farmers

Grade: 1

What is the Law

The Act provides for the imposition of a ceiling on agricultural lands, for the vesting of such lands over the Ceiling limit and for matters connected therewith, to prevent the concentration of agricultural lands in the State of Sikkim.

Key Features

The agricultural land ceiling laws were enacted in the 1960s after the abolition of the zamindari system. The limit on land holding is dependent on the type of irrigation facility available for the land. If the land is irrigated, the amount of land that can be held is drops. If irrigation is available for one crop a year, farmers can keep a higher amount of land. If the land is not irrigated (dry land), the limit is the highest.¹⁶⁴

Reason(s) for Repeal

- The Act may have allowed for re-distribution of land in the past but today,

they Act as a barrier to the growth of farmers' income. Successful farmers who own land as per the ceiling limits are unable to buy more land and increase their income.

- The Act prevents normal economic growth where efficient producers can acquire more means of production (land) to increase their outputs.
- On the other hand, the fragmentation of land is guaranteed due to inheritance. Successive generations must divide the inherited land among the siblings. Each sibling may purchase land up to the ceiling but not more than that.

Issues

There are no legal issues in the repeal of this law. However, a savings clause may be added in the repealing legislation concerning any cases pending under the Act, stating that the same shall not be subject to the repealing legislation.

¹⁶⁴Time for India to do away with agricultural land ceiling laws, Ila Patnaik and Shubho Roy, The Print, 8 March 2019

119 SIKKIM CINEMAS (REGULATION) ACT, 1978

Subject: Cultural Affairs

Reason: The Act is redundant in light of a central legislation, i.e., the Cinematograph Act, 1952

Grade: 2

What is the Law

The Act aims at regulating exhibitions by Cinematographs' in the State of Sikkim.

Key Features

As per the Act, no person shall give a public exhibition by cinematographs without a licence. For such purpose, the authority having the power to grant licences is the District Magistrate within whose jurisdiction the place, where the exhibitions by cinematographs are proposed to be given.

Reason(s) for Repeal

- The provisions of the Act are covered by a Central Act, namely the Cinematograph Act, 1952.¹⁶⁵

- The 1952 Act provides for the process of certification of films for public exhibition, and licensing and regulation of cinemas.
- The power of the State to regulate cinemas is governed by item 33 of the State List under the VIIth Schedule of the Constitution of India, which is subject to entry 60 of the Union list. Hence, the power of the Sikkim government to regulate exhibitions by cinematographs is subject to any laws made by the Central Government.¹⁶⁶
- Hence, the current Act serves no purpose and may be repealed.

Issues

There are no legal issues that would impede repeal.

¹⁶⁵The Cinematograph Act, 1952, Act no. 37 of 1952, 21st March 1952

¹⁶⁶Schedule VII, Constitution of India, Published by Government of India Ministry of Law and Justice (Legislative Department)

120 THE SIKKIM ESSENTIAL SERVICES MAINTENANCE ACT: 1978, 1985, 1993

Subject: Labor Laws

Reason: The Acts is redundant in light of the Central legislation titled the Essential Services Maintenance Act, 1981 and subsequent State Legislations.

Grade: 2

What is the Law

The Acts provided for the maintenance of certain essential services and the normal life of the community that could not be disrupted. They laid down punishment for disruption and strikes.

Key Features

The Acts prescribed the maintenance of certain essential services and provided penalties for strikes related to such services.

Reason(s) for Repeal

- In 2000, the State Government enacted the Sikkim Essential Services Maintenance Act. This Act didn't explicitly repeal the previous laws. In fact, none of the pre-

vious three Acts have been explicitly repealed even though subsequent legislation has been brought.

- As per the 2000 Act, the provisions of that Act have an overriding effect over any other law. This means that if the provision of the 1993 and 2000 Act are inconsistent, the 2000 Act will apply. However, where there is no inconsistency, the previous Act is not repugnant. Hence, there are 4 Essential Services Act in Sikkim.
- Thus, all the three previous laws are redundant and should be repealed.

Issues

There are no legal issues that would impede repeal.

121 SIKKIM MOTOR VEHICLES TAXATION ACT, 1982

Subject: Taxation and Revenue

Reason: The Act is redundant in light of the Sikkim Goods and Services Tax Act, 2017

Grade: 2

What is the Law

This law has been adapted to levy a tax on motor vehicles, grant licence and regulate related matters in the state of Sikkim.

Key Features

This Act provides for the tax which is to be levied upon and licence to be granted by the state government. It also provides for the display of licence on the motor vehicle and the duty of the vehicle owner to stop it on demand by certain officers. Furthermore, the Act provides for the penalty in case of a failure to pay the tax and the recovery of tax, penalty or fine in certain circumstances. The Act grants the concerned officers the power to seize and detain motor vehicles in case of non-payment of tax. It grants the government the power to grant an exemption, reduction or other modification of tax. The Act also lays down certain motor vehicles on which provisions of this Act won't be applicable and certain other provisions like appeal and trial of offences under this Act, etc.

Reason(s) for Repeal

- With the enforcement of the Goods and Services Tax Act, 2017 the tax on motor vehicles levied by this Act are no longer applicable in any of the States.
- The Sikkim Goods and Services Tax Act, 2017 is now applicable in the state and therefore this Act has no application in the State.¹⁶⁷

Issues

Certain provisions such as the grant of licences, the power to seize or detain a motor vehicle in case of non-payment of tax, the power to grant exemptions, reduction or other modification of tax, the penalty for failure to pay, exemption of certain motor vehicles from tax payment, etc. are crucial. These provisions should be saved for good governance and effective levying of the tax. This can be done by either enacting a new law or saving certain provisions of the present Act.

