The 100 Laws Project

Compendium of Laws to be Repealed

A Collaborative Civil Society Initiative

Centre for Civil Society
Social Change Through Public Policy

NIPFP

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BETTER LAWS. BETTER GOVERNANCE

Contents

Introduction

Rule of law is the defining principle of a well-functioning modern democratic polity. Laws are the DNA of government—they define the foundations of public administration and they shape the incentives and behaviour of private agents. The essence of good governance is good laws; for rule of law to operate, laws must be well-written and well-coded. Laws must be precise, principles-based, and should stand the test of time.

The Indian approach has often run counter to the fundamentals of good law-making: we attempt to legislate our problems away, and we write laws to react to specific situations than to preempt them. We write new laws, often with insufficient consideration for old ones. We amend old laws to fit in new language, but we don't do this meticulously and patiently enough.

Our enthusiasm for legislation has left us with over an estimated 3000 central statues, several of which are obsolete, redundant or repetitive. Even the government's attempt to publish a list of all central statues in India Code has proven to be incomprehensive—the code misses laws, sometimes repeats listings, and often further research on whether the laws have indeed been taken off the books is inconclusive. Not just this, the final language of laws is often inconsistent—several versions of Acts are available, and for an ordinary citizen without significant legal wherewithal it is almost impossible to know for sure what language of what law he may have violated.

The results are an environment fraught with substantial legal risk and uncertainty, an overburdened judicial system, and pernicious rent seeking. Individuals and firms find themselves in a maze of laws, and find that many ordinary activities infringe on some law or another. Citizens and private agents then are left with two methods of navigating this minefield: the corrupt methods of buying off enforcement agencies, or the approach of engaging less with society and the economy. Big firms are more likely to be able to pay the fixed cost of compliance and of corrupt methods. Competitive dynamics is adversely affected when fewer persons choose to start firms, and when the firms that spring up are likely to have a weak compliance culture. Alongside, social fabric is weakened when bad laws incentivise illegality and discourage law abidance in everyday life; fairness, honesty and values then become secondary to envy, corruption and cheating.

The most important aspect of the Indian development project today is writing sound laws, and then constructing state capacity to enforce those laws. This requires large-scale changes in the laws. In some areas, there is a need for ground-up rewriting of laws and repealing all existing laws. In many other areas, patient and thorough cleaning can yield substantial impact.

The last serious concerted effort in cleaning up the statute books was in 2001, during the administration of the BJP-led NDA. The then government acted swiftly on some of the recommendations of previous Law Commissions and the Report of the Commission on Review of Administrative Laws,

1998 (PC Jain Commission)[a], two sources that have argued vociferously for statutory legal reform. Since then however, there has been no systematic effort at weeding out dated and principally flawed laws.

During the campaigns for the 2014 General Elections, BJP candidate Shri Narendra Modi promised the electorate that his administration, should they be elected, would make a sincere attempt at statutory legal clean up. He made a commitment to the electorate that for every new law passed, the government would repeal 10 redundant ones, and that in his first 100 days in office he would undertake to repeal 100 old, burdensome laws. In keeping with that promise, the Bhartiya Janata Party led National Democratic Alliance Government tabled The Repealing and Amending Bill (2014) in the Lok Sabha, recommending revisions of 36 obsolete laws. In explaining the exercise, the present Minister for Law & Justice, Shri Ravi Shankar Prasad, committed that the exercise of weeding out antiquated laws would be a continuous process—one that would help de-clog India's legal system. Alongside, the Prime Minister has set up a special committee under his office to oversee this exercise.

To help the administration in their goal, we have drafted this compendium, identifying 100 laws for wholesale repeal. The laws in this compendium need to be repealed on account of any one of three reasons—they are either redundant (having outlived their purpose), they have been superseded or subsumed by newer, more current laws, or they pose a material impediment to growth, development, good governance and individual freedom. Most of the laws in this compendium would not invite substantial debate since they do not serve any meaningful purpose. In the case of other more controversial laws, few as they are in this compendium, our arguments for repeal have taken cognisance of the political realities surrounding legislation in India, particularly in the areas of business regulations and labour relations. Yet, we have included these to invite a discussion on the appropriate manner, scope and method of achieving the goals and intents of the laws in question.

We hope this compendium will help the administration deliver on a key election promise, and in the process, kick-start a serious and meaningful conversation on statutory legal reform. While statutory reform is only the beginning of a wider process of legal overhaul, it is perhaps the most important—without sound laws, India will not provide an enabling environment, neither for citizens, nor for entrepreneurs. Repealing pointless legislation is the first step in this direction.

[a]Commission on Review of Administrative Laws, Report of the Commission on Review of Administrative Laws, Government of India, 1998-09,
http://darpg.gov.in/darpgwebsite cms/Document/file/Review Administrative laws

Archaic British Era Laws

There are over 300 colonial-era enactments in force in India. Many of these laws are redundant and not implemented. For instance, The Bangalore Marriages Validation Act (1934) was enacted to validate marriages solemnised by a certain priest, Sir Walter James McDonald Redwood; several Acts related to the erstwhile princely state of Oudh are still in force even though Oudh is no longer in existence. These are merely clogging up the statute books and are sometimes even misused. For instance, under The Sarais Act (1867), a 'sarai' has to offer passersby free drinks of water and a Delhi five-star hotel was harassed under the clause, though not prosecuted, for not doing so.

The need for reviewing these old laws has been reiterated time and again. Civil law jurisdictions provide for the principle of *desuetude*, allowing for the repeal of non-enforceable or non-enforced legislation, even if not specifically repealed. This principle is not recognised under Common Law jurisdictions, and India is no exception.[b] Several efforts have been made in the past for cleaning up the statute books. The Law Commission of India made recommendations for the repeal of archaic laws in 1957, 1984, 1993 and 1998. The PC Jain Commission on the Review of Administrative Laws also recommended repeal of 1,300 such central enactments. These led to sporadic legislative repeal efforts, such as The British Statutes (Application to India) Repeal Act (1960) and some minor efforts in the 1960s, 1970s and 2000s.

The Acts that follow were enacted specifically in response to situations that existed during British rule, or to cater to British administrative needs, or in relation to territorial areas or official positions of that period. The subject matter of these Acts is now governed by laws enacted post-Independence, which are much more in tune with contemporary realities. In fact, most of the parent statutes or regulations under which these laws were enacted have already been repealed.

It is with this background that we are recommending the repeal of twenty colonial era laws.

[b] Bibek Debroy, Usher in a New Order, India Today, 2009-05-06

Name: Forfeited Deposits Act, 1850

Subject: Archaic British Law

Reason: Redundant law

What is the law?

This Act was enacted in response to a specific policy need arising out of the British Regulation VIII, 1819, of the Bengal Code. This Regulation was called the Bengal Patni Taluks Regulation, 1819. The Regulation declared the validity of certain tenures of land and defined the relative rights of Zamindars and Patni Talukdars. It also established a process for the sale of such taluks in satisfaction of the Zamindars demand of rent. Section 9 of this Regulation mandated that all sales of saleable tenures be done by a process of bidding and that 15% of the purchase money be paid immediately after a successful bid was made. If this amount of purchase money was not paid immediately, then the lot was to be re-sold on the same day. As a consequence, tenure-holders (or patnidars) fraudulently availed themselves to the provision under Section 9 that forfeited deposits at sales of land for arrears of rent and applied the same, as if it was the purchase money.

To counter this, the Act provided specific provision with regard to the application of forfeited deposits. Such deposits were to be applied to defray the expense of the sale and the surplus was be forfeited to the Government.

Reasons for repeal

- The Act was enacted in response to the British Regulation VIII, 1819. As this Regulation is not in force any more, this Act is not required.
- This Act is redundant post-Independence, as it was enacted specifically in response to British administrative needs that no longer exist.

Issues

There are no legal issues that would impede repeal.

Name: The Sheriffs' Fees Act, 1852

Subject: Archaic British Era Laws

Reason: The Act has outlived its purpose

What is the law?

The Sheriffs Fees Act, 1852 was enacted for remunerating the Sheriffs of the three erstwhile Presidency towns of Calcutta, Madras and Bombay. The Act made provisions for remunerating Sheriffs for the execution of legal processes issued by the Courts. Sheriffs performed the function of serving on the concerned people orders, writs and warrants issued by the High Court.

Reasons for repeal

- All provisions of the 1852 Act were repealed by means of an Amending Order in 1937. Only Section 8 now remains, which deals with the liability of the Sheriffs in case persons taken for execution were to escape. Since Sheriffs now enjoy only a titular position in the administrative hierarchy and do not perform any judicial functions, this liability of the Sheriff is no longer relevant.
- The Act was enacted by the Governor General in Council, per the administrative structure of the British government. Sheriffs are now remunerated by the concerned Municipal Corporations in all the three cities and thus, remuneration of sheriffs is the prerogative of the State Governments.
- There is no documented use of this Act.

Issues

There are no legal issues that would impede repeal.

Name: The Sonthal Parganas Act, 1855

Subject: Archaic British Era Laws

Reason: Redundant British-era law that is derogatory to a particular group

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What is the law?

This Act, introduced to serve the needs of the British colonial administration, exempted districts inhabited by the Sonthal tribe from the operation of general laws and regulations. The purpose was to curb tribal uprisings by isolating tribal populations. The areas inhabited by the Sonthal tribe were instead put under the superintendence of an officer specially appointed for the purpose, who would oversee civil and criminal justice as well as administer revenue collection.

Reasons for repeal

- The Act has been rendered redundant with the enactment of the Constitution of India, since the administration of the Sonthal areas is now dealt with by the Fifth Schedule to the Constitution. The last reported case under this Act was decided in 1936, and the Act has not been in use since Independence.
- The Act employs highly derogatory terms to describe the Sonthal tribe by calling them an uncivilised race of people. Such laws violate the principles of equality under law adopted by our Constitution and give legitimacy to discrimination and ill-treatment of tribal populations in India.

Issues

There are no legal issues that would impede repeal.

Name: The Howrah Offences Act, 1857

Subject: Archaic British Era Laws

Reason: Colonial legislation superseded by modern laws

What is the law?

The Howrah Offences Act, 1857 was enacted to make better provision for order and good government in the suburbs of Calcutta and the Howrah station. The need for this Act was felt following the advent of the East India Railway in 1854. The law prescribes penalties for various offences including incidents of public nuisance. By an amendment in 1874, the application of the Act was limited to the Howrah station.[a]

Reasons for repeal

- The offences mentioned in this Act are punishable under the Indian Penal Code, 1860 and other criminal laws. In fact, the punishments for these offences under this Act are paltry, while the IPC has relatively stricter penalties. For instance, possession of stolen property is punishable with imprisonment for three months under this Act, while the IPC stipulates imprisonment for three years along with a fine. Hence, the Act hardly serves as a deterrent.
- There is no indication of any recent use of this Act. However, the Act could be used as a legal loophole to escape the harsher penalties of the IPC (or some other law).
- The maintenance and safety of the Howrah station is now the function of the Indian Railways and falls under the Eastern Railway zone.
- The Report of the Commission on Review of Administrative Laws, 1998 (the PC Jain Commission Report) has also recommended repeal of this Act.

Issues

The Act is listed in the Adaptation of Laws Order, 1950 and will have to be deleted from this Order.

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[a] Anupam Mukherjee, The Dirtiest Since 1889, The Telegraph, 2013-11-23, http://www.telegraphindia.com/1131122/jsp/howrah/story_17596813.jsp#.U-hPkuOSzDY, 2014-08-04

Name: Oriental Gas Company Act, 1857

Subject: Archaic British Era Laws

Reason: Oriental Gas Company has ceased to exist

What is the law?

The Oriental Gas Company was a joint stock company constituted and registered in the United Kingdom for the manufacture, supply, distribution and sale of fuel gas in Calcutta. This legislation empowered the Company to lay pipes in Calcutta and to dig up streets for this purpose. An amendment in 1867 extended the powers of the Company to other towns and places.

Reasons for repeal

- The Oriental Gas Company has ceased to exist, making this legislation obsolete and irrelevant. After Independence, the West Bengal Government enacted the Oriental Gas Company Act, 1960, with the objective of taking over the Company on the grounds that the Company, which enjoyed a monopoly in the supply of gas in Calcutta, was not serving consumers properly. Under this Act, the state government took over the management of the Company for a period of five years. However, two years later, it was permanently acquired and renamed Oriental Gas Company Undertaking (OGCU). In 1990, OGCU was taken over by a public incorporated company called Greater Calcutta Gas Supply Corporation Limited (GCGSCL), which is fully owned by the West Bengal Government.
- The Law Commission in its 96th Report (1984) (Chapter 3, Page 12) recommended repeal of this Act on the grounds that it is redundant since the Company itself has ceased to exist.

Issues

There are no legal implications due to the repeal of the Act.

Name: The Waste-Lands (Claims) Act, 1863

Subject: Archaic British Era Laws

Reason: The Governments approach to waste-lands has changed

What is this law?

The Act makes special provisions for the speedy adjudication of claims made with regard to waste-lands. Any claims made to waste-lands which were proposed to be sold, or otherwise dealt with, by the Provincial Government, were to be made under this Act. The Act envisages setting up of Special Courts by the state government for trial of claims relating to waste-lands.

Reason for repeal

- This Act is a remnant of the colonial discourse surrounding waste-lands. Prior to Independence, all lands that were not under cultivation were classified as waste-lands and the State asserted proprietary rights over them. The colonial government wanted to assert control over waste-lands to claim revenue from it. Such title was sold to the public by the government.
- Under the Seventh Schedule of the Constitution, all matters relating to land are within the exclusive legislative and administrative jurisdiction of state governments. Land classified as waste-land according to current government norms, whether under revenue land or forests, would fall within the jurisdiction of the state governments. Any claims relating to such land will follow the Revenue Code/ Acts administered by the State governments.
- Government's discourse regarding waste-lands has significantly changed post-Independence and the need to use such lands for agriculture has now assumed prominence.[a] Waste-land management programmes now accord significance to the fact that waste-lands are the common property of village communities and the economic and ecological contributions of these lands are taken note of.[b] The proprietary rights of the State have been replaced with a close relationship between the environment and the community living within that area as the community derives sustenance from it.[c] The continuation of this Act under the changed legal and policy circumstances serves no purpose.
- The PC Jain Commission has recommended repeal of this Act (Appendix A-5, Entry 101).

Issues

There are no legal issues that would impede repeal.
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[a]Saigal, Sushil, Greening the Wastelands: Evolving Discourse on Wastelands and its Impact on Community Rights in India, Digital Library of the Commons, 2011, 1-30. http://dlc.dlib.indiana.edu/dlc/bitstream/handle/10535/7204/620.pdf?sequence=1

[b]Jodha, NS, Waste Lands Management in India: Myths, Motives and Mechanisms, Economic and Political Weekly, 2010, 35, 5, 466-473, http://www.jstor.org/stable/4408909

[c]Department of Land Resources, Integrated Wasteland Development Programme. http://dolr.nic.in/iwdp1.htm

Name: The Converts' Marriage Dissolution Act, 1866

Subject: Archaic British Era Laws

Reason: The Act is redundant in view of the Hindu Marriage Act, 1955

What is the law?

The Act seeks to legalise the dissolution of marriages of converts to Christianity, who are deserted or repudiated on religious grounds by their wives or husbands.

Reasons for repeal

- The Act has very limited scope since it is not applicable to the personal laws of Christians, Mohammedans and Jews.[a] In effect, it is only applicable to persons professing Hindu religion, who convert to Christianity.
- The Act is redundant. The procedure created under this law is repetitive and unnecessary, as the Hindu Marriage Act, 1955 provides for divorce or a judicial separation on the ground of change of religion of spouse.[b]
- Repeal of this Act has been recommended by the Law Commission in its 18th Report (1961). The PC Jain Commission has also recommended due consideration on the law by all stakeholders (Vol.1, Appendix D, Entry 12).

Issues

The repeal of the Act will impact pending litigation, if any. These issues can be addressed by enacting a saving clause.

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[a] Section 3
[b] Section 13(1)(ii), Hindu Marriage Act, 1955

Name: The Oudh Sub-Settlement Act, 1867

Subject: Archaic British Era Laws

Reason: Redundant law that has now served its purpose

What is the law?

The Act was enacted to legalise the rules made by the Chief Commissioner of Oudh for the better determination of certain claims of persons having subordinate rights of property in that province. The rules were meant to determine the conditions under which persons who possessed subordinate rights of property in Taluqas in the territories under the administrative jurisdiction of the Chief Commissioner would be entitled to obtain a sub-settlement of lands. The Act gave these rules the force of law. The rules were called the Rules regarding sub-settlement and other subordinate rights of property in Oudh. The Rules were made by the Chief Commissioner and sanctioned by the Governor General of India in Council in 1866. The Rules find mention in the Schedule of the Act.

Reasons for repeal

- The princely state of Oudh does not exist anymore. Also, the Rules regarding sub-settlement and other subordinate rights of property in Oudh are not in force now. Hence, the Act does not serve any discernible purpose anymore.
- Under the Seventh Schedule of the Constitution, all matters relating to land are within the exclusive legislative and administrative jurisdiction of State governments. Any claims to title/ property rights are adjudicated in terms of respective the Land Revenue Code/ Acts administered by the State governments and the Civil Procedure Code.

Issues

There are no legal issues that would impede repeal.

Name: The Oudh Estates Act, 1869

Subject: Archaic British Era Laws

Reason: Redundant law that has outlived its purpose

What is the law?

The Oudh Estates Act, 1869 was enacted to define the rights of Taluqdars and other landholders in certain estates in Oudh, and to regulate succession rights. Taluqdar was a term used in Mughal and British times for landholders who were responsible for collecting taxes from a district. The main purpose of the Act was to prevent doubts that may arise as to the nature of the rights of the Taluqdars and others in such estates.

Reasons for repeal

- Princely states, including Oudh, have ceased to exist in India. The Taluqdari system has also been abolished. Therefore, this Act is completely obsolete.
- The Minister of Law and Justice, Shri Ravi Shankar Prasad cited the Oudh Taluqdars' Relief Act, 1869, as being redundant but which remains alive even though the province of Oudh and Taluqdars do not exist anymore.[a]
- Under the Seventh Schedule of the Constitution, all matters relating to land are within the exclusive legislative and administrative jurisdiction of state governments. Any claims to title and property rights are adjudicated in terms of respective the Land Revenue Code/Acts administered by the state governments and the Civil Procedure Code.

Issues

There are no legal issues that would impede repeal.

[a]Govt to repeal 36 archaic laws following Modi's directive, Rediff.com, August 8, 2014, http://www.rediff.com/news/report/govt-to-repeal-36-archaic-laws-following-modis -directive/20140808.htm

Name: The Oudh Taluqdars' Relief Act, 1870

Subject: Archaic British Era Laws

Reason: Redundant law that has outlived its purpose

What is the law?

The Oudh Taluqdars' Relief Act, 1869 was enacted to relieve the estates of the Taluqdars in Oudh from encumbrances. Since many of the Taluqdars in Oudh were in debt, their immovable property was subject to mortgages, charges and liens and the Act provided relief to the Taluqdars by providing for a mechanism to settle these debts.

Reasons for repeal

- Princely states, including Oudh, have ceased to exist in India. The Taluqdari system has also been abolished. Therefore, this Act is completely obsolete.
- The Minister of Law and Justice, Shri Ravi Shankar Prasad cited the Oudh Taluqdars' Relief Act, 1869, as being redundant but which remains alive even though the province of Oudh and Taluqdars do not exist anymore.[a]

Issues

There are no legal issues that would impede repeal.

[a] Govt to Repeal 36 Archaic Laws Following Modi's Directive. http://www.rediff.com/news/report/govt-to-repeal-36-archaic-laws-following-modis-directive/20140808.htm

Name: The Foreign Recruiting Act, 1874

Subject: Archaic British Era Laws

Reason: Out of date British era statute

What is the law?

This British-era statute provides Government of India with the power to prohibit any Foreign State from recruiting Indians. Under this Act, the government can issue an order preventing a Foreign State from hiring Indians in either a military or a non-military capacity. It also allows the government to impose conditions on foreign recruitment of Indians, and imposes penalties for violating any such conditions.

Reasons for repeal

- This greying law[a] was enacted with the interests of the British Raj in mind, to prevent colonial subjects from serving any rival European power.
- Under this Act the central government is given unlimited power to prohibit recruiting to both military and non-military foreign service. It does not specify the conditions which must be satisfied before the government issues such an order, making the discretionary power extremely wide.[b] The Law Commission in its 43rd Report (1971) has observed that such wide powers may run contrary to Constitutional guarantees under Article 19.
- The Second Administrative Reforms Commission Report of 2006 has also relied on the aforementioned report of the Law Commission to state that the Foreign Recruiting Act is out of date.[c]
- Its provisions are not in sync with a modern globalised economy, and as a result it is not in use today.

Issues

There are no legal issues that would impede repeal. Additionally, to address possible national security concerns, the Territorial Army Act, 1948 could be amended to include a provision that prohibits the recruitment of Indians into foreign armies or grants powers to the government to oversee such recruitment, imposing conditions upon it where necessary.

[a] Shivani, The Greying Laws on India, The Financial Express, 1997-07-22

[b] Law Commission of India, Forty-Third Report on Offences against the National Security, Government of India, 1971-08, http://lawcommissionofindia.nic.in/1-50/Report43.pdf, 23

[c] Second Administrative Reforms Commission, Right to Information: Master Key to Good Governance, Government of India, 6 2006-06, http://arc.gov.in/rtifinalreport.pdf

Name: The Laws Local Extent Act, 1874

Subject: Archaic British Era Laws

Reason: The Act does not serve any meaningful purpose now

What is the law?

The Laws Local Extent Act, 1874 was enacted to declare the local extent of certain enactments passed by the Governor General of India in Council, the Legislative Council of India and the Council of the Governor General of India. Five Schedules are appended to the Act and each contains a list of laws. The provisions of this Act then lay down which of the Acts mentioned in the Schedules would be in force in which of the territories. For instance, Section 4 of the Act lays down that the Acts mentioned in the Second Schedule are in force in the territories subject to the Governor of St. Fort George in Council.

By the Adaptation of Laws Order, 1950, the statute was made applicable to the newly added territories to the Union of India.

Reasons for repeal

- The extent of local laws as mentioned under this Act envisages territorial divisions, as they existed prior to 1947. Provinces as they existed during the British era do not exist anymore. Also, the authorities that enacted the laws mentioned in this Act (the Governor General of India in Council, the Legislative Council of India and the Council of the Governor General of India) do not exist now.
- The territorial extents of various laws in force in India now find mention in the Act itself. Section 1 of every Act is called Short title, extent and commencement which indicates what the territorial extent of the law would be.
- The PC Jain Commission Report has also recommended repeal of this Act (Appendix A-1, Entry 68).

