



KARNATAKA

**REPEAL LAW
COMPENDIUM**

2017

KARNATAKA
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COMPENDIUM
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In collaboration with



and



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Centre for Civil Society

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About National Law School of India University

National Law School of India University came into existence through a Notification under the National Law School of India University Act (Karnataka Act 22 of 1986). It signified the culmination of efforts by the Judiciary, the Bar Council of India, the Karnataka Bar Council, the Bangalore University and the Government of Karnataka to reform legal education and to establish a Centre of excellence for legal education and research in India.

Over the years, the Law School has undertaken several research projects funded by stakeholders such as the UGC, the Government of India, the Government of Karnataka, the Department of Women and Child Development, the UN agencies, the World Bank, HIVOS etc. These have served to strengthen the research and teaching base at the Law School.



About Kaden Boriss Partners

Kaden Boriss Partners is the lead law firm of Kaden Boriss Global, a worldwide network of full-service law offices specializing in legal, business strategy and tax advisory services. An Indian law firm, it is the outcome of an innovative thought process to establish a law firm with a global network of legal and business strategist firms across different continents. The concept and brand were founded on 26 September 2003 by the Delhi-based International Business Lawyer, Mr. Hemant K Batra and his spouse and International Financial Lawyer, Mrs. Preeti W. Batra.

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

The founder, Hemant K Batra, believes in having a strong commitment towards the community. Hence, Kaden Boriss actively supports socio-economic, community & societal initiatives and non-profit organizations, providing them with pro bono legal services and financial support, when required.

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Introduction

The *Rule of Law* forms the very foundation of a modern democratic society- defining the functionality of its public administration as well as the behavior of the private agents that constitute it. The effective codification of such a rule of law, requires as its prerequisites, to be precise in enshrining the intrinsic attributes of the democracy it serves and ensuring that this is done in the simplest manner possible.

As one of the largest democracies in the world with an ever-rising population, India's enthusiasm for legislation has had, as a by- product, several statutes that with the advent of time have become obsolete, redundant or repetitive. In addition to this, there is the matter of inconsistent language and dissemination- making it difficult for an ordinary citizen to access and comprehend the plethora of legal information with ease.

This increased transaction cost coupled with glaring redundancies further breeds fertile grounds for corruption, discouraging individuals and firms to engage with the society/ economy at large. Distorting the competitive dynamics of the economy, it leaves only those producers in the market who have surplus capital to bear the costs of compliance. This, in effect, weakens the social fabric by incentivizing behavior such as corruption and cheating.

Faced with such unsettling eventualities, it is imperative that a strong movement is reckoned with the sole objective of reforming legal structures of the country through framing of sound laws and construction of State capacity to enable accountable enforcement.

To accomplish such a feat would require a ground- up hygiene check of existing laws, and the subsequent repealing of outdated laws, wherever necessary. This cleansing would yield a substantial impact in the functioning of the country- both in terms of a well- oiled economy as well as a stronger societal presence.

History of Repeal Laws in India

The last serious effort in cleaning up the statute books was in the year 2001, during the administration of the Bharatiya Janata Party (BJP) led National Democratic Alliance (NDA) Government. The then Government had acted swiftly and decisively in implementing some of the recommendations

put forward by the previous Law Commissions as well as the Report of the Commission on Review of Administrative Laws, 1998 by the PC Jain Commission), which vociferously advocated for statutory legal reform. Since then, however, there has been no systematic effort at weeding out dated and principally flawed laws.

During the 2014 General Election campaigns, BJP prime ministerial candidate Shri Narendra Modi promised the electorate that his administration, should they be elected, would make a sincere attempt at an extensive statutory legal clean up. He committed to the repeal of 10 redundant laws for every new law that was passed, and that in the first 100 days in office, he would undertake the task of repealing 100 archaic and burdensome laws. Keeping up with that promise, the BJP- led NDA Government tabled the 'Repealing and Amending Bill (2014)' in the Lok Sabha, recommending the revision of 36 obsolete laws. In his explanation of 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. In addition to this, the Prime Minister has set up a special committee under his Office to oversee this exercise.

Centre of Civil Society, through its public interest litigation initiative 'iJustice', National Institute of Public Finance and Policy (NIPFP) Macro/Finance Group and Vidhi Legal Policy Centre, began what was called the 'Repeal of 100 laws' Project¹. This was an independent research and advocacy initiative to identify central laws that were either redundant or a material impediment to the lives of citizens, entrepreneurs and the Government. The results of the initiative were articulated in a report titled 100 Laws Repeal Project , which was further acknowledged by a Report on 'Obsolete Laws: Warranting Immediate Repeal', published by Law Commission of India in September 2014. Further, 23 of the suggested Central Laws were included in the 'Repealing and Amending (Third) Bill, 2015'.