¹⁶⁷Sikkim Goods and Services Tax Act, 2017

122 THE STATE BANK OF SIKKIM (ACQUISITION OF SHARES) AND MISCELLANEOUS PROVISIONS ACT, 1982

Subject: Banking and Regulation

Reason: The Act can be substituted with consolidated regulation

Grade: 1

What is the Law

The State Bank of Sikkim (Acquisition of Shares) and Miscellaneous Provisions Act, 1982 was enacted to provide, in the public interest, for the acquisition of certain shares of the State Bank of Sikkim for the purpose of better consolidation and extension of banking facilities in the State of Sikkim and for matters connected therewith or incidental thereto.

Key Features

As per the Act, all the shares of the State Bank of Sikkim, other than the shares held by the State Government, stand transferred to the Central Government. For this, the Central Government paid rupees eight lakhs twelve thousand two hundred and ninety-five to the holders of such shares in cash in the manner specified in the Schedule.

Reason(s) for Repeal

- The aforesaid Act governing the public sector Banks can be repealed, and, with several other similar legislation, can be re-enacted into a single Act incorporating the common provisions regulating Banks. This would require the protection of special provisions, if any for the existing employees and other officers and apply a uniform provision prospectively to them pending the consideration and enactment of the Indian Financial Code with or without modification in today's socio-economic context.¹⁶⁸

Issues

The repeal of the Act would require savings provisions for employees regulated under the Act.

¹⁶⁸Similar recommendations have been provided by the "Committee to identify the Central Acts which are not Relevant or no longer needed or require repeal/re-enactment in the present Socio-Economic Context."

123 SIKKIM PREVENTION OF DEFACEMENT OF PROPERTY ACT, 1988

Subject: Criminal Justice
Reason: The Act is Redundant
Grade: 2

What is the Law

The Sikkim Prevention of Defacement of Property Act, 1988 provides for the punishment for the defacement of any property within the state of Sikkim.

Key Features

The Act seeks to punish the commission, attempt, and abetment of the offence of defacement of property. Besides this, it attributes the offence to all the members of the management of the corporation, in case the corporation is a beneficiary of the offence. It makes the abetment of such an offence punishable. Further, the offence is classified as a cognizable offence. It confers the power to erase writing, posters and free any defacement on any property. The Act indemnifies any government official from any liability under this

offence. The offence is to be tried summarily as per the provisions of the Code of Civil Procedure.

Reason(s) for Repeal

- The offence provided by the Act has been covered by the offence of “Mischief” as given in Section 425 of the Indian Penal Code, 1860 which makes this Act redundant.¹⁶⁹
- In the absence of this Act, the actions of the workers can be penalized under the Central Act.

Issues

There are no legal issues in the repeal of this law. However, a savings clause might be added to save any case decided under this Act.

¹⁶⁹Indian Penal Code 1860, Act No. 45 of 1860, 6th October, 1860

124 DENZONG AGRICULTURAL CO-OPERATIVE LIMITED (ACQUISITION OF CERTAIN SHARES AND MISCELLANEOUS PROVISIONS) ACT, 1991

Subject: Industries
Reason: The Act is redundant
Grade: 1

What is the Law

The Act provides for the acquisition of shares held by individual members of the Denzong Agricultural Co-operative Limited. This was done to provide an apex (Federal) Co-operative character to the Denzong Agricultural Co-operative Limited and for matters connected therewith.

Key Features

From the date of the commencement of this Act, shares held by the individuals in the share capital of Denzong Agricultural Co-operative

Limited stand transferred to, and shall vest in the State Government.

Reason(s) for Repeal

- The Act has achieved its purpose as it relates to the acquisition of shares, which has successfully taken place. Hence, the present Act may be repealed.

Issues

There are no legal issues impeding the repeal of this Act, however, a savings clause should be added that nothing done under the Act shall stand vitiated because of the repeal.

125 SIKKIM EXCISE ACT, 1992

Subject: Taxation and Revenue

Reason: The Act is Redundant in light of the Sikkim Goods and Services Tax Act, 2017

Grade: 2

What is the Law

The Sikkim Excise Act, 1992 was enacted to consolidate and amend the Laws relating to duties of excise in Sikkim.

Key Features

The Act provides for restriction on imports and exports of certain goods as well as the requirement of licences, permits, and passes. It also mentions the penalties for the breach of these provisions (chapter VII).

Reason(s) for Repeal

- Taxation on the sale of goods and services is now governed by the Sikkim Goods and Services Tax Act, 2017.¹⁷⁰
- However, the Act also provides for the taxation of certain goods which are not covered by the Sikkim Goods and Services Tax Act (eg. alcoholic liquor), hence, the Act should only be amended or repealed in part.

Issues

The repealing/amending legislation should be restricted to those provisions which have been covered by the Goods and Services Tax Act.

¹⁷⁰Sikkim Goods and Services Tax Act 2017

126 SIKKIM PROHIBITION OF SMOKING AND NON-SMOKERS HEALTH PROTECTION ACT, 1997

Subject: Public Welfare

Reason: The Act has been subsumed by subsequent legislation, namely the Cigarettes and Other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply, and Distribution) Act, 2003

Grade: 2

What is the Law

The Act aims to prohibit smoking in public places and vehicles, and for the protection of the health of the public in the state of Sikkim; and protect the non-smoking public from the hazards of passive smoking. The Act recognizes that the promotion of smoking through advertisements needs to be discouraged.

Key Features

The most important feature of the Act is that it prohibits the Act of smoking in public places or public vehicles. It also prohibits advertisements that promote the sale and use of cigarettes and 'beedis' except the ones on cigarette packages or those displayed near warehouses and shops distributing cigarettes or beedis. It further provides that a person who smokes in a public place can be removed should she refuse to desist from smoking after being asked by an authorised officer or a police officer, not below the rank of Sub-Inspector. Penalties of imprisonment for up to three months, and fines up to one thousand rupees for repeat offences are provided for in the legislation.