Issues

The territorial extent of existing pre-1950 laws provided under this Act will require to have territorial extent specified within the respective Acts.

Name: The Oudh Laws Act, 1876

Subject: Archaic British Era Laws

Reason: Redundant law that does not serve any purpose

What is the law?

The Act declared and amended the laws to be administered in Oudh. The Act provided for the statutory laws that were to be administered by the courts in Oudh with regard to, inter alia, assessment and collection of land revenue, questions regarding succession, adoption, guardianship, and partition. This Act also recognised that the local customs and mercantile usages prevailing in Oudh would be valid unless they were contrary to justice, equity or good conscience.

Reasons for repeal

- Princely states have ceased to exist in India. The former princely state of Oudh now exists as Awadh in the state of Uttar Pradesh.
- The relevant laws and customs that are covered for administration by the courts of Oudh are now governed under respective statutes under the Constitution.

Issues

There are no legal issues that would impede repeal.

Name: The Hackney-Carriage Act, 1879

Subject: Archaic British Era Laws

Reason: Subject matter should be regulated at the local level

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What is the law?

The Act provides for the licensing of hackney carriages, defined as wheeled vehicles drawn by animals for the conveyance of passengers. 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'.

Reasons for repeal

- Animal-drawn carriages are licensed by the 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.

Issues

There are no legal issues that would impede repeal.

Name: The Elephants Preservation Act, 1879

Subject: Archaic British Era Laws

Reason: Colonial era legislation superseded by modern laws

What is the law?

The Act provides for the preservation of wild elephants. Section 3 prohibits the killing, injuring or capturing of wild elephants unless it is done in self-defence, or to prevent the elephant from injuring any house or cultivation, or under the terms of a licence granted under this Act.

Reasons for repeal

- The Wildlife (Protection) Act, 1972 deals with the same subject and has wider and more updated provisions dealing with the protection of wild animals, including elephants. Protection under the 1972 Act extends to elephants as well as various other mammals and therefore encompasses the purpose for which the 1879 Act was enacted.
- There is no documented example of any recent use of this Act. Neither is there any instance of a case in court under this law.
- When compared with the 1972 Act, the 1879 Act imposes a paltry fine of Rs 500 for violations. The 1972 Act imposes a relatively harsher penalty of a fine of Rs 25,000 or imprisonment for up to three years. Hence, the provisions of the 1972 Act are a greater deterrent for poachers and other potential offenders. In light of the 1972 Act, there is no need to have a separate Act for the protection of only elephants.
- While the older Act is redundant, it could be used as a legal loophole to escape the harsher penalties of the new law. For example, in cases involving caste atrocities, the accused have sometimes been charged solely under the older and less severe Protection of Civil Rights Act, 1955, instead of the stricter SC and ST (Prevention of Atrocities) Act, 1989.[a] This is made possible where the same offence is punished under two laws, and one law imposes a lower penalty.

Issues

The Indian Forest Act, 1927 contains a reference to the Elephants Preservation Act, which will have to be removed. The repeal will not be material as the Wildlife (Protection) Act will still continue to apply.

[a] Centre for the Study of Casteism, Communalism and the Law, Evaluation of the Protection of Civil Rights Act, 1955 and its Impact on the Eradication of Untouchability, National Law School of India University, 288, 2006, https://www.nls.ac.in/csseip/Files/Material%20for%20uploading/PCRA_report_II_from_intro%5B1%5D.pdf

Name: Fort William Act, 1881

Subject: Archaic British Era Laws

Reason: Army is now governed by the Army Act, 1950

What is the law?

The Act empowered the British Chief of Army staff to make rules within Fort William in Bengal on the subjects mentioned in the Schedule of the Act and prescribe penalties for the infringement of such rules.

Reasons for repeal

- The Act can be repealed as the Army is now governed by the Army Act, 1950, and the Armed Forces Tribunal Act, 2007. Fort William is the official Headquarter of the Eastern Command of the Indian Army.[a]
- The Fort William Act is among the list of 114 Central Acts relating to State subjects that the PC Jain Commission recommended for repeal by state governments (Volume 1, Appendix A-5, Entry 43).
- Certain provisions of the Act are unconstitutional. The Law Commission in its 148th Report (1993) held that the delegation to a Commissioned Officer in the Indian Army of the power to try and punish persons charged with the violation of the rules framed under the Act is contrary to the general scheme of the Constitution and is opposed to the directive principle of separation of the judiciary from the executive. In addition, under Section 6 of the Act, a police officer can detain any arrested person for an unlimited period of time until the detenue signs a bond of a specific amount.

Issues

There are no legal issues that would impede repeal.

[a]Indian Army, Eastern Command Home.
http://indianarmy.nic.in/Site/FormTemplete/frmTempSimple.&ParentID=h7PStga2mWKAtumsPqvDw==&flag=W6fW89EXiYPapi/6ZdgOiQaspx?MnId=gmHOFXTSdBUP71y8Wmbu2w

Name: The Oudh Wasikas Act, 1886

Subject: Archaic British Era Laws

Reason: Redundant law that does not serve any purpose

What is the law?

The Act declared certain allowances, collectively known as Oudh Wasikas, to be pensions within the meaning of the Pensions Act, 1871. These allowances were the Amanat Wasikas, the Zamanat Wasikas and the Loan Wasikas. Wasikas were a legal inheritance that could be willed from generation to generation and were paid only to the heirs of the royal family of Oudh.[a] This was a monthly allowance, the payment of which was monitored by the British Government.

Reasons for repeal

The princely state of Oudh does not exist and hence, the allowance payable to the royal family of Oudh has also ceased to exist. The Act is completely obsolete now.

Issues

There are no legal issues that would impede repeal.

[a] Shonali Ganguli, Bearing Fruits from the Family Tree, The Hindustan Times, 2008-03-09. http://www.hindustantimes.com/world-news/bearing-fruits-from-the-family-tree/article1-280775.aspx

Name: Reformatory Schools Act, 1897

Subject: Archaic British Era Laws

Reason: Redundant in light of the Juvenile Justice (Care and Protection) Act, 2000

What is the law?

One of the earliest outcomes of the Reformatory Theory of Punishment is the Reformatory School Act, 1897. The Act sought to prevent first-time juvenile offenders, whose antecedents were not questionable, from being sent to ordinary jails, which may have the effect of turning them into hardened criminals. Under the law, first-time offenders were sent to Reformatory Schools run by the Government, where they were provided with basic facilities like food, clothing, education and the opportunity to understand what they wanted to do with their lives. All these measures were under government control and scrutiny of the head of the Reformatory School. Offenders were restricted within a particular boundary; this acted as punishment on them.

Reasons for Repeal

- The Juvenile Justice Act, 1986, has been repealed by the Juvenile Justice (Care and Protection of Children) Act, 2000. It targets two groups—children in need of care and protection, and juveniles in conflict with law. It provides for setting up of observation homes and special homes for juveniles in conflict with law and children homes for children needing care and protection during the pendency of inquiry and subsequent rehabilitation. These are under scrutiny of the Juvenile Justice Board.
- Section 63 of the Juvenile Justice Act, 1986, repealed any law in force in any State that corresponded to the Act, on the date on which the Act came into force in the concerned State. The Reformatory Schools Act, 1897 was one of the legislations, which was still in force at that time, but has not been formally repealed.
- Under the Constitution of India, the subject matter of any such legislation falls in the State List, but a Central law was enacted to fulfil India's international obligations.

Issues

There are no legal issues that would impede repeal.

Name: The Wild Birds and Animals (Protection) Act, 1912

Subject: Archaic British Era Laws

Reason: Colonial legislation superseded by modern laws

What is the law?

The Act provides for the protection and preservation of certain wild birds and animals. Section 3 of the Act penalises the capturing, killing or trade of any such bird or animal mentioned in the Schedule annexed to the Act. Contravention of Section 3 attracts a penalty of Rs. 50, while a subsequent conviction warrants imprisonment for a period of one month along with a fine of Rs. 100.

Reasons for repeal

- The Act can be repealed since the objects and reasons of this legislation are being sufficiently met with by the Wild Life (Protection) Act, 1972 and the Rules framed thereunder. In fact, the Act of 1972 notes in its Statement of Objects and Reasons that the Act of 1912 has become completely outmoded.
- The Schedules to the 1972 Act includes comprehensive lists of protected birds, animals and endangered plants reflecting the current requirements for their protection. The 1972 Act is wider in scope and provides for extended protection by declaring certain areas as national parks or 'sanctuaries' and for their management.
- The 1912 Act imposes a paltry fine of Rs. 50 for violations. The Act of 1972 imposes a relatively harsher penalty of a fine of Rs. 25,000 or imprisonment for up to three years. The older Act is redundant and could be used as a legal loophole to escape the harsher penalties of the new law. The Act of 1912 should therefore be repealed.

Issues

The wild birds and animals under the Schedule annexed to the Act of 1912 which do not find mention in Schedule I of the Act of 1972 can be accommodated in the latter through a suitable amendment.

Name: Emergency Legislation Continuance Act, 1915

Subject: Archaic British Era Laws

Reason: The Act is redundant

What is the law?

This Act mandated the continuance of nine ordinances for the entire duration of World War I beyond six months allowed by the Indian Councils Act, 1861. These ordinances are:

1. The Indian Naval and Military News (Emergency) Ordinance, 1914
2. The Impressment of Vessels Ordinance, 1914
3. The Foreigners Ordinance, 1914
4. The Indian Volunteers Ordinance, 1914
5. The Ingress into India Ordinance, 1914
6. The Commercial Intercourse with Enemies Ordinance, 1914
7. The Foreigners (Amendment) Ordinance, 1914
8. The Foreigners (Further Amendment) Ordinance, 1914
9. The Articles of Commerce Ordinance, 1914

Reasons for Repeal

The Act is redundant. The ordinances covered under this Act have lapsed. The limitation on the tenure of ordinances stipulated in the Indian Councils Act, 1861 is also not relevant because the 1861 Act was repealed by the Government of India Act, 1915. The Constitution now provides for a specific procedure for ordinance making.

Issues

There are no legal issues that would impede repeal.

Name: The Sheriff of Calcutta (Power of Custody) Act, 1931

Subject: Archaic British Era Laws

Reason: The Act has outlived its purpose

What is the law?

The Sheriff of Calcutta (Power of Custody) Act, 1931 extended the powers of the Sheriff to hold persons in lawful custody in Calcutta. The Act made provision for certain circumstances when the Sheriff of the High Court of Judicature of Bengal, while discharging his duties, had to take any person in his lawful custody to or from the Presidency Jail. Where circumstances made it unduly inconvenient to proceed by a route lying wholly within the local limits of the jurisdiction of the said High Court, the Act allowed the Sheriff to proceed by any other convenient route lying partly outside these local limits. In doing so, the custody of the person by the Sheriff would remain lawful.

Reasons for repeal

- Since, Sheriffs in Kolkata now hold an apolitical titular position, the powers granted under this Act are no longer relevant.
- There is no documented use of this Act.
- The PC Jain Commission has recommended repeal of this Act (Appendix A-5, Entry 90).

Issues

There are no legal issues that would impede repeal.

Name: Bengal Suppression of Terrorist Outrages (Supplementary) Act, 1932

Subject: Archaic British Era Laws

Reason: Redundant law

What is the law?

The Bengal Suppression of Terrorist Outrage (Supplementary) Act, 1932 is a supplement to the main legislation, the Bengal Suppression of Terrorist Outrage Act, 1932. The main legislation was enacted to suppress the terrorist movement in Bengal before Independence, and for the speedy trial of related offences. It provided for special procedures for the trial of related offences and declared that ordinary criminal procedure would not apply in such cases.

Reasons for repeal

- The law was enacted to suppress the Indian freedom movement. The last reported cases under the Act date back to the 1930s and the law is no longer in use. Clearly, there is no need for such an Act now.
- The chief Act that this law supplemented, namely the Bengal Suppression of Terrorist Outrages Act, 1932, has been repealed.

Issues

There are no legal issues that would impede repeal.

Name: The Assam Criminal Law Amendment (Supplementary) Act, 1934

Subject: Archaic British Era Laws

Reason: The Act that it intends to supplement has been repealed

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What is the law?

The Act was enacted to supplement the Assam Criminal Law (Amendment) Act, 1934. This Act provided that a person convicted on a trial held by Commissioner could appeal to the High Court of Judicature at Fort William in Bengal, according to the procedure provided for by the Code of Criminal Procedure, 1898.

Reasons for repeal

The Act makes references to the Assam Criminal Law Amendment Act, 1934 and the Code of Criminal Procedure, 1898. Both these Acts are non-existent now. The Assam Criminal Law Amendment Act, 1934 does not find mention in the Chronological List of Central Acts published by the Ministry of Law and Justice, while the Code of Criminal Procedure, 1898, has been repealed by the Code of Criminal Procedure, 1973.

Issues

There are no legal issues that would impede repeal.

Name: The Bangalore Marriages Validating Act, 1934

Subject: Archaic British Era Laws

Reason: The Act has outlived the purpose for which it was enacted

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What is the law?

This Act was enacted to validate certain marriages in the civil and military station of Bangalore. The marriages to be validated by this Act were those solemnised by a certain priest, Mr. Walter James McDonald Redwood.

Reasons for repeal

- Mr. Walter James McDonald Redwood solemnised certain marriages in Bangalore mistakenly believing that he was duly authorised to do the same. The Act was enacted to validate these marriages. The Act has now served its purpose and hence, should be repealed.
- The PC Jain Commission has recommended repeal of this Act (Volume 1, Appendix A-1, Entry 147).

Issues

There are no legal issues that would impede repeal.

Name: The Arya Marriages Validation Act, 1937

Subject: Archaic British Era Laws

Reason: The Acts purpose can be achieved through the Hindu Marriage Act, 1955

What is the law?

The Arya Marriage Validation Act, 1937 was passed to recognise and place beyond doubt the validity of inter-marriages of a sect of Hindus known as Arya Samajis.

Reasons for repeal

- The validity of marriages between Arya Samajis is recognised through the Hindu Marriage Act, 1955. Arya Samajis are specifically described under Section 2(1)(a) of the Hindu Marriage Act, 1955 as 'forms' or 'developments' of the Hindu religion and therefore their marriages fall within the scope of the Hindu Marriage Act. The present Act is merely repetitive and not required.
- The PC Jain Commission has also recommended due consideration on the law by all stakeholders (Vol.1, Appendix D, Entry 11).

Issues

There are no legal issues that would impede repeal.

Obsolete Partition and Post-Independence Reorganisation

The following set of 5 Laws comprises of two kinds of laws—laws that were enacted to manage the issues that arose subsequent to Partition of the nation, and laws for reorganising affairs in newly Independent India, including the redrawing of boundaries of territories in India to form states as they exist now or merger of certain territories with the newly formed states. We propose that the laws in this set be repealed since they no longer serve any discernible purpose.

The problems arising out of Partition have been largely resolved, and special laws to deal with the same are no longer needed. The Law Commission of India in its 96th Report (1984) recommended the repeal of the Exchange of Prisoners Act (1948) on the grounds that the Act was not enacted with the intention of operating beyond the period of Partition.[a] The Indian Independence Pakistan Courts (Pending Proceedings) Act (1952) also came up for discussion and the LCI observed that after 30 years of independence (the Report dates back to 1984), the need for the Act under discussion should no longer exist. Recently, Minister for Law and Justice Shri. Ravi Shankar Prasad similarly reiterated that laws such as the Exchange of Prisoners Act (1948) and the Indian Independence Pakistan Courts (Pending Proceedings) Act (1952) are clearly of no use today.[b]

In the Two Member Constituencies (Abolition) and Other Laws Repeal Act (2001), similar laws relating to alteration of state names were repealed. The Statement of Objects and Reasons of this Act argued that the seven Acts mentioned in the Repeal Act of 2001 had served their purpose and were no longer required to be retained on the statute book.[c] Shri. ID Swami, member of the Bharatiya Janata Party (BJP) and former Union Minister of State in the NDA Government, introduced the Repeal Act of 2001 in the Lok Sabha, saying that the laws proposed for repeal were redundant, non-functional and ineffective, and have fulfilled their purpose'.[d] The same can be said about other reorganisation and territories' merger Acts. In the same vein, the PC Jain Commission similarly recommended repeal of 35 State Reorganisation Acts because they have served their intended purpose. Of these, the Repeal Act of 2001 repealed only 7.

Repeal of these laws will not affect pending proceedings if a saving clause is added. While introducing a bill for repealing these Acts, Parliament can insert a savings clause to restrict the effect of the said repeal on any litigation (or any process of any kind) that exists/continues under these Acts. Repeal of these Acts will have the effect of clearing the statute books of redundant laws. This will contribute greatly to streamlining our laws and making them easier to use.

[a] Law Commission of India, Report on Repeal of Certain Obsolete Central Acts, Government of India, 1984-03

[b] Rediff.com, Govt to Repeal 36 archaic Laws Following Modi's Directive, 2014-08-08

[c] Statement of Objects and Reasons of the Two Member Constituencies (Abolition) and Other Laws Repeal Act, 2001, 2001-09-14

[d] Lok Sabha, Consideration and Passing of the Two-Member Constituencies (Abolition) and Other Laws Repeal Bill, 2001, 2001-08-28

Name: Trading with the Enemy (Continuance of Emergency Powers) Act, 1947

Subject: Obsolete Partition & Post-Independence Reorganisation

Reason: The Act is redundant in light of Enemy Property Act, 1968

What is the law?

This law was enacted for the continuance of certain provisions of the Defence of India Rules relating to control of trading with countries at war with India as well as persons and firms belonging to those countries, and custody of the property belonging to them. It is a relic of similar legislations passed in the United Kingdom and the United States during the Second World War. In India, the Act was enacted to empower the government to appropriate the property of Pakistani nationals.

Reasons for repeal

The 1947 Act is no longer in practical application. The objective of this legislation is now being fulfilled by the Enemy Property Act, 1968. The 1968 Act, provides a mechanism for divesting of enemy property, i.e., property belonging to nationals and firms of hostile countries, in the Custodian of Enemy Property for India. The Act contains provisions related to the appointment of the Custodian and divesting and management of 'enemy property'.

Issues

There are likely no legal implications since this legislation has not been in practical application and the 1968 Act has put in place a mechanism to deal with the provisions of the 1947 Act.

Name: Exchange of Prisoners Act, 1948

Subject: Obsolete Partition & Post-Independence Reorganisation

Reason: The Act has outlived its utility

What is the law?

This Act was passed to facilitate exchange of prisoners between India and Pakistan, in pursuance of an agreement between the two countries. Section 2(b) defines 'prisoner' as any person committed to custody in a prison on or before the 1st day of August 1948 under the writ, warrant or order of any Court or authority other than a civil Court or Court-martial.

Reasons for repeal

- The Act was passed to facilitate exchange of prisoners between India and Pakistan post partition. This is evident from the definition of 'prisoner', which refers to persons committed to custody on or before 1 August 1948. The situation of partition arose sixty seven years ago, and those circumstances have ceased to exist.
- The Act is not implemented. The exchange of prisoners between India and Pakistan is now governed by the terms of the Consular Access Agreement signed in May 2008.
- The Law Commission in its 96th Report (1984) recommended repeal of this Act, having regard to the fact that the Act was passed only to deal with the situation that arose immediately on partition.

Issues

A saving clause will have to be enacted along with the repeal. Besides this, there are no legal issues that would impede repeal.

Name: Imperial Library (Change of Name) Act, 1948

Subject: Obsolete Partition & Post-Independence Reorganisation

Reason: The Act has served its purpose

What is the law?

This Act was passed to change the name of the Imperial Library to National Library.

Reasons for Repeal

The purpose of the Act has been achieved.

Issues

There are no legal issues that would impede repeal.

Name: The Resettlement of Displaced Persons (Land Acquisition) Act, 1948

Subject: Obsolete Partition & Post-Independence Reorganisation

Reason: The beneficiaries of the Act no longer exist

What is the law?

An Act was passed to provide for the speedy acquisition of land for the resettlement of displaced persons. It extends to the territories, which, immediately before 1 November 1956, were part of the states of Delhi and Ajmer.

Reasons for repeal

- The Act was enacted to provide relief to persons displaced from their place of residence (in areas now comprising of Pakistan) on account of the Partition, and subsequently residing in India. The beneficiaries of this law no longer exist[a] as the law was specifically enacted to deal with the situation immediately post partition; hence the Act has outlived its utility.
- The repeal will not have any administrative repercussions. Unlike other resettlement/displacement legislations, the Act does not mention any intermediary holding company through which properties are allocated. It simply mentions a 'competent authority' as defined under section 2(a) as the Collector or any other person appointed by the state on this behalf.
- Other laws relating to persons displaced from Pakistan during the Partition have been repealed. The Displaced Persons Claims and Other Laws Repeal Act, 2005, repealed:
  - Administration of Evacuee Property Act, 1950.
  - Displaced Persons (Claims) Act, 1950.
  - Evacuee Interest (Separation) Act, 1951.
  - Displaced Persons (Claims) Supplementary Act 1954.
  - Displaced Persons (Compensation and Rehabilitation) Act, 1954.

Issues

There are no legal issues that would impede repeal.

[a]The latest case on the subject was a second appeal in 2002 from the impugned judgement in 1979. Smt Brij Rani vs Union of India, 99(2002) DLT 819.

Name: Indian Independence Pakistan Courts (Pending Proceedings) Act, 1952

Subject: Obsolete Partition & Post-Independence Reorganisation

Reason: The Act has achieved its purpose and is now redundant

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What is the law?

This law was passed immediately after Independence to deal with the post partition situation. It sought to nullify the effect of certain decrees[a] passed by the then British Indian Courts, falling under the jurisdiction of Pakistan after partition. It further provides the right to issue fresh legal proceeding to persons who had secured such decrees in pre-Independence India.

Reasons for repeal

- The Act was passed to address a situation peculiar to the post-partition period, in regard to obligations created on the government by decrees passed by British-Indian Courts now in Pakistan, and allowing institution of fresh proceedings to aggrieved persons. Sixty two years hence, these circumstances no longer exist.
- The issue expressed by the Law Commission in its 96th Report (1984), while recommending against repeal of the Act, can now be addressed, since an additional 30 years have passed. The Law Commission considered the Act and recommended against its repeal, on the sole ground that it might affect any pending litigation. Although there is no conclusive way of establishing whether there is any pending litigation, the problem can be resolved by enacting a saving clause, alongside repeal, protecting all action taken under the Act.

Issues

There is no conclusive way of finding the status of pending proceedings, if any, under the Act. Hence, a saving clause will have to be enacted along with the repeal. Aside from this, there are no legal issues that would impede repeal.

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[a]Section 2 defines the expression decree as any judgement, order or decree referred to under: Clause (3)(i) of Article4 of the Indian Independence (Legal Proceedings) Order, 1947, or
Paragraph (5)(ii) or paragraph (6) of article 13 of the High Courts(Bengal) Order, 1947, or
Paragraph (4)(iii) or
paragraph (6)of article 13 of the High Courts (Punjab) Order, 1947.