Reason(s) for Repeal

- The Cigarettes and Other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply, and Distribution) Act 2003 and the Rules made there under are more comprehensive since they give detailed restrictions on the nature and size of advertisements, and make health warnings on cigarette packs mandatory.¹⁷¹
- The 2003 Act covers all the provisions of this Act, thus making them redundant and causing an overlap in legislation.
- The pecuniary penalties imposed under the 2003 Act are heavier and are more likely to Act as deterrents as compared to this legislation. It would be undesirable to have dual standards at the Central and State level about the restrictions applicable to the production and sale of tobacco.

Issues

There are no legal issues that would impede the repeal of this law.

¹⁷¹Cigarettes and Other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply, and Distribution) Act, 2003, Act No. 34 of 2003, 18th May, 2003

127 SIKKIM ESSENTIAL SERVICES MAINTENANCE ACT, 2000

Subject: Labor Laws

Reason: The Act is redundant in light of the Central legislation titled the Essential Services Maintenance Act, 1981

Grade: 2

What is the Law

The Act provides for the maintenance of certain essential services and the normal life of the community that cannot be disrupted. It lays down punishment for disruption and strikes. This Act allows the state government to issue orders to prohibit strikes in any 'Essential Service'.

Key Features

The Act prescribes the maintenance of certain essential services and provides penalties for strikes related to such services. This maximum punishment under the Act is one-year imprisonment with a fine of Rs. Five thousand or with both. This is the case when a strike is declared illegal by way of an order. Participation in a strike can also result in dismissal from employment.

Reason(s) for Repeal

- The provisions of the State Act are covered by the Central Act, and hence can be recommended for repeal.

- This Act has been used by the state government to suppress dissent of employees against bad work conditions, non-payment of salaries and other such basic rights. It allows the government to suppress dissent and redress the grievances of employees through draconian measures.

- It restricts the rights guaranteed by the Supreme Court in the case of *M/S Burn & Co. Ltd. v. Their Workmen*.¹⁷² In the said case, it was held that mere participation in the strike would not justify suspension or dismissal of workmen.

Issues

There are no legal issues that would impede repeal. However, a savings clause may be added in the repealing legislation concerning any cases pending under the Act, stating that the same shall not be subject to the repealing legislation.

¹⁷²M/S Burn & Co. Ltd. V. Their Workmen, 1960 AIR 896

128 SIKKIM PROHIBITION OF BEGGARY ACT, 2004

Subject: Public Welfare

Reason: Violative of Protection of Life & Liberty

Grade: 1

What is the Law

The Act has been adapted from the Bombay Prevention of Begging Act, 1959. The Act is to consolidate the law relating to beggars and to provide for the prevention of begging, for the detention, training, and employment of beggars and their dependents in certified institutions. The Act provides for the custody, trial, and punishment of beggar offenders in the State of Sikkim.

Key Features

Under the Act, the State is empowered to detain persons who are engaged in begging. The Act provides that police officers or other person authorised in this behalf in accordance with rules made by the State Government to arrest without a warrant any person who is found begging.

Reason(s) for Repeal

- The Act treats beggars as criminals. If convicted under this law, a person can spend anything between 1 to 3 years in beggars' home.
- It imposes impediments to freedom of life and personal liberty guaranteed under the Constitution of India not just of the beggars, but also their dependents.
- The present Act gives discretionary and arbitrary powers to the police to pick up anyone on a hunch that the individual is a beggar or a destitute with no means of fending for himself.
- The Hon'ble Delhi High Court in *Ram Lakhan vs. State* held that the detention of persons begging because of poverty is dehumanizing to them, and is a disgrace and a failure of the State.¹⁷³
- The Hon'ble High Court in the matter of *Harsh Mander v. Union of India* struck down twenty-five sections of the Bombay Prevention of Begging Act, 1959, and held as under:

If we want to eradicate begging, artificial means to make beggars invisible will not suffice. A move to criminalise them will make them invisible without addressing the root cause of the problem. The root cause is poverty, which has many structural reasons: no access to education, social protection, discrimination based on caste and ethnicity, landlessness, physical and mental challenges, and isolation.¹⁷⁴
- The Central Government had earlier brought a draft bill "Persons in Destitution (Protection Care and Intervention)" Model

¹⁷³*Ram Lakhan vs. State*, 137 (2007) DLT 173

¹⁷⁴*Harsh Mander & Anr. vs UOI & Ors.*, on 8 August, 2018

Bill, 2016, to be implemented by all State Governments that would give rights to destitute to demand help from the states. It aimed to do away with the laws that criminalise begging and to “provide protection, support training, and other services to all persons in destitution.”

- The model bill stated that “Persons in destitution” refers to homeless persons, persons in begging, persons with physical and mental disabilities, the old, infirm and other such persons who are above 18 years of age and in a state of poverty or abandon-

ment arising from economic or social deprivation and sustained unemployment.” It further provided for “procedure for dealing with beggar offenders”.

Issues

There are no legal issues that would impede repeal. However, a savings clause may be added in the repealing legislation with respect to any cases pending under the Act, stating that the same shall not be to subject to the repealing legislation.

129 SIKKIM AGRICULTURAL PRODUCE MARKETING (DEVELOPMENT AND REGULATION) ACT, 2005

Subject: Agriculture and Animal Husbandry
Reason: The Act fails to meet its objective
Grade: 1

What is the Law

The Act provides for improvement in market regulations, domestic agricultural trade, and development of the farming community in the state of Sikkim.

Key Features

The Act empowers the state government to declare a specified area to be a 'Market Area' under the Act. It provides for every market area to have a 'Market Committee' having jurisdiction over the entire market area and procedure of acquisition of property by the same. The procedure and form of the 'Contract Farming Agreement' has also been provided. It prescribes the establishment of the 'State Agricultural Marketing Board' for coordinating activities of markets and for development, promotion, and regulation of agricultural markets.

Reason(s) for Repeal

- The current framework doesn't allow for farmer-producer to realise the optimal value on his produce and increase farm income. Organised wholesale marketing in the country is promoted through a network of reg-

ulated markets set up under the States' Agricultural Produce Marketing (Regulation) Acts. Over time these markets have largely become restrictive and monopolistic.

- Furthermore, current regulations do not facilitate the free flow of agricultural produce and a direct interface between farmers with processors/exporters/bulk buyers/end users.
- The Delhi Agricultural Produce Marketing (Regulation) Act, 1976 was repealed in 1998. Several commentators have called for the repeal of such Acts in other States.¹⁷⁵
- Furthermore, the promotion of a national market for agricultural produce through provisioning inter-state trading licence, grading, standardisation, and quality certification is the need of the times.

Issues

There are no legal issues that would impede repeal. However, a savings clause may be added to the repealing legislation for necessary provisions.

¹⁷⁵See Want to help farmers, remove middlemen? Scrap the law governing Agri markets, Ila Patnaik and Shubho Roy, 22nd February 2019, The Print; and Leaving farmers to reap the bitter harvest, Devinder Sharma, 20th January 2014, Hindustan Times.

130 SIKKIM TAX ON PROFESSIONS, TRADES, CALLINGS AND EMPLOYMENTS ACT, 2006

Subject: Taxation and Revenue

Reason: The Act is Redundant in light of the Sikkim Goods and Services Tax Act, 2017

Grade: 2

What is the Law

The Sikkim Professions Trades Callings and Employments Taxation Act, 2006 provides for the levy and collection of tax on professions, trades, callings and employments for raising additional resources for the benefit of the State.

Key Features

It provides a framework for the levy and charges of the tax and specifies the Employer's liability to deduct and pay tax on behalf of employees. It lays down the process of Registration and enrolment as well as Payment of Tax, Penalty to be imposed and authorities that will regulate this process.

Reason(s) for Repeal

- With the enforcement of the Goods and Services Tax Act, 2017 the taxes on professions, trades, callings, and employments levied by this Act is no longer applicable in any of the States.
- The Sikkim Goods and Services Tax Act, 2017 is now applicable in the state and therefore this Act has no application in the state.¹⁷⁶

Issues

The Act should only be amended/repealed to the extent that it has been subsumed by the Goods and Services Tax Act. Hence, provisions governing implementation etc. may be saved.

¹⁷⁶Sikkim Goods and Services Tax Act 2017

131 SIKKIM FISCAL RESPONSIBILITY AND BUDGET MANAGEMENT ACT, 2010

Subject: Taxation and Revenue
Reason: The Act is Redundant
Grade: 5

What is the Law

The Act was enacted to ensure prudence in fiscal management and fiscal stability by reducing revenue deficit and to further the goal of prudent debt management in the state of Sikkim.

Key Features

After the Fiscal Responsibility and Budget Management Act, 2003 for the Central government, several states enacted laws to ensure fiscal discipline and transparency within the state. This law provides for the State to release the Macroeconomic Framework Statement, the Medium Terms Fiscal Policy Statement, and the Fiscal Policy Strategy Statement on an annual basis. It delineates Measures for Fiscal Transparency, and grants state legislature the power to make FRMB Rules.

Reason(s) for Repeal

- The Central Act after which the Act is closely modeled was recommended for repeal by the 'Law Commission of India'. Similarly, the 'N.K. Singh Committee on FRBM' recommended a new Debt and Fiscal Responsibility Act.¹⁷⁷

- The Fiscal Management projection of 3% has become dated. A new and flexible method to calculate fiscal policy and the fiscal deficit to Gross State Domestic Product (GSDP) ratio is the need of the times.¹⁷⁸ This is necessary to estimate whether eliminating the revenue deficit in a specified time frame is feasible.
- The targets for fiscal and revenue deficit reduction in the present Act and Rules have proved to be malleable, leading to successive deferment of targets in the State's compliance with the FRBM Act. Instances of understatement of expenditures and an extensive list of transparency issues are continuing causes of concern.
- The present Act also doesn't provide for a periodic review of the state government's statement of accounts with mandatory review by the State Comptroller and Auditor General (SCAG).

Issues

There are no issues for the repeal of this law, however, a savings clause for the Rules drafted under the present Act should be inserted.

¹⁷⁷The FRBM Review Committee, Chairperson: Mr. N.K. Singh, January 2017

¹⁷⁸Chakraborty, L. and Sinha, D., 2018. Has Fiscal Rule changed the Fiscal Marksmanship of Union Government? National Institute of Public Finance and Policy, Working Paper, (234).



COMPENDIUM OF LAWS TO BE REPEALED IN TRIPURA

132 WEST BENGAL SECURITY (TRIPURA RE-ENACTING) ACT, 1967

Subject: Criminal Justice, Defense of India and Armed Forces

Reason: Redundant/ Obsolete

Grade: 4

What is the Law

The Act amended the West Bengal Security Act, 1950 to re-enact the West Bengal Security Act, 1950 and extend its operation for longer, extending it from 25th January 1966 to 25th January 1971.

Key Features

The Act amended the West Bengal Security Act, 1950 to extend its operation for longer, extending it from 25th January 1966 to 25th January 1971. The Act also provides for Savings of notification issued, direction, award or decision given, proceeding commenced, liability or penalty incurred, the punishment awarded, the thing done, or action taken under the said Act.