Name: The Chandernagore (Merger) Act, 1954

Subject: Obsolete Partition & Post-Independence Reorganisation

Reason: Purpose of the Act has been achieved

What is the law?

The Act provides for the merger of Chandernagore into the State of West Bengal and all other matters connected with it.

Reasons for repeal

- The objective of the Act has been achieved as the merger of territories has taken place.[a]
- The PC Jain Commission has recommended repeal of this Act (Vol.1, Appendix B, Entry 11).

Issues

There are no legal issues that would impede repeal.

[a] Sachindra Mohan Nandy Vs. State of West Bengal, 1971 SCC (1) 688

Unnecessary Levies and Taxes

The following set of 8 laws impose levies that are either completely redundant, or that bring little benefit despite adding significant administrative and collection costs. Five of these laws, enacted between 1953 and 1986, impose earmarked cesses, one imposes a travel toll, and the last is an indirect tax.

Cesses have been characterised by the Supreme Court as taxes imposed for 'special administrative expenses'.[a] These cesses are typically imposed on the manufacturers of a particular commodity, or on the import of technology. The proceeds, after deducting the costs of administration, are channelled to a board set up for the development of production of that particular commodity. These Acts deal only with the collection of cess, while the Boards are created and managed under different Acts.

Small cesses and taxes are economically inefficient; they introduce budgetary distortions and have high administration and costs.[b]They are all but forgotten, as they bring in negligible amounts of money, while adding significant collection costs on the government and imposing a regulatory burden on manufacturers. Economists have argued that doing away with these levies will have 'little revenue consequence'.[c] Experts, including those within government, have recommended doing away with small cesses. Shri. NK Singh, who was the former Revenue Secretary and is currently member of the Bharatiya Janata Party (BJP), noted in one of his articles that the Acts in question have been characterised as laws that have outlived their utility, as they lead to 'persistent ambiguity'.[d]

Product cesses such as The Agricultural and Processed Food Products Export Cess Act (1985) and The Spices Cess Act (1986) were done away with in 2006 by the Cess Laws(Repealing and Amending) Act. Discussions in the Lok Sabha on the consideration of Cess Laws (Repealing and Amending) Bill (2005) noted that the amount collected through these cesses was negligible, while the procedure for collection was a 'major irritant' to manufacturers, since it involved additional documentation and procedural formalities.[e] Similarly, the Produce Cess Laws(Abolition) Act (2006) repealed the Agricultural Produce Act (1940) and the Produce Cess Act (1966) on the grounds they amounted to a tax on exports, adversely affecting the competitiveness of Indian goods in the global market.[f]

In addition, other levies listed in this section, such as the Ganges Tolls Act (1867), have been replaced with newer laws imposing similar taxes, running the risk of double taxation. Besides raising negligible revenue, earmarked levies, such as those in segment, result in budgetary rigidity. From public finance standpoint, India must do away with inefficient and unsound revenue modalities.

[a]Shinde Bros. v.Commissioner, Raichur , AIR 1971 SC 1512

[b]Deccan Herald, Interview with Arvind Virmani: Cess, Surcharge, Transaction Tax are Distortionary, 2009-07-05

[c]NK Singh, Time to Repeal Small Cess Acts, The Indian Express, 2007-09-18

[d]id

[e]Lok Sabha, Discussion on the Motion for Consideration of the Cess Laws (Repealing and Amending) Bill, 2005, 2006-05-15

[f]Produce Cess Laws (Abolition) Act, 2006, 2006-09-25

Name: The Ganges Tolls Act, 1867

Subject: Unnecessary Levies & Taxes

Reason: Archaic and redundant Act

What is the law?

The Act authorises the levy of tolls on boats plying on the river Ganga for the purpose of improving navigation and shipping facilities on the river. The funds so collected are to be used to meet the expenses of improving and facilitating the navigation of the Ganges between Allahabad and Dinapore.

Reasons for repeal

- The National Waterway (Allahabad-Haldia Stretch of the Ganga-Bhagirathi Hooghly River) Act, 1982 was enacted, to authorise the levy of toll in the same region and for the same purpose.
- The Law Commission in its 148th Report (1993) recommended repealing this Act on the ground that even though there may not be any direct contradictions or inconsistencies between the two Acts (1867 and 1982), but there is a possibility of some double taxation.[a]
- The language used in the Act is archaic as it stipulates that a toll not exceeding 12 annas per hundred maunds shall be payable. While this is not in itself sufficient ground for repeal, it makes the Act yet another example of a law behind the times.
- There is no evidence of any recent use of this Act.

Issues

There are no legal implications due to repeal of the Act.

[a] Law Commission of India, Report on Repeal of Certain Pre-1947 Acts, Government of India, 1993-11, http://lawcommissionofindia.nic.in/101-169/Report148.pdf

Name: Salt Cess Act, 1953

Subject: Unnecessary Levies & Taxes

Reason: Amount of cess collected is negligible compared to administrative costs

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What is the law?

The Act levies a cess on salt manufacturers at the rate of 14 paise per 40 kilograms on all salt manufactured in India in any salt factory, public or private. The proceeds of the cess, after deducting the cost of collection, are used to meet the expenses of salt administration by the government. This includes the costs of regulating salt manufacture, labour welfare, research etc.

Reasons for repeal

- The High Level Salt Enquiry Committee (1978) recommended that the cess be removed, since the annual collection was very small while the total annual cost of administering itlicensing of salt works and controlling the release of salt was 55% of the total cess collected, at that time.[a] Currently, the costs of administration far exceed the collected cess. In 2012-13, cess receipts amounted to Rs. 348.99 lakhs, or 14% of the Salt Department's expenditure on administration and labour welfare, which amounted to Rs. 2,611.80 lakhs. Given that collections are so low, abolition of the cess will not affect fund flow for GoI significantly.

- The Customs, Excise and Gold Tribunal in 1990 observed that "for all practical purposes, as an excisable commodity, [salt] is a non-existent item.[b]", as the amounts collected are negligible.
  Earmarked taxes such as this cess are inefficient since they introduce distortions, lead to budgetary indiscipline, and typically have excessive administration and compliance costs.[c]

Issues

There are no legal issues that would impede repeal.

[a] High Level Salt Inquiry Committee, Report of the High Level Salt Enquiry Committee, Delhi Controller of Publications, 1978-11,http://bit.ly/1qRH2WB, 45

[b] S. Kumar v. Collector of Central Excise, 1990 ECR 725 Tri Delhi

[c] Deccan Herald, Interview with Arvind Virmani: Cess, Surcharge, Transaction Tax are Distortionary, 2009-07-05. http://www.deccanherald.com/content/11922/cess-surcharge-transaction-tax-distortionary.html

Name: Wealth Tax Act, 1957

Subject: Unnecessary Levies & Taxes

Reason: Amount of tax collected is 1% of the total tax collected in a year

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What is the law?

The Act imposes a tax in respect of the net wealth of every individual, Hindu undivided family (HUF) and company, at the rate of 1% of the amount by which the net wealth exceeds Rs. 30 lakhs.

Reasons for repeal

- The number of declared wealth taxpayers is too small to bring in massive revenue under this head. India has nearly 350 lakhs taxpayers, but only 17 lakhs have a declared income of more than Rs. 10 lakhs[a]. As a result, the amount of wealth tax collected remains at abysmally low levels. In 2012, wealth tax collections were a mere Rs. 787 crores, as against the gross direct tax collection at Rs. 5,90,077 crores. In 2011, the amount of wealth tax collected was Rs. 687 crores, as against the total gross tax collection of Rs. 5,22,104 crores.[b]

- The cost of collection of wealth tax is very high as compared to the actual collection. In 2009, India's total wealth tax receipts were Rs. 425 crores, while the Government spent Rs. 216.3 crores in collecting the tax. It is estimated that for every rupee spent, the Government collects only Rs. 1.97 in wealth tax, as compared to Rs. 60 in income tax.[c] This was also one of the reasons for the abolition of the estate duty tax in 1985, as the cost of collection and administration of estate duty was too high.[d]

- Per Section 2(ea) of the Act, the tax is only levied on assets like a house used for residential or commercial purposes, farm houses, motor cars, urban land [as defined under Explanation 1(b) to Section 2(ea) of the Act], jewellery, yachts, cash in hand in excess of Rs 50,000, etc. Imposition of tax on these assets pushes their ownership underground and gives rise to black money.

Issues

There are no legal issues that would impede repeal.

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[a] Punj Shweta, Skewed Priorities, The Business Standard, 2013-02-03, http://businesstoday.intoday.in/story/more-taxes-on-the-super-rich-help-india-fi scal-health/1/191599.html

[b] Business Today, Direct Tax Collection Up 13% in FY12, 2012-06-06, http://businesstoday.intoday.in/story/direct-corporate-income-tax/1/185192.html

[c] Sikarwar Deepshikha, Taxing Trapping: Wealth Tax Collection Costs Half As Much, Economic Times, 2009-04-08, http://articles.economictimes.indiatimes.com/2009-04-08/news/28489370_1_wealth -tax-collection-receipts

[d] Economic Times, What if Inheritance is Taxed?, 2011-06-18,
http://articles.economictimes.indiatimes.com/2011-07-18/news/29787590_1_inhe ritance-tax-gifts-property-estate-tax

Name: The Tobacco Cess Act, 1975

Subject: Unnecessary Levies & Taxes

Reason: Cess collected is negligible

What is the law?

This Act provides for the levy and collection of an excise duty at the rate of 1 paisa per kilogram on all Virginia tobacco produced in India and sold at a registered auction platform. The funds collected are transferred to the Tobacco Board, after deducting the costs of collection, for use in the development of the tobacco industry.

Reasons for repeal

- In 2006, the Cess Laws (Repealing and Amending) Act removed a number of cesses on agricultural products (like the Agricultural Produce Cess Act and the Spices Cess Act) to increase the competitiveness of our agricultural exports. The Tobacco Cess Act was also considered in this process and Section 4 of this Act, which dealt with the levy of customs duty on tobacco exports, was repealed.
- The excise duty on tobacco under Section 3 of this Act, however, still operates. The cess collected is negligible.

Issues

There are no legal implications due to repeal of the Act.

Name: The Sugar Cess Act, 1982

Subject: Unnecessary Levies & Taxes

Reason: Amount of cess collected is negligible compared to administrative costs

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What is the law?

This Act levies a cess on sugar produced and sold by any sugar factory in India, at the rate of Rs. 24 per quintal. The proceeds of the cess, after deducting the cost of collection, are credited to the Sugar Development Fund (SDF). The SDF renders financial assistance through loans at concessional rates for the rehabilitation and modernisation of sugar factories.

Reasons for repeal

- Between 1982-83 and 2008-09 the average cess collected per year was Rs. 207 crores, of which an average of Rs. 163 crores was transferred to the SDF.[a] In 2008, the government estimated that the SDF would not have sufficient funds after March 2009 to meet the expected expenditure on financial assistance.[b] The cess collected is therefore inadequate to meet the costs of the SDF.
- In the past, where cesses have been abolished, the costs of the relevant Board have been met through government grants. The Spices Board, for example, which used to receive the realisations from the spices cess[c], is now operating on government budget outlays. A similar solution can be introduced for the SDF.
- Earmarked taxes such as this cess are inefficient since they introduce distortions, lead to budgetary indiscipline, and typically have excessive administration and compliance costs.[d]

Issues

The Rangarajan Committee report which laid down the road map for deregulation does not mention doing away with the cess; instead it recommends redeploying the cess money to offset the removal of levy sugar. There are however, no legal issues that would impede repeal.

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[a] Department of Food and Public Distribution, Status of Sugar Development Fund

[b] Business Line, Bill for hiking cess on sugar introduced in Lok Sabha, 2008-03-12

[c] Jayathilak, Give Pepper Status of Focus Products, The New Indian Express, 2013-07-03.
http://www.newindianexpress.com/business/news/Give-Pepper-Status-of-Focus-Products/2014/07/03/article2311326.ece

[d] Deccan Herald, Interview with Arvind Virmani: Cess, Surcharge, Transaction Tax are Distortionary, 2009-07-05

Name: The Jute Manufactures Cess Act, 1983

Subject: Unnecessary Levies & Taxes

Reason: Cess collected is negligible

What is the law?

This Act levies a cess on jute manufacturers at the rate of 1ad valorem. The proceeds of the cess are used by the National Jute Board to take steps for the development of jute production. Cess proceeds are first credited to the Consolidated Fund of India from which a portion is given to the National Jute Board, after deducting the costs of collection.

Reasons for repeal

- The amounts collected under the cess are negligible, and only about half are transferred to the National Jute Board. In 2011-12, cess collected was Rs. 85 crores while the transfer to the Board only amounted to Rs. 34 crores.[a]
- The Special Economic Zones Act, 2005 exempts goods in an SEZ from this cess. While this is not in itself a ground for repeal, perhaps it is an indication that this cess is a hindrance to economic activity and should not operate anywhere else in the country.
- In the past, where cesses have been abolished, the costs of the relevant Board have been met through government grants. The Spices Board, for example, which used to receive the realisations from the spices cess, is now operating on government budget outlays. A similar solution can be introduced for the National Jute Board.
- Earmarked taxes such as this cess are inefficient since they introduce distortions, lead to budgetary indiscipline, and typically have excessive administration and compliance costs.[b]

Issues

There are no legal implications due to repeal of the Act.

[a] Lok Sabha, Need to Utilise the Amount of Cess Collected from Jute Manufacturing Companies for Development of Jute and Jute Products, 2013-03-19, http://164.100.47.132/LssNew/psearch/Result15.aspx?dbsl=9772

[b] Deccan Herald, Interview with Arvind Virmani: Cess, Surcharge, Transaction Tax are Distortionary, 2009-07-05, http://www.deccanherald.com/content/11922/cess-surcharge-transaction-tax-distortionary.html

Name: The Research and Development Cess Act, 1986

Subject: Unnecessary Levies & Taxes

Reason: Impediment to technology companies in the import of technology

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What is the law?

The Act levies a 5% cess on all technology imported from overseas and sets up a Fund under the Industrial Development Bank of India into which the money is directed. The Fund is used to encourage domestic technology development. The central government has the power to exempt any company from paying the cess.

Reasons for repeal

- This cess hinders the flow of technology into the nation and poses a barrier to trade. The Japanese Ministry of Economy, Trade and Industry complained about the tax in 2002 and characterised the Act as a hindrance.[a]
- There are reports of industry complaints that the applications of this Act are discretionary and often ad hoc, leading to harassment. There is also lack of clarity on whether this cess and service tax amount to double taxation.[b]
- The cess collected is too small to justify the restrictions caused by its imposition. In the 13-year period between 1997 and 2010, only Rs. 2,261 crores were collected under the Act. Of this, only 22% or Rs. 501 crores (or Rs. 36 crores annually) were channelled to the Technology Development Board during this period. This is a small amount that can easily be compensated, while achieving savings in administrative costs of the cess collection. Earmarked taxes such as this cess are inefficient since they introduce distortions, lead to budgetary indiscipline, and typically have excessive administration and compliance costs.

Issues

There are no legal issues that would impede repeal.

[a] Ministry of Economy, Trade and Industry, Barriers to Business in India, 2002-01-13. http://www.meti.go.jp/policy/trade_policy/asia/sw_asia/data/Barriers%20to%20Business%20in%20India.pdf

[b] R. Srivatsan, Some fuss about a cess, Business Line, 2004-04-17, http://www.thehindubusinessline.com/2004/04/17/stories/2004041700100900.htm

Redundant Nationalisation

The following laws were passed between 1972-76, just before or during the proclamation of National Emergency in the country. This era saw the government take over 14 private banks, followed by the nationalisation of companies in the insurance, coal, iron and steel, and oil and gas sectors through Acts like the ones listed in this section.

These Acts followed a similar pattern—they provided for the transfer of all assets, rights and interests of a company to the central government, and fixed the compensation to be paid to the owners. By virtue of this transfer, the Acts declared the company property to be free of all mortgages, charges and other encumbrances. The Acts also provided for the transfer of services of employees, and usually barred the courts' jurisdiction in trying industrial disputes connected to such transfers. Finally, the Acts penalised actions such as withholding property that should have been transferred to the central government as part of the acquisition.

These Acts provided only for the transfer of assets of the company to the government. They are silent on the management and operations of the acquired company, which are largely conducted under the Companies Act and through directives issued by the government from time to time. Therefore, the objective of these Acts was fulfilled once the acquisition was completed, and they may now be repealed as they serve no further purpose

Such repeal will not have any effect on the completed acquisitions. Section 6 of the General Clauses Act (1897), which deals with the Effect of Repeal, provides that repeal does not affect any action properly taken under an Act, or affect any rights, liabilities or legal proceedings under the Act. This is an accepted principle of statutory interpretation that will apply to the repeal of the following enactments.

No instances of pending litigation or other proceedings have been discovered under these Acts. Even if there is pending litigation, it will remain unaffected by the repeal if a standard "saving clause" is added to the repealing provisions, which provides that pending proceedings are to remain unaffected by the repeal.

The repeal of nationalisation acts will clear the path towards eventual disinvestment. Repeal will also address any apprehensions of litigation arising against closure of the undertakings nationalised by these Acts.

These laws are a representation of the Emergency era with widespread suppression of rights, and barring of recourse to courts. The abundant nationalisation Acts were an exercise in expanding the powers of the state by controlling greater portions of the national economy.[a] They have no place in the statute books of a liberalised 21st century India.

[a]Sibal, D. Rajeev, The Untold Story of India's Economy, LSE IDEAS Reports, 2012-03, 1-22

Name: Railway Companies (Emergency Provisions) Act, 1951

Subject: Redundant Nationalisation

Reason: The Act has outlived its utility

What is the law?

This Act was passed to make provisions for the proper management and administration of private railway companies. It paved the way for the nationalisation of railways in India.

Reasons for repeal

Since the entire railway system is now government owned, the purpose of the Act is spent. Presently, the Railways Act, 1989 comprehensively deals with the laws relating to railways.

Issues

There are no legal issues that would impede repeal.

Name: The Coking Coal Mines (Emergency Provisions) Act, 1971

Subject: Redundant Nationalisation

Reason: The Act has outlived its utility

What is the law?

The Act provides for the takeover of the management of coking coal mines and coke oven plants by the Government, pending nationalisation. This was followed by the Coking Coal Mines (Nationalisation) Act, 1972 under which all coking coal mines and coke oven plants, other than those with the Tata Iron & Steel Company Limited and Indian Iron & Steel Company Limited, were nationalised and brought under Bharat Coking Coal Limited (BCCL), a new central government undertaking.

Reasons for repeal

The Act was enacted to provide for the temporary management of the mines and plants, pending nationalisation. Since the Coal Mines (Nationalisation) Act, 1972 came a year later, there remains no use for the previous legislation.

Issues

There are no legal issues that would impede repeal.

Name: The Indian Copper Corporation (Acquisition of Undertaking) Act, 1972

Subject: Redundant Nationalisation

Reason: Nationalised company subsumed into a new entity, making the acquisition act redundant

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What is the law?

The Act enabled the acquisition of the Indian Copper Corporation Limited for the purpose of conserving and exploiting coal deposits in a manner that was of maximum advantage to the nation. It transferred all assets, rights, powers and properties of the company to the central government, and declared those assets to be free of all encumbrances or obligations. It also provided for compensation of Rs. 7.5 crores to be paid to the company in return of the transfer of assets.

Indian Copper was nationalised through this Act and merged with Hindustan Copper under the provisions of this Act.[a]

Reasons for repeal

- The Act only provides for the acquisition of the undertaking of the Indian Copper Corporation, and has no provisions with respect to its management or operations. The Companies Act now governs the management of the company. The Act is no longer relevant to the present-day functioning of Hindustan Copper and may be repealed.
- No pending cases exist under the Act and therefore there is no obstacle to repeal.

Issues

The Act is listed in the 9th Schedule to the Constitution. While this does not affect the repeal process, an amendment to the Constitution will have to remove this Act from the list at a later date after its repeal.

[a] Hindustan Copper Limited, About HCL. http://www.hindustancopper.com/ICCPlant.asp?lnk=1

Name: Richardson and Cruddas Limited (Acquisition and Transfer of Undertakings) Act, 1972

Subject: Redundant Nationalisation

Reason: Nationalised company subsumed into a new entity, making the acquisition act redundant

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What is the law?

Richardson and Cruddas Limited was engaged in the production of goods needed by defence establishments, railways, steel plants and power projects. This Act enabled the acquisition of the company on the ground of mismanagement by its erstwhile management. This Act transferred all assets, rights, powers and properties of the company to the central government, and declared those assets to be free of all encumbrances or obligations. It also provided for compensation of Rs. 30 lakhs to be paid to the company in return of the transfer of assets.

The Company started incurring losses in 1990s, was declared sick in 1992 and has remained in a financial crisis ever since. The Ministry of Heavy Industries has identified Richardson and Cruddas as a terminally sick industry, which could be disinvested.[a]

Reasons for repeal

The acquisition act has no role to play in the management and recovery attempts of the Richardson and Cruddas Company. Its repeal will not affect the process of recovery.

Issues

There are no legal issues that would impede repeal.

[a] Dheeraj Tiwari, Government plans to sell sick state-run companies, The Economic Times, 2014-06-11. http://articles.economictimes.indiatimes.com/2014-06-11/news/50508378_1_brpse- nclt-hmt-bearings

Name: The Esso (Acquisition Of Undertakings In India) Act, 1974

Subject: Redundant Nationalisation

Reason: Nationalised company subsumed into new entity, making the acquisition Act redundant

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What is this law?

The Act provided for the acquisition of all rights, titles and interests of the Indian undertakings of Esso Eastern Inc. by the central government. The purpose of this acquisition was to ensure coordinated distribution and utilisation of petroleum products. The Act further gave the central government power to transfer these holdings to a government company. Rs. 2.59 crores was paid to Esso, the US parent company, as compensation.

The Indian undertakings of Esso, and another company called Lube India were merged to form the Hindustan Petroleum Corporation Limited (HPCL) under the Companies Act in 1974.

Reason for repeal

- This Act deals only with acquisition, and not management of the company, which now exists as HPCL, and is governed by the Companies Act. Repealing this Act will therefore not have any effect on the functioning of the company.
- In 2003, in the case of Centre for Public Interest Litigation v. Union of India,[a] the Supreme Court held that the sale of shares of HPCL could not take place through executive order, since the formation of HPCL had taken place through acquisition statues, including the Esso (Acquisition of Undertakings in India) Act, 1974. For sale of its shares, therefore, either Parliamentary approval would have to be obtained or the acquisition statutes (including this one) would have to be repealed.

Issues

The repeal of this Act might send out signals in the market of impending disinvestment in the oil and gas sector, which has remained a contentious issue.

[a](2003) 7 SCC 532.

Name: The Indian Iron and Steel Company (Acquisition of Shares) Act, 1976

Subject: Redundant Nationalization

Reason: Nationalised company subsumed into a new entity, making the acquisition act redundant

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What is the law?

This Act provided for the acquisition of shares of the Indian Iron and Steel Company Limited (IISCO), for the purpose of ensuring proper management of the affairs of the Company. It specified that on an appointed date, all shares of this company would be transferred to the central government. Compensation of more than Rs. 7.2 crores was to be paid to the shareholders, and a Commissioner of Payments was set up for this purpose under the Act to decide on claims for payment.

Later, under the Steel Companies (Restructuring) and Miscellaneous Provisions Act, 1978, IISCO was made a wholly owned subsidiary of the Steel Authority of India (SAIL). IISCO's shares were transferred to SAIL under the 1978 Act. In 2006, it was merged with SAIL to try and affect a revival of the company.[a]

Reasons for repeal

The operation of IISCO takes place under the Companies Act. This Act is therefore not relevant to the functioning of the IISCO and may be repealed.

Issues

There are no legal issues that would impede repeal.

[a] Business Line, IISCO-SAIL merger gets Cabinet nod, http://www.thehindubusinessline.in/bline/2005/06/17/stories/2005061702780300.htm, 2005-06-17

Name: Burn Company and Indian Standard Wagon Company (Nationalisation) Act, 1976

Subject: Redundant Nationalisation

Reason: Nationalised company subsumed into new entity, making the acquisition Act redundant

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What is the law?

The Burn Company and the Indian Standard Wagon Company produced railway wagons and other goods necessary to the iron and steel industry. In 1967, the production of the companies declined and they were on the verge of closure. Government of India took over the management of the company in 1973 on grounds that closure would adversely affect the production of vital commodities. The Statement of Objects and Reasons of the Act notes that the companies were subsequently nationalised due to the huge debts they had accumulated.

The Act provided that the titles, rights and interests of both these undertakings would vest in the Government on the appointed date, free of all encumbrances. The owners of the two companies would continue to remain liable for all existing liabilities, other than wages and government loans.

After acquisition, the two companies were amalgamated under the Companies Act and renamed Burn Standard Company Ltd. On account of consistent losses, the company was officially declared sick in 1995. The company has remained in financial crisis ever since.

Reasons for repeal

The acquisition act has no role to play in the management and recovery attempts of the Burn Standard Company, which is now managed by the Ministry of Railways.

Issues

There are no legal issues that would impede repeal.

Name: The Burmah Shell (Acquisition of Undertakings in India) Act, 1976

Subject: Redundant Nationalisation

Reason: Nationalised company subsumed into a new entity, making the acquisition act redundant

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What is the law?

The Act provided for the acquisition of the Burmah Shell Oil Storage and Distributing Company of India Limited (BSD) to ensure coordinated distribution and utilisation of petroleum products. It provided that on the appointed date, the right, title and interest of Burmah Shell undertakings in India would be transferred to the central government. It further gave the power to the central government to transfer these holdings to a government company. The government paid Rs. 27.75 crores to the parent company Burmah Shell for this acquisition under the Act.

The government acquired at the same time the Burmah Shell Refineries Limited, and vested all assets of the BSD in this company, which was later renamed Bharat Petroleum Corporation Limited (BPCL) in 1977.

Reasons for repeal

- This Act deals with only the acquisition and not the management of the company, which has merged with BPCL. BPCL is managed by its Board of Directors constituted under the Companies Act, 1956, consisting of Government of India nominees and independent Directors. Repealing this Act will therefore not have an effect on the existence or functioning of the company.
- The plan for disinvestment in HPCL and BPCL was proposed by the Department of Disinvestment in 2002.[a] In 2003, the Supreme Court (in the same judgment mentioned in the previous entry) stalled the sale of shares of BPCL saying that since the company had been acquired under the Burmah Shell (Acquisition of Undertakings in India) Act, privatisation could not proceed through executive order. According to the Court, the Act would either have to be repealed, or Parliamentary approval would have to be obtained for the privatisation to go ahead.[b]

Issues

The repeal of this Act might send out signals in the market of impending disinvestment in the oil and gas sector, which has remained a contentious issue.

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[a] Business Standard, Divestment hopes lift BPCL, HPCL, 2002-08-29 , http://www.business-standard.com/article/markets/divestment-hopes-lift-bpcl-hpcl-102082901063_1.html

[b] Centre for Public Interest Litigation v. Union of India, (2003) 7 SCC 532.

Name: Braithwaite and Company (India) Limited (Acquisition and Transfer of Undertakings) Act, 1976

Subject: Redundant Nationalisation

Reason: Nationalised company subsumed into new entity, making the acquisition Act redundant

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What is the law?

The Act enabled the acquisition of Braithwaite and Company (India) Limited to undo the mismanagement by its erstwhile managing agents and Board of Directors, which had seriously affected the production and supply of goods. Braithwaite is engaged in the manufacture and production of railway wagons and intricate components required by the railway industry. The Act transferred all assets, rights, powers and properties of the company to the central government. It also provided for compensation of Rs. 16 crores to be paid to the company in return for the transfer of assets.

Currently, Braithwaite is a subsidiary to the Bharat Bhari Udyog Nigam Limited (BBUNL) and under the administrative control of the Department of Heavy Industries. Braithwaite was declared sick and referred to the BIFR in 1992.[a]

The Government has been seeking to dis-invest Braithwaite since 2002-2003. In 2010, the Cabinet approved the financial restructuring of Braithwaite and transferred it to the Steel Authority of India Limited (SAIL). The Cabinet also plans to provide loans to Braithwaite for its revival.[b]

Reasons for repeal

The acquisition act has no role to play in the management and recovery attempts of Braithwaite. Its repeal will not affect the process of recovery.

Issues

There are no legal issues that would impede repeal.

[a] Department of Disinvestment, Preliminary Information Memorandum (PIM): Braithwaite & Co. Ltd., 2014-07-17. http://www.divest.nic.in/braithwaite.asp

[b] The Hindustan Times, Cabinet approves financial restructuring of BBUNL, 2010-06-10, 2014-07-17. http://www.hindustantimes.com/business-news/cabinet-approves-financial-restructuring-of-bbunl/article1-555807.aspx

Name: Smith, Stanistreet and Company Limited (Acquisition and Transfer of Undertakings) Act, 1977

Subject: Redundant Nationalisation

Reason: Nationalised company closed, making the acquisition act redundant

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What is the law?

The Act enabled the acquisition of Smith, Stanistreet and Company Limited, engaged in the manufacture and distribution of pharmaceuticals and chemicals. The stated reason was that the company was being managed in a manner highly detrimental to public interest, and suffering from heavy losses. The Act transferred all assets, rights, powers and properties of the company to the central government, and declared those assets to be free of all encumbrances or obligations. It also provided for compensation of almost Rs. 4 crores to be paid to the company in return of the transfer of assets.

Reasons for repeal

- The Company had been incurring financial losses and was formally declared sick by the Board of Industrial and Financial Reconstruction (BIFR) in 1992. In 2001, the BIFR confirmed its opinion that it was just and equitable in public interest that the company should be wound up.[a] The central government decided to close the Company and separated the employees by offering Voluntary Separation Scheme (VSS) to them. Consequently, this Company has been closed.
- Since the company has now been closed and is not operating currently, the acquisition act does not serve any purpose.

Issues

There are no legal issues that would impede repeal.

[a]Department of Chemicals and Petrochemicals, Smith Stanistreet Pharmaceuticals Limited (SSPL), 2014-07-17. http://chemicals.nic.in/pharma_sspl.htm

Name: Caltex [Acquisition of Shares of Caltex Oil Refining (India) Limited and of the Undertakings in India of Caltex (India) Limited] Act, 1977

Subject: Redundant Nationalisation

Reason: Nationalised company subsumed into a new entity, making the acquisition act redundant

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What is the law?

The Act provided for the acquisition of all rights, titles and interests of the Indian undertakings of Caltex Oil Refining (India) Limited (CORIL) by the central government. The purpose of the acquisition was the implementation of the policy of progressively securing State ownership and control of the nation's petroleum resources. The Act gave the power to the central government to transfer these holdings to a Government Company. Rs. 13 crores was paid to Caltex Petroleum, the US parent company, as compensation.

By means of this acquisition act, CORIL was merged with the Hindustan Petroleum Corporation Limited (HPCL) in 1977.

Reasons for repeal

- CORIL now exists as only HPCL, which is governed by the Companies Act. Repealing this Act will therefore not have any effect on the functioning of the company.
- In 2003, in the case of Centre for Public Interest Litigation v. Union of India,[a] the Supreme Court said that the sale of shares of HPCL could not take place through executive order, since the formation of HPCL had taken place through acquisition statues, including the Caltex [Acquisition of Shares of Caltex Oil Refining (India) Limited and of the Undertakings in India of Caltex (India) Limited] Act, 1977. For the sale of its shares, either Parliamentary approval would have to be obtained, or the acquisition statutes, including this one, would have to be repealed.

Issues

There are no legal issues that would impede repeal.

[a](2003) 7 SCC 532.

Name: Britannia Engineering Company Limited (Mokameh Unit) and the Arthur Butler and Company (Muzaffarpore) Limited (Acquisition and Transfer of Undertakings) Act, 1978

Subject: Redundant Nationalisation

Reason: Nationalised company subsumed into new entity, making the acquisition Act redundant

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What is the law?

The Act enabled the nationalisation and subsequent amalgamation of two erstwhile companies, Arthur Butler & Co. located at Muzaffarpur, and Britannia Engineering Works located at Mokamah (both in Bihar). The decision of the Government was driven by the industrial sickness in both the companies. The Act transferred all assets, rights, powers and properties of both companies to the central government. It also provided for compensation of Rs. 152.85 lakhs to Britannia Engineering and Rs. 137.70 lakhs to Arthur Butler and Company in return for the transfer of assets.

Both the companies were amalgamated to form Bharat Wagon and Engineering Company Limited (BWEL) which is a 100% subsidiary of Bharat Bhari Udyog Nigam Limited (BBUNL). BWEL was declared sick and referred to the BIFR in 2000. In 2008, the Cabinet Committee on Economic Affairs (CCEA) approved the financial restructuring of BWEL and it was taken over by the Ministry of Railways.[a]

Reasons for repeal

The acquisition Act has no role to play in the management and recovery attempts of BWEL. Its repeal will not affect the process of recovery.

Issues

There are no legal issues that would impede repeal.

[a]Department of Disinvestment, Preliminary Information Memorandum (PIM): Braithwaite & Co. Ltd.,2014-07-17. http://www.divest.nic.in/braithwaite.asp

Name: Hindustan Tractors Limited (Acquisition and Transfer of Undertakings) Act, 1978

Subject: Redundant Nationalisation

Reason: Nationalised company subsumed into new entity, making the acquisition act redundant

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What is the law?

The Act provided for the acquisition and transfer of the undertakings of Hindustan Tractors Limited. The stated reason was to ensure the continuity of production of goods, which were vital to meet the needs of the general public. It also provided for compensation of Rs. 150 lakhs to be paid by the central government to the company in return of the transfer of assets.

Under Section 6 of this Act, the central government transferred the undertakings of the Company to the Government of the state of Gujarat. Consequently, all assets, rights, powers and properties of the company were transferred to the Government of Gujarat.

In 1999, the Mahindra and Mahindra Group acquired 60% of Hindustan Tractors Limited, and by 2001 the rest of the company was also purchased. It was then renamed to Mahindra Gujarat Tractors Ltd., and is now a Mahindra and Mahindra enterprise.[a]

Reasons for repeal

Since Hindustan Tractors Ltd. has been privatised, repeal of the acquisition act would not have any effect on its management.

Issues

There are no legal issues that would impede repeal.

[a]Department of Disinvestment, Preliminary Information Memorandum (PIM): Braithwaite & Co. Ltd., 2014-07-17. http://www.divest.nic.in/braithwaite.asp

Name: Kosan Gas Company (Acquisition of Undertaking) Act, 1979

Subject: Redundant Nationalisation

Reason: Nationalised company subsumed into new entity, making the acquisition act redundant

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What is the law?

The Act enabled the acquisition of the undertakings of the Kosan Gas Company so as to secure the ownership and control of the means and resources for bottling, transport, marketing and distribution of liquefied petroleum gas (LPG). This was done to ensure that distribution of LPG would sub-serve the common good. In 1979, Kosan Gas Company was merged with Hindustan Petroleum Corporation Limited (HPCL).[a] Plans to privatise HPCL have been in the pipeline for a considerable period of time now.

Reasons for repeal

- The judgement in Centre for Public Interest Litigation v. Union of India[b] dealing with the privatisation of HPCL holds relevance for Kosan Gas Company as well. The sale of shares of HPCL could not take place through executive order, since the formation of HPCL had taken place through acquisition statues, including the Kosan Gas Company (Acquisition of Undertaking) Act, 1979. For sale of its shares, therefore, either Parliamentary approval would have to be obtained or the acquisition statutes, including this one, would have to be repealed.
- Even though this Act, does not find a mention in the Centre for Public Interest Litigation judgement, the privatisation of HPCL will likely entail repeal of this Act as well.

Issues

There are no legal issues that would impede repeal.

[a] Hindustan Petroleum Corporation Limited, Our Roots, 2014-06-17. http://www.hindustanpetroleum.com/ourroot
[b] (2003) 7 SCC 532.

Name: Jute Companies (Nationalisation) Act, 1980

Subject: Redundant Nationalisation

Reason: The Act has served its purpose

What is the law?

This Act was passed to acquire and transfer the undertaking of six jute companies, namely, National Company Limited, Alexandra Jute Mills Limited, Union Jute Company Limited, Khardah Company Limited, Kinnison Jute Mills Company Limited and RBHM Jute Mills Private Limited by the central government. The undertakings were vested in the National Jute Manufacturers Corporation Limited, a company incorporated under the Companies Act, 1956.

Reasons for Repeal

The process of acquisition is complete and assets of the aforesaid companies are now vested in the National Jute Manufacturers Corporation Limited (NJMC), with effect from June 1980. The NJMC is governed under the Companies Act, making this Act redundant.

Issues

There are no legal issues that would impede repeal.

Name: Amritsar Oil Works (Acquisition and Transfer of Undertakings) Act, 1982

Subject: Redundant Nationalisation

Reason: Act has served its purpose

What is the law?

The Act enabled the complete nationalisation of Amritsar Oil Works. The management of this company was taken over by the central government under the Industries (Development and Regulation) Act, 1951. This was done to ensure supply of refined edible oils to the public at reasonable prices. The Act transferred all assets, rights, powers and properties of the Amritsar Oil Works to the central government. It also provided for compensation of about Rs. 65 lakhs to be paid to the company in return of the transfer of assets.

By virtue of this Act, the Hindustan Vegetable Oils Corporation Limited (HVOC) was formed which is a fully owned government company. Upon nationalisation, Amritsar Oil Works was taken over by HVOC. HVOC had been suffering severe financial losses and was declared sick by the BIFR in 1999. Pursuant to BIFR's order, the Government of India did not attempt revival and rehabilitation of the company and approved the introduction of VSS for their employees.[a]

Reasons for repeal

- Currently, none of the units of the HVOC are operational except the Breakfast Foods manufacturing unit in Delhi (also loss-making). The government has advised the Central Warehousing Corporation and Food Corporation of India to carry out a due diligence exercise to ascertain if they can take over HVOC along with its assets, liabilities and remaining manpower.[b]
- The acquisition act has served its purpose. It now has no role to play in the management and recovery attempts of the HVOC (of which the Amritsar Oil Works is a part).

Issues

There are no legal issues that would impede repeal.

[a] Department of Food and Public Distribution, Background and History of Operations, 2014-07-18. http://dfpd.nic.in/?q=node/974

[b] id

Name: Hooghly Docking and Engineering Company Limited (Acquisition and Transfer of Undertakings) Act, 1984

Subject: Redundant Nationalisation

Reason: Nationalised company subsumed into new entity, making the acquisition Act redundant

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What is the law?

The Act provides for the acquisition and transfer of the undertakings of the Hooghly Docking and Engineering Company Limited to the central government. The acquisition was brought about to better utilise and increase the capacity for shipbuilding and ship repairing.
In 2011, the Union Cabinet gave in-principle approval for the formation of a Joint Venture of Hooghly Dock and Port Engineers Limited (HDPEL) with a private sector player. HDPEL, India's oldest ship-builder, is reeling under severe financial losses. The Rehabilitation-cum-Restructuring Plan for HDPEL includes assistance of Rs. 21 crores for implementing a Voluntary Retirement Scheme for the employees.[a]

Reasons for repeal

- Upon its privatisation, the management of the undertaking of HDPEL would not lie with the central government.
- The Act has served its purpose and is no longer necessary. The repeal of this Act would not have any effect on the management of the firm or in the formation of the Joint Venture with a private company.

Issues

There are no legal issues that would impede repeal.

[a]Cabinet Committee on Economic Affairs, CCEA, Rehabilitation-cum-Restructuring of Hooghly Dock & Port Engineers Limited (HDPEL), Kolkata, 2011-10-13, 2014-07-17. http://pib.nic.in/newsite/erelease.aspx?relid=76624

Name: Inchek Tyres Limited and National Rubber Manufacturers Limited (Nationalisation) Act, 1984

Subject: Redundant Nationalisation

Reason: The Act has served its purpose

What is the law?

This Act was passed to acquire and transfer the undertaking of Inchek Tyres Limited and National Rubbers Manufacturers Limited.

Reasons for Repeal

The purpose of the Act has been achieved. The process of acquisition was completed in 1984, and the assets of the Company were vested in the Tyre Corporation of India Limited (TCIL), a Government of India enterprise. Subsequently, the Government has decided to dis-invest 100% equity shareholding in TCIL, pursuant to the TCIL (Disinvestment of Ownership) Act, 2007.[a]

Issues

There are no legal issues that would impede repeal.

[a] Department of Disinvestment, Preliminary Information Memorandum (PIM): Braithwaite & Co. Ltd. http://www.divest.nic.in/braithwaite.asp, 2014-07-17.

Name: Futwah Islampur Light Railway Line (Nationalisation) Act, 1985

Subject: Redundant Nationalisation

Reason: The Act has served its purpose

What is the law?

This Act provided for the acquisition of the Futwah Islampur Light Railway Line, a narrow gauge railway line in Bihar, owned by the Futwah Islampur Light Railway Company, as it was considered to be hazardous and uneconomical for the company to manage.

Reasons for Repeal

The railway line was acquired by Indian Railways and then was closed in 1987. Assets, stocks and employees, etc. stood transferred to the government consequent to the nationalisation. The purpose of this Act is therefore spent.

Issues

There are no legal issues that would impede repeal.

Name: Swadeshi Cotton Mills Company Limited (Acquisition and Transfer of Undertakings) Act, 1986

Subject: Redundant Nationalisation

Reason: Nationalised company subsumed into a new entity, making the acquisition act redundant

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What is the law?

The Act enabled the acquisition and transfer of certain textiles undertakings of the Swadeshi Cotton Mills Company Limited so as to ensure the continued manufacture, production and distribution of different varieties of cloth and yarn. The management of Swadeshi Cotton Mills was taken over by the central government and the National Textile Corporation (NTC) was appointed to manage the affairs of the Mill.

The Mill was working under the administrative control of the NTC and had been continuously incurring losses. Severe financial losses led to the Government of Puducherry extending assistance to the Mill. In 2005, the Government of Puducherry took over from the NTC and formed a company under the name of Swadeshee-Bharathee Textile Mills Ltd.. The Swadeshi Cotton Mill is now working with the active support of the Government of Puducherry and is not under the control of the NTC.[a] Swadeshee-Bharathee Textile Mills Ltd is an amalgamation of the erstwhile Swadeshi Cotton Mills and Sri Bharathi Mills, which was also a NTC undertaking.

Reasons for repeal

- The nationalisation act vested the undertakings of the Mills in the NTC. Consequent to its takeover by the Government of Puducherry, the NTC does not exercise control the Mill. This Act thus, no longer serves any purpose.
- The repeal of this Act would not affect the management of the Swadeshee-Bharathee Textile Mills Ltd.

Issues

There are no legal issues that would impede repeal.

[a] Swadeshee-Bharathee Textile Mills Limited, About Us, 2014-07-18. http://sbtml.com/AboutUs.htm

Outmoded Labour Relations

Economists, policy-makers and lawyers agree that prevalent labour market rigidities in India constrain growth in employment,[a] particularly through onerous laws.[b] Currently, there are 44 labour related statutes enacted by the central government dealing with wages, social security, welfare, occupational safety and health, and industrial relations.[c] The obvious cost of Indias labour laws is corruption, since, 'it is impossible to comply with 100% of the laws without violating 10% of them.[d]

The following set comprises of such outdated labour laws, which constrain employment, burden employers, and produce sub-optimal welfare outcomes for workers. Several of these laws create a network of overlapping regulations, such as the Weekly Holidays Act (1942) vis--vis Shops and Establishments statutes in various states. Laws such as the Children (Pledging of Labour) Act (1933) are fraught with inconsistencies, have language that vitiates the purpose of the Act, and have been superseded by newer laws such as the Child Labour (Prohibition and Regulation) Act (1986). While labour regulations protect the interest of workers, they may also be too burdensome for employers.

In addition, laws pertaining to labour welfare cesses and funds create a low-level equilibrium, where their costs far outweigh their benefits. The concept of Labour Welfare Funds was evolved to extend a measure of social assistance to workers in the unorganized sector. Five separate legislations (related to Mica Mines, Limestone and Dolomite Mine, Iron Ore, Manganese Ore & Chrome Ore Mines, Beedi industry, and Cine industry) exist for the collection of five separate cesses, towards supporting five separate funds. These laws provide a separate, but identical, mechanism for raising funds to promote welfare of unorganized sector workers in each industry. This has resulted in administrative inefficiency, particularly very high transaction costs, and yet the amount ultimately available for worker welfare is negligible. A similar law, Coal Mines Labour Welfare Fund Act (1947) was repealed in 1986 The Report of the Second National Labor Commission (2002) recommended an umbrella legislation for all workers in the unorganized sector, ensuring minimum level of economic and social security, a finding echoed by other experts.[e] Thereafter, additional Welfare Funds could be constituted by States based on the need of a particular sector (or be administered through sector specific cells within existing labour welfare funds in 15 states).[f] The beneficiaries of the Welfare Funds could also be covered under the Unorganized Workers Social Security Act (2008).

Rationalisation, simplification, unification and harmonisation of labour laws are a necessity. Policy makers have long contemplated unified labour regulations for all provisions relating to specific aspects of labour relations. Repealing these laws would be the first step in this process.