Reason(s) for Repeal

- The Act was only supposed to remain in force until the 25th day of January 1971.
- Tripura is a Union Territory no more, presently having the power to enact its statutory law through the State Legislative Assembly to govern its territory.
- The Act has achieved its purpose of providing a security framework for the state under the larger

Issue

There are no legal issues impeding the repeal of this law.

133 TRIPURA BUILDINGS (LEASE AND RENT CONTROL) ACT, 1975

Subject: Rent Control

Reason: The Act poses an impediment to freedom in the rental market and has become obsolete

Grade: 1

What is the Law

This Act was enacted to regulate the leasing and rent of buildings in Tripura.

Key Features

The Act details the constitution of Rent Control Courts for adjudicating disputes. Further, it also provides for determination and revision of fair rent to be charged by the landlords.

Reason(s) for Repeal

- The Act has a very limited scope of application as it applies only to the Municipal Limits of Agartala Town. Even though the same can be extended to other areas of the State by notification in the Official Gazette, no such notification could be found online.
- The grounds for eviction of tenants are very limited under Sec 12, acting as a disincentive for landowners to enter the rental market, leading to a form of shortage in the market.

- Sec 27 of the Act permits the State Government to exempt application of certain provisions of the Act on classes of buildings whose construction has begun after the commencement of the Act if the monthly rent will be mere 50 Rs or more. This dilutes the effectiveness of the Act.
- The Draft Model Tenancy Act, 2015, released by the Ministry of Housing and Urban Affairs as a model/ template for States to adopt has recommended determination of rent based on an agreement between the tenant and the landlord whereas the Tripura Act gives this determination power to the courts. Further, the Draft Act is much more comprehensive than the Tripura Act.

Issues

There are no legal issues that would impede the repeal. However, a savings clause may be added in the repealing legislation concerning any cases pending under the Act, stating that the same shall not be subject to the repealing legislation.

134 TRIPURA AGRICULTURAL INDEBTEDNESS RELIEF ACT, 1979

Subject: Agriculture; Debt Relief

Reason: The Act has achieved its purpose and is now obsolete

Grade: 4

What is the Law

This Act was enacted to provide relief to agricultural laborers, rural artisans, and small farmers in Tripura, in their indebtedness and other related matters.

Key Features

It provides for the discharge of debts and the consequences thereof. It also establishes Tribunals and Appellate Tribunal for disputes. Further, it bars the jurisdiction of Civil Courts.

Reason(s) for Repeal

- As is clear from the language of Sec. 3 of the Act, it was enacted to discharge any

debt advanced *before* the commencement of the Act.

- The Act came into being in March 1979, and now it has become obsolete apart from the litigation already pending.

Issues

A savings clause similar to that in place in the Tripura Agricultural Indebtedness Relief Act, 1979, regarding the Tripura Agricultural Debtors Relief Act, 1975, should be added in the repealing legislation.

135 TRIPURA HOMEOPATHIC SYSTEM OF MEDICINE ACT, 1979

Subject: Medicine
Reason: The Act is redundant
Grade: 1

What is the Law

This Act was enacted for the development and regulation of the practice of the homeopathic system of medicine.

Key Features

This Act provides for the constitution of the Council of Homeopathic Medicines, Tripura. It requires Registration of Homeopathic Practitioners with the Council.

Reason(s) for Repeal

- The rules and regulations purported to be made under this Act cannot be found. Fur-

ther, there does not appear to be any litigation related to the Act. Hence, it should be repealed for non-implementation, it appears to be a dead letter.

- The maximum fines prescribed in the Act for violation of its provisions are Rs. 50, Rs. 500, Rs. 1000, Rs. 200. Such values are highly inadequate in the present times.

Issues

There are no legal issues that would impede the repeal.

136 THE TRIPURA MEDICARE SERVICE PERSONS AND MEDICARE SERVICE INSTITUTIONS (PREVENTION OF VIOLENCE AND DAMAGE TO PROPERTY) ACT, 2013

Subject: Public Safety

Reason: Impediment to good governance

Grade: 2

What is the Law

After repeated instances of violence against doctors in various hospitals and independent institutions, the Tripura Medicare Service Persons and Medicare Service Institutions (Prevention of Violence and Damage to Property) Act, 2013

Key Features

The Tripura Medicare Service Persons and Medicare Service Institution (Prevention of Violence and Damage to Property) was enacted to prohibit violence against Medicare service persons and damage to property in Medicare service institutions and for matters connected therewith and incidental thereto.

The Act provides for a punishment of imprisonment extending up to 3 years and a fine extending up to 50,000 rupees.

Reason(s) for Repeal

- The Indian Penal Code 1860 provides a punishment of imprisonment of 1 year and a fine up to 1000 rupees for causing hurt (Section 323) and imprisonment up to 7 years and fine for causing grievous hurt (Section 325). Therefore, this Act is redundant as the victims may proceed under the Indian Penal Code, 1860 itself.
- Upon application of the Tripura Medicare Service Persons and Medicare Service Institutions (Prevention of Violence and Damage to Property) Act, 2013, the Act of causing 'hurt' as defined under Section 319 of the Indian Penal Code is over criminalised by prescribing a punishment that is not proportionate to the Act.

Issues

There are no legal issues in the repeal of this Act.

137 TRIPURA TEA COMPANIES (TAKING OVER OF MANAGEMENT OF CERTAIN TEA UNITS) ACT, 1986

Subject: Administration
Reason: Unconstitutional
Grade: 1

What is the Law

Tripura Tea Companies (Taking Over of Management of Certain Tea Units) Act, 1986 was enacted to provide for taking over the management of certain Tea units specified in the schedule to secure proper reorganisation and management of such Tea units.