[a] Debroy, Bibek, Why we need law reform, Seminar, 2001, http://www.india-seminar.com/2001/497/497%20bibek%20debroy.htm.

[b] Debroy, Bibek, Indias Segmented Labour Markets, Inter-State Differences, and the Scope for Labour Reforms, Economic Freedom of the States of India, 2012, 75-82, http://www.cato.org/economic-freedom-india/Economic-Freedom-States-of-India-2012-Chapter-4.pdf.

[c] Ministry of Labour and Employment, Uniform Labour Laws, http://pib.nic.in/newsite/PrintRelease.aspx?relid=107950.

[d] Manish Sabharwal, Lets photocopy Rajasthan, The Indian Express, 2014-06-19

[e] Datta, RC and Sil, Milly, Contemporary Issues on Labour Law Reform in India: An Overview, Tata Institute of Social Sciences, 2007

[f] Second National Commission on Labor, Report of the National Commission on Labor, Government of India, 2002.

Name: Children (Pledging of Labour) Act, 1933

Subject: Outmoded Labour Relations

Reason: The Act is obsolete

What is the law?

This Act renders void any agreement made by parents or guardians pledging the labour of a child. It penalises parents or guardians and other persons who enter into such an agreement as well as the employment of children in pursuance of the agreement.

Reasons for Repeal

- The Committee on Child Labour set up in 1979, headed by M S Gurupadaswamy found child labour legislations existing at the time to be inconsistent and recommended that a comprehensive legislation on prohibition and regulation of child labour be enacted instead.[a] Following this, the Child Labour (Prohibition and Regulation) Act, 1986 was brought into force, outlining where and how children could work and where they could not. This renders the 1933 law obsolete.
- The Act, while declaring any such agreement to be void (Section 3), excludes those which were made without detriment to the child, or where reasonable wages were paid for the childs services and where the services of the child were terminable within a weeks notice. In doing so, the law does not define what activity would be detrimental to the child and what would be considered to be a reasonable wage.
- The Report of the National Commission on Labour (2002) observes that this exception vitiates the purpose of the law and provides an easy way to wiggle out of the provisions of the Act.[b] Based on a thorough analysis of the discrepancies in the Act, the Commission recommended the repeal of the Act, as it was inconsistent with the Convention on the Rights of Child.

Issues

There are no legal issues that would impede repeal.

[a] Committee on Child Labour, Committee on Child Labor 1979: Report, Government of India, Volumes 16 Nos. 2 and 3, 04-2004, 347-350. http://www.ispepune.org.in/PDF%20ISSUE/2004/JISPE2304/2004_10DOCUM-2.PDF

[b] Second National Commission on Labour, Report of the National Commission on Labour, Government of India, 2002. http://www.prsindia.org/uploads/media/1237548159/NLCII-report.pdf

Name: Weekly Holidays Act, 1942

Subject: Outmoded Labour Relations

Reason: The Act is repetitive with the Shops and Establishment Acts

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What is the law?

The Central Act known as the Weekly Holidays Act, 1942, provides for the grant of weekly holidays to persons employed in Shops and Commercial Establishments, etc., and is operative only in those States which notify its application to specified areas within their jurisdiction.

Reasons for Repeal

- The Act is repetitive with the Shop and Establishment Acts (of all States), which mandatorily prescribe a close day for all shops and establishments.
- It also only applies to specific areas notified by state governments. For example in 2008, the coverage of the Act was particular to 7 areas in Karnataka (Murnad, Bhagamandala, Napoklu, Ammathi, Ponnampet and Hudikeri in Kudagu District and Munirabad and Kinnal in Raichur District) in the Port Blair Municipal Areas of Andaman and Nicobar Islands.[a]
- In principle, India should aim to move towards a system of employment solely governed by mutual contracts signed by employers and employees.

Issues

Notifications, if any, issued under the Weekly Holidays Act will have to be suitably modified to be made applicable under the Shops and Establishment Acts. In the alternative, fresh notification specifying close days may have to be issued under the Shops and Establishment Act, wherever applicable.

[a] Report on the working of the legislation governing conditions of employment in shops, commercial establishments, theatres, hotels and restaurants during the year 2008. http://labourbureau.nic.in/Rep_Working_Shops_2008.pdf

Name: Mica Mines Labour Welfare Fund Act, 1946

Subject: Outmoded Labour Relations

Reason: Amount of cess collected is negligible compared to administrative costs

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What is the law?

This Act provides for financing of activities to promote welfare measures, such as health, recreational, and educational assistance, of persons employed in the Mica Mines. The corpus of the Fund is created out of a cess levied on the production, sale and export of these mines.

Reasons for repeal

- As per the receipt budget of 2013-14, in 2011-12, Rs. 2 crores were collected as cess under the Act.[a] The estimates for collection in 2013-14 are Rs. 2.34 crores. The Welfare fund itself has very low balances as shown below:

Cumulative balance in Mica Labour Welfare Fund as on 31.12.2012[b] (Rs. In Crores)

Fund	Opening Balance as on 01.04.2012	Receipts April-Dec 2012	Expenditure April-Dec 2012	Prov. Closing Balance as on 31.12.2012
Mica	6.63	2.15	1.67	7.11

- It is likely that as the fund amount travelled towards the beneficiaries, further delivery costs are incurred. Even with the Funds previous closing balance, the amount left for worker welfare is likely very low (approximately Rs. 1,000 per worker per year, assuming that there are about 10,000 registered mica mine workers).
- In fact, the National Commission on Labour itself notes, there is practically no demand for mica now because of the substitutes that are available. As of the early 2000s, mica mining has almost ended.[c]
- While the intent of the Act is noteworthy, a requisite allocation should be made as part of the budget of Ministry of Labour, instead of the administrative processes of running a fund. As 9th Five Year Plan noted, given the large share of those employed in the primary industries, outside the organised sector, in very small establishments and at casual status of employment, the strategy for benefiting the workforce in general has to be based on an increase in productivity rather than on attempting labour welfare through a frame-work of multiple regulations.[d]
- Finally, the mining industry is regulated by the Mines Act, 1952. Suitable amendments could be made to this act to include the broad contours of the mining welfare provisions under the welfare funds as they stand currently.

Issues

There are no legal issues that would impede repeal.

[a] http://indiabudget.nic.in/ub2013-14/rec/tr.pdf

[b] Ministry of Labour and Employment, Labour Welfare, http://labour.nic.in/content/dglw/rti/RTI_Headquarer.pdf , 2014-08-26.

[c] Second National Commission on Labor, Report of the National Commission on Labor, Government of India, 2002.

[d] 9th Five Year Plan (Vol-2), Human and Social Development http://planningcommission.nic.in/plans/planrel/fiveyr/9th/vol2/v2c3-11.htm

Name: Limestone and Dolomite Mines Labour Welfare Fund Act, 1972

Subject: Outmoded Labour Relations

Reason: Amount of cess collected is negligible compared to administrative costs

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What is the law?

This Act provides for financing of activities to promote welfare measures, such as health, recreational, and educational assistance, of persons employed in the Limestone and Dolomite Mines. The corpus of the Fund is created out of a cess levied on the production, sale and export of these mines.

Reasons for repeal

- As per the Receipt Budget of 2013-14, in 2011-12, only Rs. 5 crores were collected as cess under the Act. The estimates for collection in 2013-14 are Rs. 14.25 crores. The Welfare fund itself has very low balances as shown below:

Cumulative balance in LSDM Welfare Fund as on 31.12.2012 (Rs. In Crores)

Fund	Opening Balance as on 01.04.2012	Receipts April-Dec 2012	Expenditure April-Dec 2012	Prov. Closing Balance as on 31.12.2012
LSDM	58.22	13.06	8.51	62.77

- Welfare schemes under the Act are largely limited to health schemes and a few educational and recreational schemes. The amount that is eventually allocated for the implementation of these schemes is very low. For instance, the budget allocation for this fund in Maharashtra in 2011-2012 was only Rs. 26.66 lakhs.
- While the intent of the Act is noteworthy, a requisite allocation should be made as part of the budget of Ministry of Labour, instead of the administrative processes of running a fund.
- Finally, the mining industry is regulated by the Mines Act, 1952. Suitable amendments could be made to this act to include the broad contours of the mining welfare provisions under the welfare funds as they stand currently. Alternatively, welfare of all mineworkers outside of coal mines could be managed under one Welfare fund, to which an annual allocation is made on a per worker basis from the Consolidated fund. The Coal Mines Welfare Fund was abolished in 1986 (through a repeal Act) on similar grounds.

Issues

There are no legal issues that would impede repeal.

Name: Iron Ore Mines, Manganese Ore Mines and Chrome Ore Mines Labour Labour Welfare Cess Act, 1976

Subject: Outmoded Labour Relations

Reason: Amount of cess collected is negligible compared to administrative costs

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What is the law?

The Act provides for the levy and collection of a cess on all iron ore, all chrome ore and all manganese ore produced in any mine. A duty of custom is levied where such iron ore, manganese ore and chrome ore is to be exported and a duty of excise is levied otherwise. The duty is to be levied at a rate not exceeding Re. 1 per metric tonne of iron ore; Rs. 6 per metric tonne of manganese ore, and Rs. 6 per metric tonne of chrome ore. The proceeds of the cess are credited to the Consolidated Fund of India. The central government, after deducting the cost of collection, credits the proceeds to the Labour Welfare Fund. The amount credited in the said Fund provides for welfare amenities for the workers and their dependents.

Reasons for repeal

- As per the Receipt Budget of 2013-14, in 2011-12, only Rs. 12 crores were collected as cess under the Act. The estimates for collection in 2013-14 are Rs. 14.78 crores.
- As has been observed, laws pertaining to labour welfare cesses create a low-level equilibrium, where their costs far outweigh their benefits. This mechanism has resulted in administrative inefficiency, particularly very high transaction costs and costs of maintaining records. Cesses collected are inadequate, and the amount ultimately available for worker welfare is negligible. The needs for which the cess is collected can instead be met by funds from the Consolidated Fund of India. This would also reduce administrative costs for the government, and help direct administrative resources towards other purposes.
- We have argued before that earmarked cesses are inefficient and ineffective public finance. In keeping with the principles of sound public finance and administration, such welfare cesses must be done away with.

Issues

There are no legal issues that would impede repeal.

Name: Iron Ore Mines, Manganese Ore Mines & Chrome Ore Mines Labour Welfare Labour Fund Act, 1976

Subject: Outmoded Labour Relations

Reason: Disproportionate administrative costs compared to welfare benefits

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What is the law?

This Act provides for financing of activities to promote welfare measures, such as health, medical care, and educational assistance, of persons employed in Iron Ore, Manganese Ore or Chrome Ore Mines. The corpus of the Fund is created out of a cess levied on the production, sale and export of these mines, which is credited to the Consolidated Fund of India under Section 5 of the Iron Ore, Manganese Ore and Crome Ore Mines Welfare Cess Act, 1976.

Reasons for repeal

- The Welfare fund itself has very low balances as shown below:

Cumulative balance in the different funds as on 31.12.2012 (Rs. In Crores)

Fund	Opening Balance as on 01.04.2012	Receipts April-Dec 2012	Expenditure April-Dec 2012	Prov. Closing Balance as on 31.12.2012
IOMC	165.19	13.57	9.37	169.39

- Welfare schemes under the Act are largely limited to health schemes and a few educational and recreational schemes. The amount that is eventually allocated for the implementation of these schemes is very low. For instance, the budget allocation for this fund in Maharashtra in 2011-2012 was only Rs. 86.68 lakhs.

Issues

There are no legal issues that would impede repeal.

Name: The Beedi Workers Labour Welfare Cess Act, 1976

Subject: Outmoded Labour Relations

Reason: Amount of cess collected is negligible compared to administrative costs

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What is the law?

This Act provides for the levy, by way of cess, of a duty of excise on manufactured beedis. The duty of excise levied should not be less than 10 paise or more than 50 paise per thousand manufactured beedis. The proceeds of the cess are credited to the Consolidated Fund of India. The central government, after deducting the cost of collection, credits the proceeds of the cess to the Beedi Workers Welfare Fund.

Reasons for repeal

- As per the Receipt Budget of 2013-14, in 2011-12, only Rs. 150 crores were collected as cess under the Act. The estimates for collection in 2013-14 are Rs. 160 crores. India has over 4 million beedi workers, most of whom are home based, and therefore in the unorganised sector. The amount collected as cess is inadequate to meaningfully provide welfare measures for such vast numbers.
- The cess collection merely adds to administrative costs. The needs for which the cess is collected can instead be met by funds from the Consolidated Fund of India. This would also reduce administrative costs for the government, and help direct administrative resources towards other purposes.
- We have argued before that earmarked cesses are inefficient and ineffective public finance. In keeping with the principles of sound public finance and administration, such welfare cesses must be done away with.

Issues

The Beedi Workers Welfare Cess is one of the small cesses that brings in negligible amounts of money even as it adds to the administrative costs for the Government. The repeal of this Act would not entail severe consequences for the revenue collected. Aside from this, there are no legal issues that would impede repeal.

Name: Beedi Workers Labour Welfare Fund Act, 1976

Subject: Outmoded Labour Relations

Reason: Disproportionate administrative costs compared to welfare benefits

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What is the law?

Welfare funds were introduced to extend social assistance to workers in the unorganised sector, who did not enjoy the benefits available to the organised sector. While some of these funds are set up under State laws, Parliament has enacted laws setting up funds for five categories of workers, including beedi workers.This Act provides for financing of activities to promote welfare measures, such as health, recreational, and educational assistance, of persons engaged in beedi establishments. The corpus of the Fund is primarily formed by the amount the Central Government may provide out of the proceeds of cess credited under Section 4 of the Beedi Workers Welfare Cess Act, 1976.

Reasons for repeal

- The Welfare Fund has very low balances as shown below:

  Cumulative balance in the Beedi Welfare Fund funds as on 31.12.2012 (Rs. In Crores)

Fund	Opening Balance as on 01.04.2012	Receipts April-Dec 2012	Expenditure April-Dec 2012	Prov. Closing Balance as on 31.12.2012
Beedi	-262.72	116.49	116.88	-263.11

- Even though there was a surplus in the fund up to 2006-07, it started showing a deficit from 2007-08.[a] The expenditure from the Fund is huge and the amount credited by means of cess is insufficient to meet the expenditure. There has been a continuous adverse balance in the Fund during the period 2007-08 to 2011-12, which steadily increased from (-) Rs. 24.56 crores in 2007-08 to (-) Rs. 205.75 crores in 2011-12.
- A majority of beedi industry workers are home based, and typically fall in the unorganised sector. In a study conducted by the Sri Ram Centre for Industrial Relations and Research, it was found that those vested with the authority to issue identity cards had no mechanisms to verify the credentials of applicants either as those actively engaged in rolling beedis or as genuine workers in need of welfare. Moreover, identity cards issued decades back have never been reviewed, leading to redundancies, and likely duplicates.
- This is not an efficient or effective method to ensuring worker welfare. Social Security measures for these workers should be provided under the Unorganised Workers Act, and welfare should be promoted at the state level through local welfare funds.
- Welfare schemes under the Act are largely limited to health and educational schemes. The amount that is eventually allocated for the implementation of these schemes is very low. For instance, the budget allocation for this fund in Maharashtra in 2011-2012 was only Rs. 9.86 crores, while in Odisha it was Rs. 18 crores.

Issues

There are no legal issues that would impede repeal.

[a] Standing Committee on Labour, Welfare of Beedi Workers, Ministry of Labour and Employment, 2011-03, 11, http://164.100.47.134/lsscommittee/Labour/computer-17.pdf, 2014-08-21.

Name: Cine-workers Labour Welfare Cess Act, 1976

Subject: Outmoded Labour Relations

Reason: Amount of cess collected is negligible compared to administrative costs.

What is the law?

This Act provides for the levy and collection of cess on feature films and the amount so collected is used to finance measures for the welfare of cine workers. The duty of excise levied should not be less than Rs. 1,000 and more than Rs. 20,000 on every feature film. The proceeds of the cess are credited to the Consolidated Fund of India. The central government, after deducting the cost of collection, credits the proceeds to the Cine-workers Welfare Fund.

Reasons for repeal

- As per the Receipt Budget of 2013-14, in 2011-12, only Rs. 1.5 crores were collected as cess under the Act. The estimates for collection in 2013-14 are Rs. 1.78 crores.
- Scrutiny of accounts of the Ministry of Labour and Employment revealed that the cess collected under this Act was not fully transferred to the Fund. In 2011-12, there was shortfall of approximately Rs. 0.81 crores and the same was not accounted for.
- The cess collected is inadequate and merely adds to administrative costs. The needs for which the cess is collected can instead be met by funds from the Consolidated Fund of India. This would prevent the huge administrative costs that go into collection of this cess.
- We have argued before that earmarked cesses are inefficient and ineffective public finance. In keeping with the principles of sound public finance and administration, such welfare cesses must be done away with.

Issues

The Cine Workers Welfare Cess is one of the small cesses that brings in negligible amounts of money even as it adds to the administrative costs for the Government. The repeal of this Act would not entail severe consequences for the revenue collected. Aside from this, there are no legal issues that would impede repeal.

Name: Cine Workers Labour Welfare Fund Act, 1981

Subject: Outmoded Labour Relations

Reason: Disproportionate administrative costs compared to welfare benefits

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What is the law?

The Act provides for financing welfare measures, such as health, medical care, educational assistance, for cine-workers. The corpus of the Fund is created out of the duty of excise levied on feature films certified by the Central Board of Film Certification, which is credited to the Consolidated Fund of India under Section 5 of the Cine Workers Welfare Cess Act, 1981.

Reasons for repeal

- The Welfare Fund has very low balances as shown below:

Cumulative balance in the Cine workers Welfare funds as on 31.12.2012 (Rs. In Crores)

Fund	Opening Balance as on 01.04.2012	Receipts April-Dec 2012	Expenditure April-Dec 2012	Prov. Closing Balance as on 31.12.2012
Cine	1.12	1.63	1.04	1.71

- Welfare schemes under the Act are largely limited to health schemes and a few educational and recreational schemes. The amount that is eventually allocated for the implementation of these schemes is very low. For instance, the budget allocation for this fund in Maharashtra in 2011-2012 was only Rs. 36.30 lakhs, while in Odisha it was Rs. 3.9 lakhs.

Issues

There are no legal issues that would impede repeal.

Restrictive Business and Economic Regulations

India ranked 134 out of 189 economies in the World Bank Ease of Doing Business 2014 data.[a] It not only slipped 4 points in its ranking (down from 131 in 2013), but was also the least open among the BRICS countries, and below average among South Asian economies.[b] Despite being liberalised in 1991, the Indian economy is still held back by the license-permit-quota raj. Big businesses have the resources and connections to get past legal requirements and bureaucratic red tape. But small and medium enterprises find themselves curtailed and constrained in navigating overlapping, archaic, and confusing laws.

In order to realise the current government's ambitious target of 8% growth, in this set, we present 13 regressive business and economic laws for repeal. These laws are among the many that stand in the way of India realising its economic potential, and run counter to the policy of liberalisation and deregulation, which has helped bring millions out of poverty. Repealing these laws is no silver bullet; in fact it may seem that some of these laws are minor irritants. But this will be a step in the right direction—signalling to the domestic and foreign market that Make in India is not just a sentiment, but an active and sincere policy stance.

Most of the laws in this segment are behind the times and no longer serve any conceivable purpose. Some of these are pre-Independence laws, while others were passed during the protectionist 70s. In other cases, the law has either served its purpose or the subject matter is now governed under another law or government policy. Many of these laws, such as those on sugar and land, impose excessive control on the production, export and sale of goods and resources. This control often has an adverse impact on the industry in question, creating artificial scarcity, limiting competition, and running counter to its aim of providing protection to some stakeholders, particularly in the case of rent control laws that we recommend for repeal.

These Acts give widespread discretionary powers to public officials, often breeding rent seeking behaviour. Laws like the Sarais Act (1867) and the Delhi Hotels (Control of Accommodation) Act (1949), although not in use for all practical purposes, have become tools of harassment. On the other hand, the Boilers Act (1923) has put in place a complicated system of Inspectors, Deputy Inspectors and Chief Inspectors, which have led to unnecessary extortion and harassment.

The present National Democratic Alliance government has reportedly taken a number of measures to improve the business environment in the country, emphasising on simplification and rationalisation of the existing rules, timeliness for clearance of applications, and de-licensing manufacturing of many defence products. Notably, this includes simplification and digitisation of the process of applying for an Industrial License.[c] Repealing the following laws will serve as an important part of this narrative.

[a] World Bank, Report on Doing Business 2014, Doing Business Data 2014, 2014-10-29.
[b] Business Standard, Why is India Slipping in Ease of Doing Business Rankings?, 2013-11-10.
[c] India Tribune, Government Takes Measures to Improve Ease of Doing Business, 2014-08-16.

Name: The Sarais Act, 1867

Subject: Restrictive Business & Economic Regulations

Reason: Out-of-date law that is prone to misuse

What is the law?

This 145-year-old law deals with the regulation of public sarais by the District Magistrate, requiring registration of sarais, character certificates and written reports from the sarai keeper etc. It also imposes detailed duties on the sarai keeper including cleaning and repair, 'removal of noxious vegetation', appointing the prescribed number of watchmen and so on.

Reasons for repeal

- This Act is archaic and serves no useful purpose, since an adequate regulatory mechanism exists for the regulation of hotels by Tourism Departments in every state.
- The subject matter of this Act belongs to the State list, under 'inns and inn-keepers' in Entry 31 of the State List. Thus it is not an appropriate subject for a Central legislation.
- The Act is used to harass hotel owners, as indicated by recent news reports.[a] For instance, a hotel in Delhi was harassed because it did not offer free drinking water to passers-by, as required under the Sarais Act.[b]

Issues

There are no legal issues that would impede repeal.

[a] Lubna Kably, Statutory Warning: Old Laws Hurt Industry, The Times of India, 2012-11-28, http://timesofindia.indiatimes.com/business/india-business/Statutory-warning-Old-laws-hurt-industry/articleshow/17406315.cms, 2014-06-20.

[b] Bibek Debroy, Usher in a new order, India Today, 2009-05-01, http://indiatoday.intoday.in/story/Usherinaneworder/1/39702.html

Name: Indian Boilers Act, 1923

Subject: Restrictive Business & Economic Regulations

Reason: Encourages inspector raj and rampant corruption

What is the law?

This Act was formulated during British rule with the objective of providing mainly for the safety of life and property of persons from the danger of explosions of steam boilers and for achieving uniformity in registration and inspection during operation and maintenance of boilers in India. It creates a cumbersome procedure, requiring a boiler manufacturer to get approval from the Inspecting Authority, prior to the manufacture of a boiler, during erection and prior to repair of either the boiler or a boiler component. It also mandates registration of the boiler by the owner. The Inspecting Authority has been given wide-ranging powers to shut down a boiler unit for inspection and also to intervene in the appointment of agencies for repair and maintenance work of boilers.

Reasons for repeal

- The Act gives widespread powers to the inspectors, encouraging rent seeking. In order to avoid inspection, some industrial units resorted to using boilers with capacities below the regulatory limits. There was also reported to be a shortage of inspectors, due to which many boilers could not be registered, leading to the shutting down of many units. This led to an amendment in the law in 2007 (notified in 2010) providing for third party certification and audit, in order to ease the situation.
- Self-Certification Schemes could be a better alternative. In June 2014, the Commerce and Industry Ministry asked for a repeal of the Act and moving towards a system of self-certification. States like Gujarat, Madhya Pradesh and Rajasthan have already formulated Self-Certification cum Annual Consolidated Return Schemes, in order to curtail unnecessary inspections without compromising on the provisions of health, safety and welfare of the workers. Under the Scheme, an owner of a boiler unit may opt for self-certification by agreeing to abide by certain undertakings and filing of annual returns to the concerned authority; and giving a security deposit. Where the owner fails to file annual returns in time or fails to follow the terms and conditions of the Scheme, the security deposit is forfeited. The concerned authority randomly picks around 10% of the units enrolled under the Scheme for inspection once a year. Once inspected, the unit is not likely to be inspected in the same year or the next three years, unless specific violations are brought to the notice of the authorities.

Issues

This Act has created the posts of Inspectors, Deputy Chief Inspectors and Chief Inspectors to implement the provisions of the Act. There is also an Appellate Authority existing under the Act.

Name: The Delhi Hotels (Control of Accommodation) Act, 1949

Subject: Restrictive Business & Economic Regulations

Reason: The purpose for which this law was enacted no longer exists

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What is the law?

This Act was enacted immediately after Independence to address the shortage of accommodation for government officials in Delhi at the time. The Act empowered the Director of Estates, attached to the Ministry of Urban Development, to reserve up to 25accommodation in private hotels in Delhi for government officials.

Reasons for repeal

- This is an archaic law, which empowers the government to force bookings in hotels in Delhi for government employees.[a]
- The Act serves no conceivable purpose now because arrangements for transit accommodation for government officials can be made through the India Tourism Development Corporation (ITDC) hotels and in State guesthouses.[b]

Issues

The Delhi Hotel (Control of Accommodation) Repeal Bill, 2014, which seeks repeal of this Act for the above reasons, is pending in the Rajya Sabha. Instead of an individual repeal bill, however, this Act may be repealed through an omnibus repealing Act.

[a]Business Standard, Cabinet approves repealing of Delhi Hotels Act, 2014-01-09, 2014-06-22. http://www.business-standard.com/article/pti-stories/cabinet-approves-repealing-of-delhi-hotels-act-114010901172_1.html

[b]PRS Legislative Research, Bill Summary, 2014-02-26, http://www.prsindia.org/uploads/media/Delhi%20Hotels/Bill%20Summary-Delhi%20Hotels%20Repeal%20Bill.pdf, 2014-06-22.

Name: Telegraph Wires (Unlawful Possession) Act, 1950

Subject: Restrictive Business & Economic Regulations

Reason: Telegraph wires are no longer in use

What is the law?

This Act provides for regulating possession of telegraph wires. A telegraph wire is defined as any copper wire the diameter of which in millimetres (mm) is between, (a) 2.43 2.53 mm, (b) 2.77-2.87 mm or (c) 3.42-3.52 mm.

Reasons for repeal

India sent out its last telegram on 15 July 2013, after which the telegraph services were permanently shut down. Hence, this Act has become obsolete.

Issues

There are no legal implications arising from the repeal of the Act.

Name: Prize Competitions Act, 1955

Subject: Restrictive Business & Economic Regulations

Reason: States where this Act is applicable have passed own legislations

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What is the law?

This Act provides for the control and regulation of prize competitions in which prizes are offered for the solution of any puzzle based upon the building up, arrangement, combination or permutation, of letters, words or figures that do not involve the use of any skill[Section 2(d)]. It largely applied to competitions involving gambling and betting in the States of Bombay, Madras, Orissa, Uttar Pradesh, Hyderabad, Madhya Pradesh, Patiala and East Punjab and all Part C States.[a]

Reasons for repeal

The Prize Competitions Act was passed by the Centre, on a resolution passed by the aforesaid States under Article 252 of the Constitution. However, each of these states has its own legislation pertaining to regulation of gambling and betting, namely,

- The Bombay Prevention of Gambling Act, 1887 (also applicable in Gujarat)
- Madras City Police Act, 1888
- Orissa Prevention of Gambling Act, 1955
- UP Public Gambling Act, 1867
- Andhra Pradesh Gaming Act, 1974
- Madhya Pradesh Gambling Act, 1949
- Punjab Public Gambling Act, 1961
- Rajasthan Public Gambling Ordinance, 1949
- Public Gambling Act, 1867
- Karnataka Gambling Law/Act
- The Delhi Public Gambling Act, 1955

Additionally, some of the states mentioned in Section 1(2) of the Act no longer exist.

Issues

Repeal will impact pending cases under the Act. Along with repeal, a saving clause can be enacted to save application of Act on pending cases.
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[a] Though many of these states are now subsumed in other states, the Act continues to use these names.

Name: Sugar Export Promotion Act, 1958

Subject: Restrictive Business & Economic Regulations

Reason: Not being implemented since deregulation of sugar began in 1997

What is the law?

This Act was passed to regulate and promote the export of sugar. It provides for setting up an export agency to manage all aspects of sugar export and empowers the government to fix the quantity of sugar permissible for export, apportion the quantity to be exported among owners of sugar factories, mandate owners of sugar factories to deliver fixed quantities to the export agency and impose additional excise duty on sugar (for consumption in India), where the factory owner fails to deliver the quantity of sugar fixed for export.

Reasons for repeal

- The Act is not being implemented. Up until 1997, exports of sugar were carried out under the provisions of the Sugar Export Promotion Act (1958), through the notified export agencies, i.e., Indian Sugar and General Industry Export Import Corporation Ltd. and State Trading Corporation of India. In a move to deregulate the sugar industry, the Act was repealed on 15 January 1997, through an ordinance by the United Front Government. However, the ordinance was never validated by legislation. Now, the export of sugar can be undertaken directly by various sugar mills after obtaining export a Release Order from the Directorate of Sugar. Hence, the Act continues to be in force, although it is not implemented.

- The Act is not in tune with the policy of liberalising the sugar sector. The gradual liberalisation and delicensing of the sugar industry from 1998 allowed investments to flow in, enabled increase in installed capacity and scale of operations, and made the sugar industry more competitive. The average annual growth rate of the installed capacity of the sugar industry increased from 3.3% between 1990-91 and 1997-98 to 6.9% between 1998-99 and 2011-12.[a] However, the export policy, based on domestic availability, demand and price, continued to be heavily regulated and complicated. In 2011-2012, sugar exports were placed under the Open General License System (OGL). In May 2012, the Government further deregulated sugar exports, by removing quantitative restrictions in order to expedite shipments.[b] In October 2012, the Report of the Committee on the Regulation of Sugar Sector in India: The Way Forward, under the chairmanship of the then Chairman of the Economic Advisory Council to the Prime Minister, Dr. C. Rangarajan, also recommended removal of all quantitative restrictions on trade in sugar and abolition of export licensing.[c]

Issues

There are no legal issues that would impede repeal.

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[a] Dr. Rangarajan C., Keynote Address: Improving the Economics of Sugar Sector, Economic Advisory Council, 2013-05-24. http://eac.gov.in/aboutus/sch_sugar3105.pdf

[b] Business Today, Government Frees Sugar Exports, Scraps Onion Export Price, 2012-05-02. http://businesstoday.intoday.in/story/sugar-exports-onion-export-price/1/24537.html

[c] Committee on the Regulation of Sugar Sector in India, Report of the Committee on Regulation of Sugar Sector: The Way Forward, Government of India, 2012-10-05. http://eac.gov.in/reports/rep_sugar1210.pdf

Name: The Delhi Rent Control Act, 1958

Subject: Restrictive Business & Economic Regulations

Reason: Adversely impacts affordable housing, particularly for the poor

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What is the law?

This Act, applicable in certain areas of the Union Territory of Delhi provides for the control of rent prices by fixing a standard rent and the protection of tenants from arbitrary evictions.

Reasons for repeal

- The Act has very limited scope in so far as it exempts government property, upper bracket housing where rent exceeds Rs. 3500 and slums. Hence, regulation is limited to rental spaces for lower income groups. Two, the Act fixes a standard rent (which is as low as Rs. 600 per month in certain cases), and permits revision of the standard rent by 10eviction of tenants is stringent and strictly monitored, and rarely can landlords extricate their property from the grip of this rent policy. As a result, renting of property is a very low return business for landlords, discouraging them from repairing and maintaining their property. It also disincentivises prospective landlords from entering the rental market. Consequently, there is an artificial scarcity of rental housing. The difficulty that the Act poses in allowing landlords to get rented property vacated abet illegality and litigation and create a flourishing black market. In sum, the Act runs counter to its intentions and ends up being both anti-tenant and anti-landlord, adversely affecting accessibility and availability of affordable housing for lower income groups in urban areas.
- The Task Force on Rental Housing under the Ministry of Housing and Urban Poverty Alleviation, Government of India, in its Report on Policy and Interventions to Spur Growth of Rental Housing in India, March 2013, has recommended simple contract-based Lease/Rent agreements between willing renters and willing tenants, without the State imposing draconian price controls that in effect drive away legitimate renters and force tenants to enter into unrecorded and informal arrangements that are detrimental to their interests.

Issues

The Delhi Rent Act, 1995 (providing for repeal of the Delhi Rent Control Act, 1958), seeking to marginally ease rent control policy, was passed by Parliament (in 1995). However, the Act was never notified, due to severe resistance by tenancy groups. Consequently, the 1958 Act continues to operate, despite approval for its repeal by the Parliament. In 2013, the Government introduced the Delhi Rent Repeal Bill for repeal of the 1995 Act to bring about a more comprehensive law. The Bill is pending in Rajya Sabha. Repeal of the Act will impact pending litigation. This can be addressed by enacting a saving clause.

Name: Delhi Land Holdings (Ceiling) Act, 1960

Subject: Restrictive Business & Economic Regulations

Reason: Repeal of similar legislations in other parts of India

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What is the law?

The Act provides for the imposition of land ceilings, i.e upper cap and limit, on the amount of land one can hold in the Lal Dora[a] areas of the Union Territory of Delhi and for matters connected therewith.

Reasons for repeal

The Urban Land Ceiling Act, 1976, a similar central legislation, was repealed in 1999 on the ground that it created an artificial shortage in the supply of land, which resulted in a steep rise in land prices, adversely impacting accessibility and affordability of land, particularly for the poor. Similarly, this Act runs counter to the government's aim of providing cheap and affordable housing.[b]

Issues

There are no legal issues that would impede repeal.

[a]Sumit Jha, Lal Dora Demystified, The Economic Times, 2006-11-12. http://articles.economictimes.indiatimes.com/2006-11-12/personal-finance/27467106_1_lal-dora-urban-villages-mcd-area

[b]Prachi Bari, Repeal It!, The Economic Times, 2006-05-28. http://articles.economictimes.indiatimes.com/2006-05-28/news/27431735_1_land-prices-urban-land-ceiling-act-ulc

Name: The Sugar (Regulation of Production) Act, 1961

Subject: Restrictive Business & Economic Regulations

Reason: Provides for excessive regulation of the sugar industry

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What is the law?

This law empowers the government to issue orders fixing the quantity of sugar that may be produced in any factory in a year. If the quantity of sugar produced exceeds the quota fixed, the excess amount attracts an additional excise duty under the Act.

Reasons for repeal

- This Act gives wide powers to control the production of sugar and is out of sync with the move towards deregulation of the sugar industry that has been taking place since 1997.[a]

  In any case, the Act has not been in use in the last few decades, even before the process of deregulation began. The sugar industry is instead regulated through Orders under the Essential Commodities Act, 1955.

- The Competition Commission of India (CCI) has characterised the many laws and rules governing the sugar industry as a regulatory stranglehold. The CCI observed that the sugar industry is controlled by various Acts, Rules and Orders, and this web of legislative provisions means that sugar prices are not free to be determined by the market forces of demand and supply.[b]

- The Special Economic Zones Act, 2005 (SEZ Act) excludes the operation of this Act in a Special Economic Zone. While this is not in itself ground for repeal, perhaps it is an indication that this cess is a hindrance to economic activity and should not operate anywhere else in the country.

Issues

No rules or orders operate under the Act. There are no legal implications due to the repeal of the Act.

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[a] Committee on the Regulation of the Sugar Sector in India, Report of the Committee on the Regulation of the Sugar Sector in India: The way forward, Economic Advisory Council to the Prime Minister, 2012-11, 16, http://eac.gov.in/reports/rep_sugar1210.pdf, 2014-06-24.

[b] In Re: Sugar Mills, Case No. 1 of 2010, decided on: 30.11.2011.

Name: East Punjab Urban Rent Restriction (Extension to Chandigarh) Act, 1974

Subject: Restrictive Business & Economic Regulations

Reason: Imposes draconian price controls, promotes illegality and litigation

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What is the law?

This Act provides for the extension of the East Punjab Urban Rent Restriction Act, 1949, to the Union Territory of Chandigarh. The 1949 Act provides for fixing of a fair rent by the Controller (appointed under the Act), prohibits taking of rent higher than the fair rent, sets limit on the maximum amount of rent in different areas, and prescribes eviction procedure. The landlord is allowed to increase the rent above the fair rent on very limited and specific grounds, namely, addition, improvement or alteration carried out on the rented premises at his expense, or when a fresh rate, cess or tax is levied on the rented premises, or there is an increase in the amount of an existing cess or tax. It prohibits the landlord from charging any premium for grant or renewal of tenancy and mandates him to make necessary repairs in the rented building.

Reasons for Repeal

- The Act is coercive and makes renting of property a low return business, disincentivising prospective landlords from entering the rental market. Consequently, there is an artificial scarcity of rental housing. The complicated machinery under the Act and difficulty faced in getting property vacated, abet illegality and litigation, and create a flourishing black market.
- The Task Force on Rental Housing under the Ministry of Housing and Urban Poverty Alleviation in its Report on Policy and Interventions to Spur Growth of Rental Housing in India submitted in March 2013, recommended simple contract-based lease/rent agreements between willing renters and willing tenants[a], without the State imposing draconian price controls that, in effect, drive away legitimate renters and forces tenants to enter into unrecorded and informal arrangements that are detrimental to their interests.
- Market-oriented rent control models in other Asian countries have shown a positive impact on the rental market. In 2004, Hong Kong enacted the Landlord and Tenant (Consolidation Amendment) Act, removing security provisions[b] for tenants to resume free operation of the private rental market. The Legislative Council Panel on Housing, Government of Hong Kong, studied the impact of the Ordinance in 2006.[c] The law resulted in a steady rise in rental levels, increased supply of private residential units, and reduced tenancy disputes. Other countries like Japan and Singapore have also eased rent control policies.[d]

Issues

There are no legal issues that would impede repeal.

[a]The Rajasthan Rent Control Act, 2001, permits fixing of rent amount as agreed between the landlord and the tenant.
[b]Previously, Government of Hong Kong forbade landlords from not renewing tenancies upon expiry of tenancy period.
[c]Legislative Council Panel on Housing, Impact of the Relaxation of Security of Tenure of Tenants, Government of Hong Kong, 2006-01
[d]Cruz Christian Prince, Housing Sales and Rental Markets in India, Global Property Guide, 2008-07-10

Name: The Levy Sugar Price Equalisation Fund Act, 1976

Subject: Restrictive Business & Economic Regulations

Reason: Provides for excessive regulation of the sugar industry

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What is the law?

The Levy Sugar Price Equalisation Fund Act, 1976 (LSPEF) establishes a Fund to ensure that the price of levy sugar may be uniform throughout the country. Levy sugar is 10output that every sugar manufacturer has to sell to the government at reduced rates for the Public Distribution System. It was introduced in 1967-68. This system was challenged a number of times in the courts, and during the pendency of the judgements, levy sugar was sold at higher rates by manufacturers. The Supreme Court ultimately upheld the levy system, and the LSPEF Act was enacted to deal with the excess money manufacturers had made by selling levy sugar at higher rates while court cases were pending. This excess money was to be credited by manufacturers to the Fund set up under the Act, and used to reduce the retail price of levy sugar.

Reasons for repeal

- The government has moved towards doing away with the system of levy sugar. In 2013, the Union Cabinet approved the removal of levy sugar, first for a period of two years, with a view to making the removal permanent. As a result, this Act is no longer necessary.
- The deregulation of the sugar industry has been a longstanding demand.[a] The system of levy sugar has cost the sugar industry an additional Rs. 3,000 crores a year, which is why the Indian Sugar Mills Association (ISMA) has been demanding its abolition.[b] Acts like this one are remnants of the controls regime that should therefore be done away with.
- This Act has resulted in a great deal of burdensome and unnecessary litigation. The Department of Food and Public Distribution reported in 2012 that Rs. 26 crores in dues from 53 manufacturers was caught up in litigation. In some cases, dues are pending from the 1970s while in other cases, appeals have gone right up to the Supreme Court.[c]

Issues

The Act is mentioned in the Ninth Schedule to the Constitution. However, this does not affect the power of Parliament to repeal the Act. Pending litigation under the Act will remain unaffected by the repeal if a standard saving clause is added to the repealing provisions. A saving clause prevents the repeal from affecting any litigation that continues under the Act being repealed, and is usually worded as 'the repeal shall not affect any legal proceeding continued under the Act'.

[a] The New Indian Express, Deregulate sugar sector without further delay, 2013-02-07
[b] Ajit S. Shriram, Sugar policy just turned sweeter, Business Line, 2013-04-07
[c] Dept. of Food and Public Distribution, Status of LSPEF Dues, 2012-15-05, http://dfpd.nic.in/fcamin/sugar/LSPEF-dues.xls

Name: Semiconductor Integrated Circuits Layout Design Act, 2000

Subject: Restrictive Business & Economic Regulations

Reason: Duplicates government agencies

What is the law?

The purpose of the Act is to provide intellectual property protection to semiconductor integrated circuit (IC) layout designs, in compliance with Indias obligations under TRIPS. Under the Act, original layout design, which is inherently distinctive, distinguishable from other designs, and not already in commercial use in India or another TRIPS-compliant country, can be registered under the Act. The Act provides for the setting up of a Registrar of Semi-Conductor Layout Design. Registration grants the owner the right to exclusively use the layout design registered, and also the right to institute proceedings for infringement.
The Act also sets up a Layout Design Appellate Board, for appeals against the decisions of the Registrar, similar to the Intellectual Property Appellate Board under the Trademarks Act, 1999.

Reasons for repeal

- This enactment made a distinction between intellectual property protection for the layout-design of ICs, and protection for all other inventions related to semiconductors. The former is protected by the present Act while the latter falls under the Patents Act. Intellectual property experts have pointed out that only a small part of the possible protection for ICs is covered under the present Act.[a] This leads to confusion regarding the suitable authority for registering intellectual property protection.

- The Act sets up parallel agencies for the sole purpose of registering IC designs, when this work can easily be carried out by the existing bodies for intellectual property protection, for example, through the Controller General of Patents, Designs & Trade Marks set up under the Trade Marks Act, 1999.

- Further, the parallel bodies set up are not actually in use. No design has been registered in the 14 years of the operation of the Registrar[b], and no cases have been filed under the Act.

Issues

In order to be TRIPS compliant, the protection under this Act can instead be granted under the Patents Act, which is already being used to protect all other aspects of semiconductors.

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[a] Afsar S. and Chinthan Japhet, Two lines of attack: protecting semiconductors in India, World Intellectual Property Review, 2013-09-01, http://www.worldipreview.com/article/two-lines-of-attack-protecting-semiconductors-in-india, 2014-08-01.

[b] While nothing has been reported recently on the use of this law, it difficult to say with absolute certainty without a further review by concerned departments.

Ineffective Governance and Administration

Effective governance typically refers to processes and decisions that seek to define actions, grant power and verify performance. Ineffective governance occurs when there is breakdown in any or all of these three processes. The following set of 19 laws deal with certain governance and administrative aspects on wide range of subjects. These laws were enacted at different points in time with an intention to administer certain aspects of specific subject matters. However, the continuance of these laws in the legislative books is resulting in the breakdown of the processes that define effective governance.

For example,the Conservation of Foreign Exchange and Prevention of Smuggling Act (1974) (COFEPOSA) was enacted to control the movement of goods and foreign exchange. Contemporaneously, the statute books also have the Customs Act (1962) and Foreign Exchange Management Act (1999). The Customs Act and the Foreign Exchange Management Act are specific laws that lay out the principles of effective governance with respect to the movement of goods and foreign exchange into and from the country. On the other hand, COFEPOSA legislates on the same subject matter, interfering with principles of governance by creating imprecise actions, power and measures of performance on the subject of movement of goods and foreign exchange.

Another example that presses this point is the Drugs (Control) Act (1950). This Act provides for the control of the sale, supply and distribution of drugs. It was enacted to ensure that certain essential imported drugs and medicines were sold at reasonable prices. However, the sale, supply and distribution of drugs is now controlled under the Essential Commodities Act (1955) (EC Act). The Drugs (Prices Control) Orders of 1995 and 2013 have both been issued by the central government in exercise of its powers under the EC Act, which in effect are the governing laws on the subject. In other words, the EC Act read with the (Prices Control) Orders of 1995 and 2013 set out the principles of effective governance i.e., the precise actions, power and verifiable performance for sale, supply and distribution of drugs. As in the case of COFEPOSA, the existence of Drugs (Control) Act, 1950, on the same subject of sale, supply and distribution of drugs, interferes and results in diluting these three principles of effective governance.

The recommendation to repeal the laws in this segment does not stem from an in-principle disagreement on the subject matter or the intentions of the laws. It arises from the poorly worded language, redundant or repetitive content, dated stance and administrative burdens contained in these laws. In the spirit of the current government's commitment to weeding out laws that hamper governance by creating avoidable confusion, we propose to repeal these nineteen laws.

Name: Dekkhans Agriculturists' Relief Act, 1879

Subject: Ineffective Governance & Administration

Reason: States have their own Debt Relief Laws

What is the law?

The Act gave relief to indebted agriculturists in those parts of the Dekkhan (or Deccan) where it was in force. Presently, only Sections 11, 56, 60 & 62 are in force while the rest of the Act has been repealed.

Reasons for repeal

- Most States now have their own Debt Relief Laws. Additionally, the Centre has also introduced and implemented the Agriculture Debt Waiver and Debt Relief Scheme, 2008 to relieve agriculturists from indebtedness. In light of these legislations, this particular Act is unnecessary.
- The PC Jain Commission recommended repeal of this Act (Volume 1, Entry 40).