Key Features

It mentions who the custodians of the Tea Units are, the amount to be paid to the Government as well as the penalty for non-payment.

Reason(s) for Repeal

- The Act is beyond the legislative competence of the Governor and the State Legislature of Tripura as the Parliament has exclusive powers to make law concerning any of the matters enumerated in List I of the 7th Schedule of the Constitution.¹⁷⁹
- This Act comes under the purview of Entry 52 of the said List I related to “industries the control of which by the Union is declared by Parliament by law to be expedient in the public interest”. In exercise of its powers under Article 246 (1) of the Constitution read with Entry 52 of the List I of

the 7th Schedule of the Constitution, the Parliament has declared in Section 2 of the Tea Act, 1953 that it is expedient in the public interest that the Union should take under ' its control the tea industry and has made elaborate provisions relating to the tea industry in the said Act.

- Since the Parliament has made the Tea Act, 1953, under Entry 52 of List I of the 7th Schedule of the Constitution which includes provisions with regard to taking over of the management and control of tea undertakings or tea units by the Central Government in certain circumstances, the State Legislature cannot make any law on the very same subject. Therefore, the Act is beyond the competence of the State Legislature.
- The Act received the assent of the President, but such assent cannot validate an Act made by the Legislature of State on a matter covered under the entries in List I of the 7th Schedule of the Constitution. The assent of the President may be of relevance only if the Act has been made by the State Legislature on a matter enumerated in List III (Concurrent List) as would be clear from Article 254 (2) of the Constitution.
- The Act makes provisions for takeover of the management of the tea companies by

¹⁷⁹Article 246(1) of the Constitution of India

the State Government, although elaborate provisions have been made in the said Sections 16A to 16N of Chapter IIIA of the Tea Act, 1953 for the control of the tea estates and tea units including the takeover of the management of the tea estates and

tea units in certain circumstances by the Central Government.

Issues

There are no legal issues in the repeal of this Act.

138 TRIPURA EXCISE ACT, 1987

Subject: Taxation

Reason: The Act has been subsumed by a subsequent State Legislation, namely the Tripura Goods and Services Tax Act, 2017

Grade: 2

What is the Law

Tripura Excise Act, 1987 was enacted to consolidate and amend the Laws relating to duties of excise in Tripura.

Key Features

It provides for restriction on imports and exports of certain goods as well as the requirement of licences, permits, and passes. It also mentions the process of investigation, trial, and penalty for breach of these provisions.

Reason(s) for Repeal

- Taxation on the sale of goods and services is now governed by the Tripura Goods and Services Tax Act, 2017.¹⁸⁰

Issues

There are no legal issues impeding the repeal of this Act.

¹⁸⁰Tripura Goods and Services Tax Act, 2017, Act 9 of 2017, 16th June 2017.

139 TRIPURA ADDITIONAL SALES TAX ACT, 1990

Subject: Taxation

Reason: The Act has been subsumed by a subsequent State Legislation, namely the Tripura Goods and Services Tax Act, 2017

Grade: 2

What is the Law

Tripura Additional Sales Tax Act, 1990 was enacted to provide for the levy of additional sales tax where it is considered necessary to levy an additional tax on the sale or purchase of goods.

Key Features

It provides for levy of Additional Sales Tax in the case of certain dealers as well as the

penalty for collection of additional tax by dealers.

Reason(s) for Repeal

- Taxation on the sale of goods and services is now governed by the Tripura Goods and Services Tax Act, 2017.¹⁸¹

Issues

There are no legal issues impeding the repeal of this Act.

¹⁸¹Ibid.

140 TRIPURA EDUCATIONAL INSTITUTION (PREVENTION OF RAGGING ACT), 1990

Subject: Education
Reason: Redundancy
Grade: 2

What is the Law

Tripura Educational Institution (Prevention of Ragging Act) 1990 was enacted to prevent and eradicate the menace of ragging from the Educational Institutions situated in the State of Tripura.

Key Features

The Act provides for the creation of special courts as well as details the procedure and punishment if one is found guilty of the offense of ragging.

Reason(s) for Repeal

- Under the Tripura Educational Institution (prevention Of Ragging Act), 1990, the definition of ragging is vague and narrow. Additionally, the punishment is not graded for different offences, rather it provides for a blanket punishment of imprisonment of

either description for a term which may extend to four years or with fine or with both.

- To address the issue of an increase in ragging cases on campuses, the University Grants Commission (UGC) has brought out the UGC Regulations on Curbing the Menace of Ragging in Higher Educational Institutions, 2009. These regulations are to be followed mandatorily by all Higher Educational Institutions (HEIs) uniformly, across the country. These rules clearly define ragging and provide for measures that are more comprehensive and subsume the provisions of this Act.
- There have been no cases that have ever been filed under this Act.

Issues

There are no legal issues impeding the repeal of this Act.

141 TRIPURA PURCHASE TAX ACT, 1990

Subject: Taxation

Reason: The Act has been subsumed by a subsequent State Legislation, namely the Tripura Goods and Services Tax Act, 2017

Grade: 2

What is the Law

Tripura Purchase Tax Act, 1990 was enacted to provide for the levy of tax on the purchase of certain commodities like raw jute, raw hides skins, and bamboos for Agarbathi in Tripura.

Key Features

The Act provides for the procedure to impose and collect these taxes as well as the penalty for tax evasion.

Reason(s) for Repeal

- Taxation on the sale of goods and services is now governed by the Tripura Goods and Services Tax Act, 2017.¹⁸²

Issues

There are no legal issues impeding the repeal of this Act.

¹⁸²Ibid.

142 TRIPURA TAX ON LUXURIES IN HOTELS AND LODGING HOUSES ACT, 1990

Subject: Taxation

Reason: The Act has been subsumed by a subsequent State Legislation, namely the Tripura Goods and Services Tax Act, 2017

Grade: 2

What is the Law

Tripura Tax on Luxuries in Hotels and Lodging Houses Act, 1990 was enacted to provide for the levy, collection and penalty of Tax on Luxuries provided in Hotels and Lodging Houses.

Key Features

It provides for the Appointment of an Appellate Authority and determines the powers and functions of Assessing Authorities. It also specifies the mode of collection and assess-

ment of tax, and imposition of penalty in certain cases.

Reason(s) for Repeal

- Taxation on the sale of goods and services is now governed by the Tripura Goods and Services Tax Act, 2017.¹⁸³

Issues

There are no legal issues impeding the repeal of this Act.

¹⁸³Ibid.

143 TRIPURA ENTERTAINMENT TAX ACT, 1997

Subject: Taxation

Reason: The Act has been subsumed by a subsequent State Legislation, namely the Tripura Goods and Services Tax Act, 2017

Grade: 2

What is the Law

Tripura Entertainment Tax Act, 1997 was enacted to update and consolidate the Tripura Amusement Tax Act, 1973 and the Tripura Cinemas (Regulation) Act, 1985 and to restructure the rates of taxation for Cinemas and regulate it.

Key Features

It provides for the requirement of a compulsory licence to carry on any entertainment and the circumstances where having a licence is exempted as well as circumstances for its suspension. It also bans the resale of tickets and

provides parameters for assessment of tax and penalty on non-payment.

Reason(s) for Repeal

- Taxation on the sale of goods and services is now governed by the Tripura Goods and Services Tax Act, 2017.¹⁸⁴

Issues

A saving clause needs to be inserted to continue providing for licensing in case of carrying on any entertainment as well as the ban on the resale of tickets.

¹⁸⁴Ibid.

144 TRIPURA PROFESSIONS TRADES CALLINGS AND EMPLOYMENTS TAXATION ACT, 1997

Subject: Taxation

Reason: The Act has been subsumed by a subsequent State Legislation, namely the Tripura Goods and Services Tax Act, 2017

Grade: 2

What is the Law

The Tripura Professions Trades Callings and Employments Taxation Act, 1997 provides for the levy and collection of tax on professions, trades, callings and employments for raising additional resources for the benefit of the State.

Key Features

It provides a framework for the levy and charges of the tax and specifies the Employer's liability to deduct and pay tax on behalf of employees. It lays down the process

of Registration and enrolment as well as Payment of Tax, Penalty to be imposed and authorities that will regulate this process.

Reason(s) for Repeal

- Taxation on the sale of goods and services is now governed by The Tripura Goods and Services Tax Act, 2017.¹⁸⁵

Issues

There are no legal issues impeding the repeal of this Act.

¹⁸⁵Ibid.

145 THE TRIPURA PROTECTION OF INTERESTS OF DEPOSITORS (IN FINANCIAL ESTABLISHMENTS) ACT, 2000

Subject: Financial Laws
Reason: Redundant/ Obsolete
Grade: 1

What is the Law

The Tripura Protection of Interests of Depositors (In Financial Establishments) Act, 2000 was enacted to ensure the better monitoring of NBFCs and UIBs within the state of Tripura.

Key Features

Pursuant to the Reserve Bank of India Act 1934, 14 states and a Union Territory have enacted State Legislations which contain penal provisions for promoters of financial institutions that default in the repayment of deposits and interest. The Tripura Protection of Interests of Depositors (In Financial Establishments) Act, 2000 was similarly enacted to protect the interests of the depositors of Financial Establishments.

Reason(s) for Repeal

- The law as it exists fails to provide for the interests of the depositors and does not add

to the mechanisms as already established by the Reserve Bank of India Act, 1934 and the Banking Regulations Act, 1949.

- The penalties provided in this Act (up to 6 years imprisonment and fine up to 1 lakh rupees) is also inadequate.
- In 2016, the '*Tripura Protection of Interests of Depositors (In Financial Establishments) Amendment Bill, 2016*' suggested adding measures for Non-Banking Financial Companies (NBFCs) which was rejected since the State decided not to allow NBFCs in the state at all.
- For these reasons this Act has been in disuse and therefore may be repealed.

Issues

There are no legal issues in the repeal of this law.

146 TRIPURA SECURITY ACT, 2000

Subject: Security

Reason: The Act is now redundant as its duration has elapsed

Grade: 4

What is the Law

This Act was enacted to make special provisions concerning the security of the State, maintenance of public order, and the maintenance of essential supplies and services.

Key Features

The Act provides for externment, etc., of anti-socials. It also designates certain areas as Protected Places and Protected Areas. Further, it provides for punishment for sabotage, subversive acts, carrying or possession of corrosive substances, and looting.

Reason(s) for Repeal

- As per Sec. 1 of the Act it was supposed to remain in force only up to the 14th day of August 2005 with the proviso that the pe-

riod could be extended for two-year terms by notification in the Official Gazette by the State Government with the caveat that the total extension shall not be more than ten years.

- The maximum period for the effect of this Act was ten years from the 14th of August 2005, which would be the 14th of August 2015. Since the maximum period has elapsed, the Act is not in effect anymore and should be repealed.

Issues

There are no legal issues that would impede the repeal. However, a savings clause may be added in the repealing legislation concerning any cases pending under the Act, stating that the same shall not be subject to the repealing legislation.

147 TRIPURA RECORDING OF MARRIAGE ACT, 2003

Subject: Personal Laws
Reason: Redundant/ Obsolete
Grade: 5

What is the Law

This law was enacted to ensure the Compulsory Registration of Marriages in the state of Tripura.