Issues

The subject matter of the Act does not fall within the Union List and that might offer a hindrance in recommending its repeal.

Name: The Legal Practitioners Act, 1879

Subject: Ineffective Governance & Administration

Reason: Only three section remains in force, which may be incorporated into the Advocates Act, 1961

What is the law?

This law was enacted to consolidate all the rules relating to the enrolment, conduct, and service of legal practitioners. As the first modern legislation to govern the conduct of legal practitioners in India, this Act brought advocates, vakils, pleaders, mukhtars, munsifs and revenue agents under the jurisdiction of the concerned High Courts. It empowered High Courts to regulate the enrolment of a person as a legal practitioner, set conditions for suspension and dismissal of practitioners, and imposed penalties for persons illegally practising as mukhtars, pleaders, revenue agents, etc.

Reasons for repeal

- The Advocates Act, 1961 has almost entirely replaced this Act, doing away with all but three sections that together empower High Courts to deal with touts. It is now the 1961 Act that regulates legal practitioners in India, and sets up the Bar Council to regulate matters such as enrolment and disciplinary action.
- Over time, all the provisions of the 1879 law were repealed except Sections 1, 3 and 36. These sections consist of the title clause, interpretation clause, the power of High Courts to frame a list of touts, and the punishment for touting. These provisions can easily be incorporated into the 1961 Act, so that the entire law on this subject can be found in one place.

Issues

The provisions in the Legal Practitioners Act empowering courts to deal with touts can be moved to the Advocates Act in order to remove this law from the statute books.

Name: Police (Incitement to Disaffection) Act, 1922

Subject: Ineffective Governance & Administration

Reason: The Act is vague, widely worded and gives excessive powers to the police

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What is the law?

This is a colonial era legislation providing for a penalty for spreading disaffection towards the Government amongst the members of police force and kindred offences. This Act makes it an offence to withhold a member of the police force from the performance of his/her duty or to commit a breach of discipline. The penalty for causing disaffection is imprisonment or fine or both.

Reasons for repeal

- The Act is an archaic law passed by the British to suppress the freedom of speech and weaken the Independence movement. The law is widely worded to empower the government to take action against any person who intentionally causes or attempts to cause disaffection towards government amongst the member of police force.
- The Act is not in tune with the Code of Conduct for the Police in India, issued by the Ministry of Home Affairs on 4 July 1985. The Code of Conduct directs members of the police force to maintain high standards of discipline, faithful performance of duties in accordance with law, implicit obedience to the lawful directions of commanding ranks and absolute loyalty to the force. The police are required to maintain calm in the face of danger, scorn or ridicule and practice self-restraint in all circumstances. These guidelines indicate that the police force is required to be immune to the voices of disaffection.
- The Act is vague and loosely worded, and does not clearly explain what activity is regarded as spreading disaffection. Consequently, it is left to the arbitrary interpretation of enforcing authorities and is liable to be misused.
- The Act was first used against Lokmanya Tilak. Recently, in September 2013, the Andhra Pradesh Police filed a criminal case against the resident editor of Hindu for reporting the visit of a senior police officer to a local religious leader under IPC dealing with forgery, another dealing with inducing the commission of an offence against the State or another community, and also under this Act.[a]

Issues

There are no legal issues that would impede repeal. The reference to the Act have to be removed from:

- Section 18 of the Railway Protection Force Act, 1957.
- Section 19 of the Central Industries Security Force Act, 1968.
- Schedule 1 Part 1 of the Delhi Police Act, 1978 at Point 5.
- Schedule to the Puducherry Extension of Laws Act, 1968.
- Schedule to the Merged State Laws Act, 1949.

[a]Sridhar Madabhushi, Disaffection Case Against Hindu Editor: We Are Like That Only, The Hoot, 2013-10-01. http://www.thehoot.org/web/freetracker/storynew.php?storyid=527&sectionId=14

Name: Public Suits Validation Act, 1932

Subject: Ineffective Governance & Administration

Reason: The Act is applicable to suits pending on or before 1932

What is the law?

The Act seeks to provide validation to public suits instituted under Sections 91 and 92 of the Civil Procedure Code 1908 (related to public nuisance and public trusts) which were pending in 1932.

Reasons for repeal

The Act is applicable to suits pending at the time of institution of the Act, i.e., in 1932. Since 82 years have passed since the Act came into force, any litigation ought to have been disposed off by now. The Law Commission in its 96th Report (1984) refused to recommend repeal of this Act, on the sole ground that whether all suits under the Act have been disposed off cannot be said with utter certainty. The problem can be resolved by enacting a saving clause, alongside repeal, protecting all action taken under the Act.

Issues

There is reference to the Act in First Schedule of the Berar Laws Act, 1941. With the saving clause, there are no legal issues that would impede repeal.

Name: The Registration of Foreigners Act, 1939

Subject: Ineffective Governance & Administration

Reason: Outdated, cumbersome and ineffective system of reporting by foreigners

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What is the law?

This legislation, dating back to World War II, requires every foreigner staying in India for more than 180 days to report his/her entry, movement from one place to another and departure, to the Government of India. Additionally, it requires owners and managers of hotels, lodges and boarding houses, and aircrafts or vessels to report the presence of any foreigners. It was enacted by the British to regulate the entry and movement of foreigners in India, particularly of Indian revolutionaries from abroad.

Reasons for repeal

- This Act is largely ineffective since there is no fool proof way of tracking whether all foreigners entering India are reporting themselves at all the required points.
- The Act has become a tool for harassing foreigners, and is damaging India's reputation as a welcoming tourist destination. Anecdotal evidence and newspaper reports cite long waiting lines, unclear instructions and frustrating bureaucracy, demands for bribes, and sexual harassment on account of this Act.[a] In addition, cases alleging harassment of persons living on the borders under this Act have been reported from time to time.[b]
- The Foreigners Act, 1946 and the Passport Act, 1967 provide sufficient powers to keep track of foreigners. Section 3 of the Foreigners Act empowers the government to issue orders prohibiting, regulating and restricting the entry of foreigners into India. Section 12 of the Passport Act makes failure to produce travel documents on demand by prescribed authorities and to comply with the conditions laid down in these documents a criminal offence. The government is further empowered, under Section 10, of the Passport Act to vary, impound or revoke any travel document for conviction under any offence.
- While the Passport Act provides reasonable opportunity to an aggrieved person to seek relief through appeal and provides protection at the time of arrest, search and seizure, the 1939 Act provides no such relief. Instead, it reverses the burden of proof upon the accused instead of the prosecution, increasing chances of harassment.

Issues

There are no legal issues that would impede repeal.

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[a] Lasania Y Yunus, It is a Pillar-to-Post Run for Them, The Hindu, 2013-12-28. http://www.thehindu.com/news/cities/Hyderabad/it-is-a-pillartopost-run-for-them/article5509216.ece

[b] PUCL Bulletin, The People Speak Out: Police Harassment of Bengali Speaking Muslims of Yamuna Pushta, PUCL, 2000-12.

Name: The Drugs (Control) Act, 1950

Subject: Ineffective Governance & Administration

Reason: Price control of drugs is carried out under Essential Commodities Act

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What is the law?

The Act provides for the control of the sale, supply and distribution of drugs. It was enacted to ensure that certain essential imported drugs and medicines were sold at reasonable prices. It allowed the government to fix the maximum price that may be charged by a dealer or producer, maximum quantities that may be possessed by a dealer or producer, and the maximum quantity that may be sold to a person in one transaction. The Act also imposes penalties for the violation of these provisions.

Reasons for repeal

- The sale, supply and distribution of drugs are now controlled under the Essential Commodities Act, 1955 (EC Act), since drugs have been included under essential commodities. The Drugs (Prices Control) Orders of 1995 and 2013 have both been issued by the central government in exercise of its powers under the EC Act. Thus, the Drugs (Control) Act, 1950 is now redundant, since no rules or orders currently operate under this Act.
- To avoid confusion with regard to the legal framework governing the pricing, supply and distribution of drugs, the Drugs (Control) Act, 1950 should be repealed. This would clear the air surrounding the pricing of drugs and assist stricter enforcement and prosecution of the Drugs (Control) Orders.
- In 2006, the 1950 Act was sought to be repealed for the above stated reasons.[a] The Drugs (Control) Repeal Bill, 2006 was introduced in the Lok Sabha but it lapsed subsequently. Since circumstances have not changed since 2006, this Act is fit for repeal.

Issues

There are no legal issues that would impede repeal.

[a] PRS Legislative Research, Bill Summary, 2006-11-07, 2014-07-18.
http://www.prsindia.org/uploads/media/1167468665/summary1197284590_Bill_Summary____Drug_Control__Repeal__Bill__2006.pdf

Name: The Companies (Donation to National Funds) Act, 1951

Subject: Ineffective Governance & Administration

Reason: The Act's purpose can be achieved through the Companies Act, 2013

What is the law?

The Act empowers any company to make donations to the Gandhi National Memorial Fund, the Sardar Vallabhabhai Memorial Fund or any other fund established for a charitable purpose and approved by the central government by reason of its national importance.[a] The Company can make these donations notwithstanding anything contained in the Companies Act, or any other law, or its Memorandum or Articles of Association.[b]

Reasons for repeal

- The Department of Company Affairs has proposed repeal of the Act by incorporating the relevant provisions under the Companies Act, 1956. The Law Commission in its 159th Report (1998) has noted this fact in Chapter 3 on Page 23.
- The Act is legally untenable, in so far as it empowers the Company to make donations irrespective of its Memorandum or Articles of Association, in view of Section 36 of the Companies Act, which makes the aforesaid documents binding not only on the Company but also its members.[c]
- Section 135 of the Companies Act, 2013, read with, Schedule VII of the Act and the Companies (Corporate Social Responsibility) Rules, 2014, mandatorily requires companies to contribute a fixed percentage of profits, for a social and charitable purpose. The 2013 Act has application and scope wide enough to achieve the purpose that the Companies (Donation to National Funds) Act, sought to achieve.

Issues

There are no legal issues that would impede repeal.

[a] A fund shall be considered to be of a national importance under section 3 of the Act, if the central government holds it to be. The term National Importance is serving the purpose of a guiding principle for the central government, that it must follow to determine whether a fund for a charitable purpose can be placed within the scope of the Act.

[b] A Memorandum of Association contains certain fundamental clauses that describe the conditions of the companys incorporation, namely: Name Clause, Registered Office Clause, Objects Clause, Liability Clause and Capital Clause. The Articles of Association contains rules, regulations and bye-laws for the general administration of the company.

[c] Claude-Lila Parulekar vs Sakal Papers (P) Ltd., (2005) 11 SCC 73.

Name: The Requisitioning and Acquisition of Immovable Property Act, 1952

Subject: Ineffective Governance & Administration

Reason: The Land Acquisition, Rehabilitation and Resettlement Act, 2013 covers the subject matter

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What is the law?

The Act provides a summary procedure for the requisition and acquisition of immovable property for the purposes of the Union, primarily for defence.

Reasons for repeal

- LARR Act, 2013 includes acquisition for strategic purposes. The provisions of the LARR Act relating to land acquisition, compensation, rehabilitation and resettlement apply when the appropriate government acquires land for its own use, to hold and control including for public sector undertakings and for public purpose.
- The LARR Act also includes the acquisition for strategic purposes relating to naval, military air force, and armed forces of the Union.[a]
- The Act has to comply with provisions made relating to compensation, rehabilitation and resettlement of the LARR Act, within a year of commencement of the latter.[b] This means that, if the central government directs, that the provisions of any other law for land acquisition as provided in the 4th schedule of the Act, must comply with the provisions of the LARR Act (as per section 105). Hence, the provisions of the Act will need to be amended to comply with the provisions of the LARR Act, which is far more humane in its provisions. We recommend repeal instead of this amendment, since the responsibilities of the Act can be executed under LARR Act 2013.

Issues

Repeal of this Act may entail amendment in the LARR Act to provide for temporary acquisition of immovable property for defence purposes in limited cases.

[a] Section 2(1)(a), LARR Act 2013.
[b] Section 105, LARR Act 2013.

Name: Public Wakfs Extension of Limitation Act, 1959

Subject: Ineffective Governance & Administration

Reason: Redundant as its period of operation has expired

What is the law?

The Act was passed with the objective of extending the limitation period for the institution of suits for the recovery of possession of immovable property forming part of public wakfs (the permanent dedication by a person professing Islam of any immovable property for any purpose recognised by Muslim law as a public purpose of a pious, religious or charitable nature), where the dispossession took place between 14 August 1949 and 7 May 1954.[a]

Reasons for repeal

- The Act was only applicable to the period between 1949 and 1954. The Act sought to provide protection to property in the nature of public wakfs, which were dispossessed in the given period.
- As per Section 3 of the Act, the period of limitation for institution of suit extended only until 31 December 1970. Although the Government could further extend the limitation period through an amendment, it has not done so since 1970.

Issues

There are no legal issues that would impede repeal.

[a] During the post-partition period, many public wakfs were encroached upon by dismantling of boundary walls and erecting new enclosures.

Name: Conservation of Foreign Exchange and Prevention of Smuggling Act, 1974

Subject: Ineffective Governance & Administration

Reason: Redundant in view of the Customs Act, 1962 and Foreign Exchange Management Act, 1999

What is the law?

This Act provides for preventive detention for the purposes of conservation and augmentation of foreign exchange and prevention of smuggling activities. It provides wide powers to the executive to detain individuals on the mere apprehension of their involvement in smuggling activities.

Reasons for repeal

- The Act is redundant in view of the Foreign Exchange Management Act, 1999 (FEMA). FEMA is the primary law relating to foreign exchange, which aims at facilitating external trade and payments, and promoting orderly development and maintenance of the foreign exchange market in India. It classifies any foreign exchange violation as a civil offence.[a] FEMA replaced the Foreign Exchange Regulation Act under which foreign exchange violation was a criminal offence. However, COFEPOSA continues to criminalise (by providing for preventive detention) the aforesaid violations.

- Provisions related to smuggling under COFEPOSA are adequately covered under Chapter XVI of the Customs Act, 1962 (Section 115). The Customs Act has provisions for the confiscation (under Section 111, 113 and 118) and seizure of the smuggled goods (under Section 110) while also providing penal provisions. Apart from the wide interpretation of the word smuggling to include a range of activities, it also has penal provisions for non-accounting of goods (under Section 116).

- The Act has increasingly become a source of harassment, manipulation and corruption.[b] Stringent provisions of COFEPOSA are invoked to harass exporters against minor violations of foreign exchange regulations. Customs authorities resorted to COFEPSA to detain exporters without any trial in cases where they had unintentionally violated foreign exchange regulations.

Issues

In Dropti Devi and Anr. Vs. Union of India[c], the constitutional validity of the Act was upheld. The Court highlighted the importance of the Act and the need to protect foreign exchange. Aside from this, there are no legal issues that would impede repeal.

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[a] Section 13, Foreign Exchange Management Act, 1999.

[b] The Hindu, COFEPOSA Must Go: Assocham, 2005-05-03; http://www.hindu.com/2005/05/03/stories/2005050301981900.htm, The Hindu, Detention of Two COFEPOSA Accused Quashed, 2013-04-12, http://www.thehindu.com/todays-paper/tp-national/tp-newdelhi/detention-of-two-cofeposa-accused-quashed/article4608819.ece

[c] Dropti Devi vs Union of India, [2012] 6 SCR 307.

Name: Indian Law Reports Act, 1975

Subject: Ineffective Governance & Administration

Reason: The Act is redundant and unnecessary

What is the law?

Under this Act, an Indian Court of Law is not bound to hear the report of any case law other than ones published in a law report authorised by the State Government.

Reasons for repeal

- Today different types of law reports are cited and accepted in all the Courts. In fact, the Indian Law Reporter (ILR) is seldom used as a source of authority.
- This legislation was enacted at a time when ILR was the primary reporter for publishing case laws. Today, the Act is unnecessary since there are many good quality reporters like Supreme Court Cases, All India Reporters, Supreme Court Reporter, etc. Additionally, courts are also publishing their judgements and orders on their websites.
- The Act is prone to be abused and adversely impact administration of justice. By virtue of this statute, a lower judge bench can ignore the judgement of a higher bench solely because it was not reported in the official report.[a] This anomaly was pointed out by the Law Commission in its 96th Report (1984), which recommended repeal of the Act.

Issues

There are no legal issues that would impede repeal.

[a] Law Commission 1984 96th Report.

Name: The Departmentalisation of Union Accounts (Transfer of Personnel) Act, 1976

Subject: Ineffective Governance & Administration

Reason: The Act has served its purpose

What is the law?

The Act provided for the transfer of officers serving in the Indian Audit and Accounts Department (selected through the Indian Audit and Accounts Service) to any Ministry, Department or office of the Central Government for facilitating the efficient discharge of responsibilities related to compiling accounts within these offices.

Reasons for repeal

- The Act has served its purpose. This legislation led to the creation of Indian Civil Accounts Service (ICAS). The initial intake into the ICAS was by deputing and transferring personnel from the Indian Audit and Accounts Service (IAAS). This law facilitated the transfer of personnel from the IAAS to the ICAS.
- ICAS personnel are now selected through the Civil Services Examination; hence there is no need for transfer of personnel from the IAAD to the ICAS as it has its own recruitment service.[a]

Issues

There are no legal issues that would impede repeal.

[a] Adukia S. Rajkumar, A Study on Government of India Some Recent Developments. http://www.caaa.in/Image/51%20hbca.pdf

Name: The Disputed Elections (Prime Minister and Speaker) Act, 1977

Subject: Ineffective Governance & Administration

Reason: Emergency-era law that is unconstitutional

What is the law?

This Act provided that the general procedure for disputing an election by way of presenting an election petition to the High Court, would not apply in cases where the elected representative went on to become the Prime Minister or Speaker of the Lok Sabha. In such cases, this special law would apply, and election petitions questioning their elections would be heard by a single judge of the Supreme Court as a separate authority set up under this Act. The decisions of the authority were deemed final. In order to permit the special treatment of these representatives, a Constitutional amendment, Article 329A, was introduced which allowed this distinction to be made. Both the amendment and this law were created during the time the Emergency proclamation was in place.

Reasons for repeal

- Article 329A, which made it possible for this law to exist, was subsequently removed through the 44th Amendment to the Constitution in 1978. Without Article 329A, this law stands unconstitutional, as the Constitution does not allow a distinction to be made between the election disputes of different types of elected representatives.[a]
- This Act has been used only once in 1977, when an Authority was set up to try election petitions against Morarji Desai, who headed the Janata coalition government.[b] Not only is it a redundant law, but also one that represents concentration of power, and the breakdown of the rule of law during the Emergency.

Issues

There are no legal issues that would impede repeal.

[a] Lily Thomas v. Union of India, (2013) 7 SCC 653.

[b] Devi, V. R., and Mendiratta, S. K.,How India votes: election laws, practice and procedure, 2007, 1054, LexisNexis Butterworths.

Name: Illegal Immigrants (Determination by Tribunals) Act, 1983

Subject: Ineffective Governance & Administration

Reason: Struck down by the Supreme Court

What is the law?

The Act instituted procedures to determine whether persons suspected to be illegal immigrants from Bangladesh did, in fact, fall under that category, and expel them from India. It was applicable only to the state of Assam (detection of foreigners in other states is done under The Foreigners Act, 1946). The Act established Tribunals for determining whether a person is an illegal migrant.

Reasons for repeal

- The constitutionality of this Act was challenged in Sarbananda Sonowal v. Union of India.[a] The Supreme Court declared that this Act was far less effective than the Foreigners Act in identifying and deporting illegal immigrants. It violated the duty of the Union, under Article 355 of the Constitution, to protect states from external aggression and internal disturbance. The Court struck down the Act and Rules, ordered that the Tribunals under the Act cease to function, and declared that the Foreigners Act and other related Acts would operate in Assam instead.
- The Act, though inoperative, remains on the statute books, while a more effective system is in place in Assam as prescribed by the Foreigners Act, 1946. This Act should therefore be formally repealed.

Issues

There are no legal issues that would impede repeal.

[a](2005) 5 SCC 665.

Name: Punjab Disturbed Areas Act, 1983

Subject: Ineffective Governance & Administration

Reason: The Act has outlived its purpose

What is the law?

The Act was brought into force to curb militancy and public unrest in Punjab during the 1980s. It empowers the State Government to declare, by notification, any part or the whole of Punjab as a 'disturbed area', empowering any Magistrate or police officer not below the rank of a Sub-Inspector (or Havildar in the case of the Armed Branch of the police) to fire upon or use force (even if it leads to death), or prohibit the assembly of five or more persons or carrying of weapons, firearms, ammunition and explosive substances, where he considers necessary and after giving due warning.

Reasons for Repeal

- The Act is now redundant since militancy in the State has been wiped out and no major terrorist activity has taken place in the past two decades. In the absence of the threat of terrorist activity specifically within Punjab, the Act gives excessive power to the police force.
- The Act is not being implemented in practice. Under the Act, the whole of Punjab was declared as a disturbed area, by a notification dated 16 November 1996, for a period of six months only, between 18 November 1996 and 17 May 1997. Prior to this, another notification, dated 09 March 1989, declared Amritsar, Gurdaspur and Ferozepur as disturbed areas. The 1989 notification was withdrawn on 28 July 2008.[a] Since then, no part of Punjab has been declared as a disturbed area.
- The law was enacted during President's Rule in Punjab. There is an elected government in place with powers under the Constitution to maintain law and order in the State.

Issues

There are no legal issues that would impede repeal.

[a] Surinder Bhardwaj vs Union Territory of Chandigarh, CWP No. 499 of 2012, Punjab and Haryana High Court. http://indiankanoon.org/doc/154674474/?type=print

Name: Chandigarh Disturbed Areas Act, 1983

Subject: Ineffective Governance & Administration

Reason: The Act has outlived its purpose

What is this law?

The Act empowers the Administrator of the Union Territory of Chandigarh to declare, by notification, any part or the whole of Union Territory of Chandigarh as a 'disturbed area', empowering any Magistrate or police officer not below the rank of a Sub-Inspector (or Havildar in the case of the Armed Branch of the police) to fire upon or use force (even if it leads to death), or prohibit the assembly of five or more persons or carrying of weapons, firearms, ammunition and explosive substances, where he considers necessary and after giving due warning. The Act also gives protection to persons acting in the exercise of powers under this Act.

Reasons for Repeal

- The Act was brought into force to curb militancy and public unrest in Chandigarh during the 1980s and early 1990s, in wake of Operation Blue Star. Militancy in the Union Territory has been wiped out and no major terrorist activity has taken place since 1995.
- Under the Act, Chandigarh was declared as 'disturbed area', through Notifications dated 2 December 1986 and 5 December 1991. In 2012, the Punjab and Haryana High Court quashed these notifications on the grounds that they were not justified because the government failed to reply as to when the powers under the Act were last invoked or place on record any specific instances of threat perception warranting continuance of notifications under this Act.[a]
- The Act gives excessive power and impunity to the police force. For these reasons, the Act should be repealed.