Key Features

It mandates that all the marriages within the State of Tripura must be registered as per the provisions of the Tripura Recording of Marriage Act, 2003. This Act was enacted to ensure that legitimate marriages within the State are recorded and no way is given to illegal marriages and prevent practices like Child Marriage, Bigamy, etc. Additionally, people enjoy the benefits associated with the registration of marriages that accrue to them.

Reason(s) for Repeal

- The Law Commission of India, in July 2017, recommended that registration of marriages be made compulsory by amending the Registration of Births and Deaths Act, 1969.¹⁸⁶
- Currently, the enabling provisions for registration of marriage provided under the Tripura Recording of Marriage Act, 2003 are the same as those mentioned in the central legislations -- Hindu Marriage Act, 1955; Special Marriage Act, 1954; The Indian Christian Marriage Act 1872; The Kazis Act 1880; The Anand Marriage Act, 1909; The Parsi Marriage and Divorce Act, 1936.

Issues

There are no issues with the repeal of this law.

¹⁸⁶Compulsory Registration of Marriages, Law Commission of India, July 2017, Report No. 270

148 TRIPURA VALUE ADDED TAX ACT, 2004

Subject: Taxation and Administration

Reason: The Act has been subsumed by a subsequent State Legislation, namely the Tripura Goods and Services Act, 2017

Grade: 2

What is the Law

The Tripura Value Added Tax, 2004 prescribes the quantum of Value Added Tax (VAT) for various goods within the State of Tripura.

Key Features

Entry 54 of the State List (seventh schedule of the Constitution) allowed the State to make laws on taxes on the sale and purchase of goods. Earlier the system of taxation in use was the Value Added Tax (which replaced the Sales Tax) and therefore the Tripura Value Added Tax Act, 2004 laid down the application of the tax in the State.

Reason(s) for Repeal

- However, with the enforcement of the Goods and Services Tax Act, 2017 the Value Added Tax is no longer applicable in any of the States.¹⁸⁷
- The Tripura State Goods and Services Tax Act, 2017 is now applicable in the State and therefore the Tripura Value Added Tax Act, 2004 has no application in the State.

Issues

There are no issues with the repeal of this law.

¹⁸⁷Tripura Goods and Services Act, 2017, Act 9 of 2017, 16th June 2017.

149 TRIPURA FISCAL RESPONSIBILITY AND BUDGET MANAGEMENT ACT, 2005

Subject: Fiscal Responsibility
Reason: Redundant
Grade: 5

What is the Law

The Tripura Fiscal Responsibility and Budget Management Act, 2005 was enacted to inculcate financial discipline and fiscal responsibility of the executive institutions like the municipalities within the state.

Key Features

After the Fiscal Responsibility and Budget Management Act, 2003 for the Central government, several states enacted laws to ensure fiscal discipline and transparency within the state. This law provides for the State to release the Macroeconomic Framework Statement, the Medium Terms Fiscal Policy Statement, and the Fiscal Policy Strategy Statement on an annual basis.

Reason(s) for Repeal

- The statements required under the Act haven't been released by the State Government
- The quarterly rules as required by the FRMB Rules, 2006 (made under Section 12 of the Act) was released only in the 3rd quarter of 2012-13
- The Central Act after which the Act is closely modelled was recommended for repeal by the 'Law Commission of India'. Similarly, the 'N.K. Singh Committee on

FRBM' recommended a new Debt and Fiscal Responsibility Act.¹⁸⁸

- The Fiscal Management projection of 3% has become dated. A new and flexible method to calculate fiscal policy and the fiscal deficit to Gross State Domestic Product (GSDP) ratio is the need of the times. This is necessary to estimate whether eliminating the revenue deficit in a specified time frame is feasible.
- The targets for fiscal and revenue deficit reduction in the present Act and Rules have proved to be malleable, leading to successive deferment of targets in the State's compliance with the FRBM Act. Instances of understatement of expenditures and an extensive list of transparency issues are continuing causes of concern.
- The present Act also doesn't provide for a periodic review of the state government's statement of accounts with mandatory review by the State Comptroller and Auditor General (SCAG).

Issues

There are no issues for the repeal of this law, however, a savings clause for the Tripura Fiscal Responsibility and Budget Management Rules, 2006 may be inserted which were made under section 12 of this Act.

¹⁸⁸The FRBM Review Committee, Chairperson: Mr. N.K. Singh, January 2017

150 TRIPURA STATE LEGISLATURE MEMBERS (DECLARATION OF ASSETS AND LIABILITIES) ACT, 2006

Subject: Administration
Reason: Redundancy
Grade: Grade not found

What is the Law

The Tripura State Legislature Members (Declaration of Assets and Liabilities) Act, 2006 was enacted to create a provision for the declaration of assets of every elected candidate of the Legislative Assembly of Tripura and a member thereof and to ensure transparency in public administration.

Key Features

The Act requires every elected member of the Tripura Legislative Assembly to disclose the movable and immovable property belonging to him, his spouse and his dependents; his liabilities to public financial institutions and; his liabilities to the State government and the Tripura Legislative Assembly on the 15th January of each year.

Such information is required to be furnished as per the rules made by the Speaker of the Tripura Legislative Assembly under Section 3(4) of the Act.

Reason(s) for Repeal

- Rule 18 of the Tripura Civil Services (Conduct) Rules, 1988 already provides for the disclosure of the assets as required by this Act and is comprehensive enough to encompass the purpose that the Tripura State Legislature Members (Declaration of Assets and Liabilities) Act, 2006 envisaged.

Issues

No legal issues are involved in the repeal of this law.

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