Issues

There are no legal issues that would impede repeal.

[a] Ibid.

Name: Shipping Development Fund Committee (Abolition) Act, 1986

Subject: Ineffective Governance & Administration

Reason: The Act has achieved its purpose

What is the law?

The Act was passed to abolish the Shipping Development Fund Committee constituted under the Merchant Shipping Act, 1958.

Reasons for Repeal

The Act has achieved its purpose and is not needed any more. The Shipping Development Fund Committee has been abolished. All the assets and liabilities of the Committee were vested in the central government. In 1987, the Government delegated all the functions of the Committee to the Shipping Credit and Investment Company of India Limited.

Issues

There are no legal issues that would impede repeal.

Obstructive Civil and Personal Interference

Article 19(1)(a) of the Constitution of India accords to all citizens the fundamental right to freedom of speech and expression. This right, which lies at the foundation of all democratic organisations, includes the right to publicly discuss ideas and problems, religious, political, economic and social.

The freedom of speech is not absolute and can be curtailed, only under the authority of law, by imposing reasonable restrictions' under Article 19(2). The Supreme Court, in S. Rangarajan vs. P. Jagjivan Ram (1989),[a] has held that "our commitment to freedom of expression demands that it cannot be suppressed unless the situations created by allowing the freedom are pressing and the community interest is endangered. The anticipated danger should not be remote, conjectural or far-fetched. It should have proximate and direct nexus with the expression. The expression of thought should be intrinsically dangerous to public interest".

It is with this in mind that we recommend the 4 laws in this category be repealed.

These laws directly or indirectly, curtail freedom of speech, by either imposing blanket prohibition on certain kinds of speech or restricting circulation of the same. These restrictions do not take into account the constitutionally permissible limits of curtailing freedom of speech.

These laws define offences in widely worded and vague terms. European Union Law recognises legal certainty as a fundamental principle of the rule of law, i.e., the law must be known and understood and to be understood it must be sufficiently precise and foreseeable as to provide legal certainty to its recipients. In India, the Supreme Court has recognised the doctrine of legitimate expectation in public law requiring regularity, predictability and certainty in the government's dealings with the public.[b] Contrary to these principles, these laws often use subjective words and phrases, such as, repulsive', horrible', offensive', leading to disturbance or public excitement', without providing adequate definitions or explanations of these terms. Consequently, they are left to the arbitrary interpretation of the public authorities, and are often misused to harass the media, artists and others.

These laws are repetitive as the offences listed in them are also a part of different criminal statutes. These laws largely contain offences related to sedition, obscenity, defamation and commission of offences. There are adequate provisions provided under the Indian Penal Code (1860), the Code of Criminal Procedure (1973) and other laws to prosecute these cases. It is imperative that such repetitive laws be repealed, as they merely perpetrate confusion and ambiguity, and are often used as a tool of harassment.

[a] 2 SCC 574

[b] Official Liquidator vs Dayanand, (2008) 10 SCC 1

Name: Dramatic Performances Act, 1876

Subject: Obstructive Civil & Personal Interference

Reason: British era law, violates Article 19(1) of the Constitution

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What is the law?

The Act grants the State Government the power to prohibit scandalous, defamatory performances or performances likely to excite feelings of disaffection against the State Government, and prescribes penalties for not obeying said prohibitions. It allows the penalisation of performers, spectators, persons assisting the performance, or owners/occupiers who allow their premises to be used for the purpose. The State Government may under this Act prohibit future performances, and notify that certain areas be prevented from staging performances without a license.

Reasons for Repeal

- This is a British era law enacted to curb the nationalist movement, and is no longer relevant in light of modern constitutional principles of freedom of speech and expression.
- Adequate provisions already exist under the Indian Penal Code to prosecute cases of sedition, defamation or obscenity under Section 124A and others.
- The Constitutional validity of the Act is in doubt since the Madras High Court in 2012 struck down the Kerala Dramatic Performances Act, which contained similar provisions.[a]
- In 1993, the India Code Compilation of Unrepealed Central Acts included this Act in its list of obsolete Acts.[b]
- The Act gives wide and coercive powers to the government related to prohibition of present and future performances, arbitrary search and seizure procedures, allowing any area to be controlled, etc., that are unsuited to modern India.

Issues

There are no legal issues that would impede repeal.

[a] N.V.Sankaran Alias Gnani v. The State Of Tamil Nadu, W.P.No.11311 of 2012 and M.P.No.1 of 2012

[b] Shivani, The greying laws on India, The Financial Express, 1997-07-22, http://www.financialexpress.com/old/ie/daily/19970722/20350553.html, 2014-06-1

Name: The Prevention of Seditious Meetings Act, 1911

Subject: Obstructive Civil & Personal Interference

Reason: British-era law, violates the right to freedom of speech and expression

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What is the law?

The Act consolidated and amended the law relating to the prevention of public meetings likely to promote sedition or to cause a disturbance of public tranquillity. Section 5 of the Act empowers a District Magistrate or Commissioner of Police to prohibit a public meeting in a proclaimed area if, in his/her opinion, such meeting is likely to promote sedition or disaffection.

Reasons for Repeal

- This legislation was specifically enacted to curb meetings being held by Indian freedom fighters and those opposed to British rule of India. The law empowers the government to declare by notification, a proclaimed area in the whole or any part of a province where the Act is in force.
- The continuation of this law is unnecessary and undemocratic because the provisions of this Act pose unreasonable restrictions on the freedom of speech and expression.[a] The law provides blanket provisions such as Section 4 which says that no public meeting for the furtherance or discussion of any subject likely to cause disturbance or public excitement can be held unless written notice of the intention to hold such meeting and of the time and place of such meeting has been given to the District Magistrate or the Commissioner of Police at least three days before. The Act does not lay down any qualifications for determining what would constitute likely to cause disturbance or public excitement. The provisions of the Act are quite stringent considering that even private meetings have been brought under its purview by means of section 3(2). Such provisions give scope for abuse by security forces.
- Public meetings and assemblies that are likely to cause disturbance are now managed under Section 144 of the Code of Criminal Procedure, 1973. Under this section, the District Magistrate or the Sub-divisional Magistrate can prohibit an unlawful assembly of people in an area to prevent disturbance of the public tranquillity, or a riot, or an affray.[b] Thus, there is no need for a law dealing specifically with seditious meetings.

Issues

There are no legal issues that would impede repeal.

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[a] Centre for the Study of Social Exclusion and Inclusive Policy and Alternative Law Forum, Sedition Laws & the Death of Free Speech in India, National Law School of India University, 56, 2011-02, https://www.nls.ac.in/resources/csseip/Files/SeditionLaws_cover_Final.pdf, 2014-08-05.

[b] Section 144 of the Code of Criminal Procedure, 1973 deals with the power to issue order in urgent cases of nuisance and apprehended danger. Code of Criminal Procedure, 1973, 1974-01-25, 2014-08-05.

Name: Young Persons (Harmful Publications) Act, 1956

Subject: Obstructive Civil & Personal Interference

Reason: The law is repetitive and liable to be misused

What is the law?

This Act prohibits the dissemination and advertisement of certain publications considered harmful to young persons. A harmful publication is one that tends to corrupt young persons by depicting commission of offences, acts of cruelty or violence and incidents of a repulsive or horrible nature.

Reasons for Repeal

- Words such as repulsive and horrible contained in the definition of harmful publication are vague and subject to arbitrary interpretation, and consequently lead to widespread discretion and serve as an excuse for harassment. For instance, earlier this year Kerala Police raided shops that sold Bob Marley T-shirts, on the ground that these encourage youngsters to use drugs, and booked shopkeepers under the Act for promoting material that is harmful to youngsters.[a]

- India already has a variety of laws that penalise speech in various forms, like speech which causes incitement to an offence (Section 504, Indian Penal Code (IPC) or leads to or has a tendency to cause violence like anti-national speech (Section 124A IPC), speech that is communal, racial, linguistic and indecent (Section 153A), anti-sovereignty speech (Section 153B), speech that outrages religious feelings (Section 295A), is obscene (Section 292), or is anti scheduled caste and scheduled tribe (SC and ST Act, 1989 and Protection of Human Rights Act, 1976). Recently, the Protection of Children from Sexual Offences Act, 2012 was brought into force to protect children from sexual assault, sexual harassment and pornography. Given the existence of all of these acts, this Act is repetitive and redundant.

- Indian law also provides for regulation of content on media. Under the Indian legal regime, Cable Television Networks (Regulation) Act, 1955, the Press Council of India Act, 1978, and Cable Television Networks (Amendment) Rules, 2006 (Rules) are the principal legislations which control the content on television to ensure that they do not offend morality, decency and religious susceptibilities of the consumers. The Information Technology Act regulates content on the internet, while the Censor Board for films.

- The Act does not seem to be implemented and appears to have a low rate of prosecution.

Issues

Repeal will impact pending cases instituted under the Act. Along with repeal, a clause can be enacted to save application of the Act on pending cases.

[a] Shahina KK, Kerela Police versus Bob Marley, The Open Magazine, 2014-03-15. http://www.openthemagazine.com/article/real-india/kerala-police-versus-bob-marley

Name: The Newspaper (Price and Page) Act, 1956

Subject: Obstructive Civil & Personal Interference

Reason: Imposes excessive controls, partially struck down by the Supreme Court

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What is the law?

The purpose of the Act was to prevent unfair competition among newspapers, where newspapers with better financial resources could potentially monopolise the print media industry to the detriment of smaller newspapers. For the benefit of newspapers with smaller resources and those published in Indian languages, Section 3 of the Act empowered the central government to issue an order to regulate the prices charged by bigger newspapers. Under this section, the central government could also regulate the number of pages and the amount of space a newspaper allotted for advertisements. Section 6 of the Act imposed a penalty of Rs. 1,000 on the publisher if a newspaper was published or sold in contravention of an order under Section 3.

Reasons for Repeal

- The main provision of this Act, Section 3, was struck down by the Supreme Court in Sakal Papers Pvt. Ltd. and Ors. v. Union of India,[a] on the ground that it violated the freedom of speech and expression of the petitioners. The Supreme Court held that the State could not make laws which directly affected the circulation of a newspaper for that would amount to violation of freedom of speech. The right under Article 19(1)(a) of Constitution of India, extends not only to the matter which the citizens are entitled to circulate but to the volume of circulation.

- Though Section 3 was struck down, the rest of the Act continues to remain on the statute books. It is a dead letter for all purposes. The Supreme Court itself noted in Sakal Papers that if Section 3 of the Act is struck down, nothing remains in the Act.[b] Since Section 3 of the Act has been done away with, the power of the central government to make an order under the Act no longer exists and provisions imposing penalties on the contravention of such orders are redundant.

- The print media has undergone a drastic transformation and the number of newspapers in circulation itself acts as a safeguard against unfair competition. The total number of registered newspapers in India till 2010-11 was 82,237.[c] Powers granted by the Act restrict the freedom of occupation, trade and business, and have no place in a liberalised economy.

Issues

There are no legal issues that would impede repeal.

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[a] AIR 1962 SC 305.

[b] AIR 1962 SC 305, at 52.

[c] Ministry of Information and Broadcasting, MIB, Percentage of growth of registered publications increase by 6.25% over the previous year, 2011-12-29, http://pib.nic.in/newsite/erelease.aspx?relid=79265, 2014-06-22.

About The 100 Laws Project

Centre for Civil Society's iJustice, NIPFP Macro/Finance Group, and Vidhi Legal Centre, with the help of lawyers, legislative experts and economists have informally begun a project to help the administration live up to a key election message. During the campaigns, PM Narendra Modi had rightly proposed to clean up the statute books, by repealing 10 laws for each new one the government legislated, and to use his first 100 days to repeal 100 unnecessary laws. We picked up on this message, and invited some experts to brainstorm on how we might turn this promise into reality. The result is the 100 Laws Repeal Project.

The Project

This is a research and advocacy initiative to identify for complete repeal 100 laws that are redundant, or materially impede the lives of citizens, entrepreneurs and the government. Each organisation involved has lent staff to analyse laws passed over different time periods, 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 low-hanging fruit that can easily be executed with minimal discomfort or encumbrances.

The Process

- Three institutions involved in research and advocacy on legislative and economic policy reform came together for initial discussions around 22 May 2014. Each organisation committed 2-3 associates to analyse laws.
- The group invited experts including Supreme Court lawyers, economists, legal activists and legislative experts to join in weekly discussions on laws recommended for repeal.
- Each week the associates presented 10-20 laws and their reasons for recommending repeal. The group debates on the merit of repealing each law, and on fine-tuning the reasons.

- The associates drafted one-page cases, in a standard format. These were quality assured by senior members in the team, and whetted by the experts.
- At the end of 10 weeks (approximately 15 August 2014) the group produced an initial compendium of 100 Laws with cases outlining the repeal of each.
- The project took roughly 1,250 man-hours of public interest lawyers, economists, legislative experts and public policy specialists. The team combed through nearly a 1,000 laws to arrive at the shortlisted 100.
- We propose to present this compendium to the Prime Minister and Minister for Law, and initiate a discussion on broad based legislative reform.

The Product

The team used a three-fold strategy to identify suitable laws, and draft cases, based on:

- Years and periods: for example, pre-1900, near-Independence (1938-1947), Nehruvian socialism (1950-1960), period of nationalisation and emergency (1966-79);
- Categories of laws: for example, archaic and redundant British era laws, laws curbing business freedoms, laws affecting efficiency of government administration, laws affecting labour relations;
- Recommendations of commissions: Law Commissions, PC Jain Commission, and UNDP LARGE project. In addition, research included previous Parliamentary decisions, recommendations of previous administrations, analysis of previous similar repeals, and suggestions on public forums by opinion makers and reform champions.

The team created a simple excel-based format to record findings and discussions: The format is available to all members of the team and helps avoid overlaps. On each Tuesday, associates presented the findings to the group and made a 'case for repeal'. The group debated each case based on the quality of the argument, evidence that favoured repeal, materiality that the repeal presented, a simple stakeholder analysis to identify potential opposition, and ease of repeal. A consolidated master-sheet captures laws the entire group recommends for repeal.

The team developed a one page 'case' for each recommendation: The case includes the name of the legislation, Reasons for Repeal, and issues that may need to be taken into account during repeal. The language has been kept simple, avoiding legal jargon and focusing on the economic and administrative evidence for repeal. Data, testimony, expert recommendations, and previous legal opinion have been referenced and cited. Where possible, Government of India budget and census data and last recorded case filings under each law have been used to reinforce the recommendations. For each law, the team has identified the repeal process, where most laws can be taken off the books with a simple majority in Parliament.

Across all laws, there are some common reasons for recommending repeal. These include:

- repetitions, redundancies and overlaps with other laws that add legal complications and oftentimes create loopholes;
- obsolescence that no longer matches India's current economic, political and social needs;
- rent-seeking and harassment opportunities created by complicated personal, economic and business regulations;
- red tape, inefficiencies and mis-governance generated on account of ill-advised legislations; and hindrances to further reform efforts.

We categorised the identified laws into 8 groups and scored them: The categories Archaic British Era Laws, obsolete partition and post-Independence reorganisation, unnecessary levies and taxes, restrictive business and economic regulations, redundant nationalisation, outmoded labour relations, ineffective governance and administration, and obstructive civil and personal interference. Each law has been scored on a 1-5 scale based on ease of repeal and impact of repeal.

Laws presented in this compendium range from high impact recommendations such as repeal of laws that constrain the business environment, to low impact such as repeal of the laws governing territorial organisation of provinces in the British era. The former set would help put India back on the growth track, and the latter would help clear the statute books of clutter. The spread of laws has been deliberately chosen to help demonstrate the range of possibilities for the administration to deliver on its promises, as also to show the extent of work that needs to be done. The list is not meant to be comprehensive: it aims to be a well-researched and demonstrative proof of concept on how such a goal can be accomplished over the next few years using a batch-process.

The Organisations

The three key organisations involved in this effort are:

- Centre for Civil Society: CCS is one of India's leading think tanks advancing social change through public policy. CCS' work in education, livelihood, and policy training promotes choice and accountability across the private and public sectors. iJustice is a public interest legal advocacy initiative of the Centre which supports and assists individuals and groups across India to challenge violations of fundamental rights and the rule of law.
- NIPFP Macro/Finance Group: The Macro group at NIPFP aspires to make a contribution to fiscal, financial and monetary policy reform, with a mix of quantitative research papers in academic journals, policy papers, ongoing analysis of macroeconomic policy. The group served as the secretariat for the Financial Sector Legislative Reforms Commission (FSLRC), providing economic, policy and legal inputs to the commission on a wide range of issues.
- Vidhi Centre for Legal Policy: Vidhi is an independent legal policy advisory group whose mission is to achieve good governance in India through impacting legislative and regulatory design. Vidhi engages with the Government of India, state governments, Standing Committees of Parliament, other agencies and instrumentalities of the state, advising on proposed legislation and regulation,

assisting in legislative drafting and providing independent critical analyses of existing law and policy with recommendations for reform.

Public interest lawyers and young researchers from India and the world's top law schools such as NLS (Bangalore), Amity Law School, NALSAR (Hyderabad), Harvard Law School, contributed over 1000 man-hours over 10 weeks to identifying, researching and analysing laws recommended in this compendium. In addition, experts such as Madhumita Mitra, Ravi Mantha, Nikhil Mehra, Seetha Parthasarathy, Dr Ajay Shah, Dr Parth Shah, and eminent Supreme Court lawyers contributed close to 150 man-hours on expert advice.

The Team

Anirudh Burman is a lawyer with an LL.M. from Harvard Law School. He has previously worked with PRS Legislative Research and Amarchand Mangaldas. He currently consults with NIPFP, the Centre for Policy Research, and works part-time with Indian Express. His interests lie in public institutions, institutional design of public institutions, constitutional and administrative law.

Ankita Srivastava is a legal consultant at NIPFP. She has graduated from the National Law Institute University, Bhopal and has also completed her LL.M in International Taxation from the Vienna University of Economics and Business Vienna, Austria. She has worked with law firms in India focusing on international tax, social sector and CSR.

Kushagra Priyadarshi is a lawyer with around six years in practice. He started his career at Amarchand & Mangaldas, country's leading law firm. During his stint at Amarchand, he advised several fortune 500 companies in multi-million dollar transactions. He graduated from NUJS, Kolkata at the top of his class and last year completed his masters from the Harvard Law School. He is currently working as a Consultant with NIPFP.

Pratik Datta did his BA LLB (Hons) from WBNUJS, Kolkata. After his stint as a law clerk to the Supreme Court of India, he worked as a litigation lawyer in Delhi. Currently, Pratik is a consultant at NIPFP and assists the Department of Economic Affairs on financial policy matters.

Ritwika Sharma graduated with a B.A. LL.B. (Hons.) from Amity Law School, Delhi (GGS Indraprastha University) in 2013. She went on to complete an LL.M. from the National Academy of Legal Studies and Research (NALSAR), Hyderabad in 2014 where her choice of subjects largely revolved around constitutional law, legal theory and environmental law. She is currently a Junior Research Fellow at the Vidhi Centre for Legal Policy.

Sanhita Sapatnekar joined NIPFP as a Consultant, in 2014. Prior to that, Sanhita worked at GIZ in Cambodia and the UN in Indonesia. Sanhita holds a Bachelors of Science in Mathematics, from the University of Bristol (UK), and a Masters in International Cooperation and Development from Universit Cattolica del Sacro Cuore in Milan (Italy).

Shefali Malhotra is an Associate with iJustice. She graduated from the Symbiosis Law School, Pune in 2010. Previously, she has worked with the Lawyers Collective and Public Interest Legal Support and Research Centre (PILSARC). She was also attached with an Advocate on Record in the Supreme Court of India and worked extensively on contractual and property matters.

Shilpi S Kumar is a consultant at NIPFP. She received her M.S. in Economics from Indira Gandhi Institute of Development Research, Mumbai in year 2014 and her Bachelors in Economics from Hans Raj College, University of Delhi in 2012.

Srijoni Sen graduated with a B.A. LL.B (Hons.) from the National Law School of India University, Bangalore, in 2009. She subsequently worked with McKinsey & Company as a Business Analyst for two years. In 2013 she completed an LL.M from Columbia Law School, New York, and has also taught in NLSIU, Bangalore. She is currently Senior Resident Fellow at the Vidhi Centre for Legal Policy.

The Experts

Dr. Ajay Shah studied at IIT, Bombay and USC, Los Angeles. He has held positions at the Centre for Monitoring Indian Economy, Indira Gandhi Institute for Development Research and the Ministry of Finance, and now works at NIPFP where he co-leads the NIPFP-DEA Research Program. His research interests include policy issues on Indian economic growth, open economy macroeconomics, public finance, financial economics and pensions.

Madhumita Mitra is an independent legal consultant working on a variety of regulatory issues. Starting her career with the Government of India, she has worked as a legal practitioner with a corporate law firm and as a consultant for non-governmental and international organisations. She has wide experience in law and public policy analysis. Her areas of interest are anti-corruption and transparency, business regulations, labour laws, property rights, and legal reforms.

Dr. Parth Shah is the founder president of CCS. Parth taught economics at the University of Michigan before returning to India to start CCS. He has published academic articles in development economics, welfare economics, business-cycle theory, free or laissez-faire banking, and currency-board systems. He has edited Morality of Markets, Friedman on India, Profiles in Courage: Dissent on Indian Socialism, Do Corporations have Social Responsibility?, and co-edited Law, Liberty, and Livelihood, The Terracotta Reader, and Agenda for Change.

Ravi Mantha is an entrepreneur. He recently founded BOP Capital, which is working to set up a fund to invest in poverty reduction Asia. He is also a co-founder of BOP Hub, working to create Singapore as a hub for social impact in Asia. He is an angel investor and mentor to many start-ups and he has invested directly in 10 start-ups in Singapore and overseas, and indirectly in another 12 start-ups through JFDI Asia, an internet incubator.

Seetha Parthasarathy is a senior journalist who has worked in several leading publications and writes on political economy issues. She is the author of The Backroom Brigade: how a few intrepid entrepreneurs brought the world to India and co-author (along with R. C. Bhargava) of The Maruti Story: how a public sector company put India on wheels.

The Lessons

This project provided a forum for collaborative working. Word of mouth and simple invitations to join have helped build a committed team. The idea behind the project has served as its own reference letter, and brought us volunteer experts and quality assurers. Each group involved committed manpower, space and consultation to put the compendium together. It helped craft an effective working model that allowed each organisation's expertise to stand out, and for an assembly line to be built for efficient delivery.

For more information on the project please write to ajayshah@mayin.org or parth@ccs.in.