For the current phase of the Repeal of Laws Project, a study has been conducted in 5 States namely, Maharashtra, Uttar Pradesh, Chattisgarh, Telangana and Karnataka. Kaden Borriss Partners, the legal partner for this phase, assisted in the studying and vetting of the recommendations from all the 5 States.

¹ The report can be accessed at www.ccs.in/100laws

Research Methodology

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

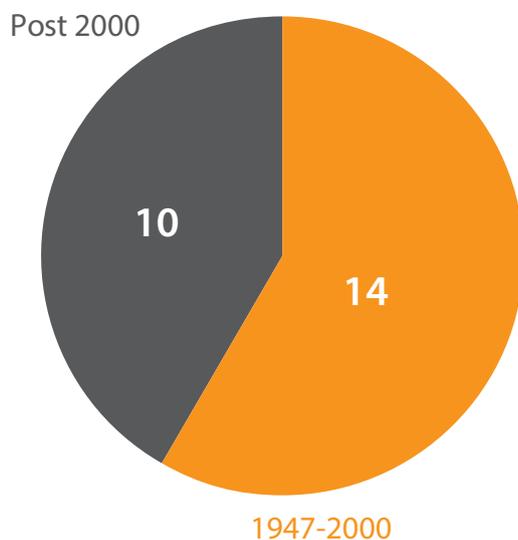
'Grading' of Cases for Repeal

All laws contained herein have been assigned a 'grade point', ranging from 1 to 5. A grade point of 5 indicates the strongest possible case for repeal, whereas 1 indicates a relatively weak case. In assigning grade points, the following factors, inter alia, have been considered: i) whether the law has been recommended for repeal by Law Commission Reports or other Government Reports, ii) whether there have been Judgements that have criticized the law and given a recommendation for repeal, iii) whether the law has become redundant due to reorganization of States or the law having outlived its purpose, iv) whether the law has been subsumed or superseded by a new, subsequent Central/State law.

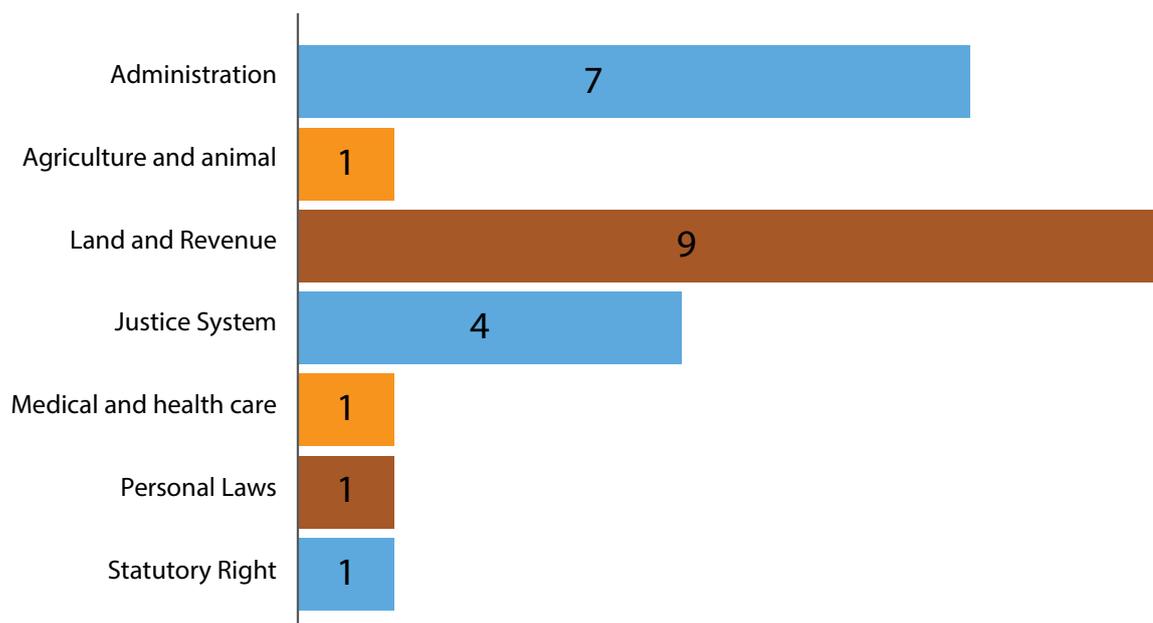
Key Features

This compendium of "Recommended Laws for Repeal in the State of Karnataka" has a total of 24 laws ranging from the British period to the more recent laws. Few of the key features are:

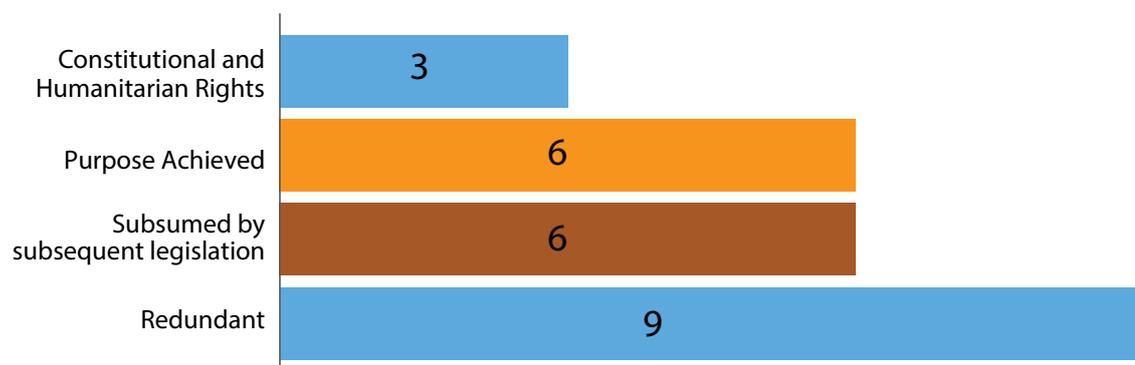
A. Law Enactment Year



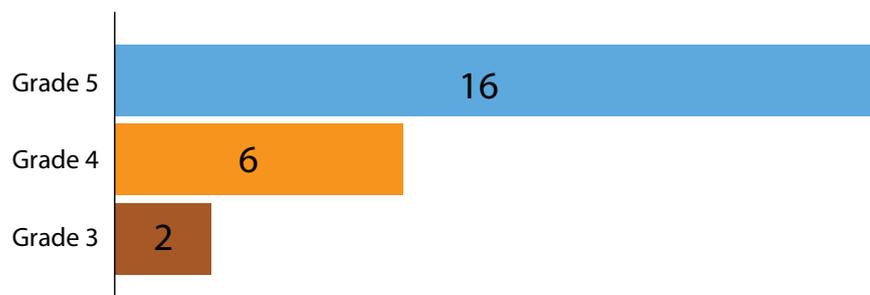
B. Themes



C. Reasons for Repeal



D. Grading





COMPENDIUM OF LAWS
TO BE REPEALED IN
KARNATAKA

1

KARNATAKA WAREHOUSES ACT, 1961

Subject:	REGULATION OF WAREHOUSES IN KARNATAKA
Reason:	The Act has been subsumed by a more recent Central Government legislation, namely the Warehousing (Development & Regulation) Act, 2007.
Grade:	5

What is the Law?

The Act governs the establishment, supervision, regulation, licensing and control of state warehouses.

Key Features

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

Reasons for Repeal

- The subject matter and provisions of the Act have been subsumed by the Warehousing (Development & Regulation) Act, 2007, and the Customs Act, 1962 which are more comprehensive in nature. The later Act also prescribes the conditions under which a license may be granted.

- The Act of 2007 mandates the negotiability of warehouse receipt and it prescribes the form and manner of registration of warehouses. It further prescribes the issue of Negotiable Warehouse Receipts, including electronic format and the establishment of Warehousing Development and Regulatory Authority (WDRA). Hence, the Central legislation includes the provisions that form part of the State legislation, further making provisions for the establishment of an independent authority for the proper implementation of the regulations.

- The Karnataka Warehouses Act 1961, hence, does not serve any purpose and, should be repealed.

- Two legislations governing the same subject matter may lead to confusion and therefore, the current legislation which is not in use should be repealed.

Issues

There are no legal issues that would impede repeal.

2

KARNATAKA LIVESTOCK IMPROVEMENT ACT, 1961

Subject: ANIMALS/LIVESTOCK
Reason: The Act is Redundant
Grade: 4

What is the Law?

This Act was created to improve the quality of livestock in the State of Karnataka by regulating the breeding of bulls. Under this Act, any person who owns a bull requires a license for the same. Licenses can be denied if the bull is of a breed 'undesirable to propagate'.²

Key Features

The purpose of this Act is to regulate the breeding of bulls. Under this Act, an application must be filled to obtain a license to keep bulls. The Licensing Authority has the power to grant or deny the license. The Licensing Officer may require any person keeping a bull to submit it for inspection. The officer may further order the castration of non-licensed bulls.

Reasons for Repeal

- This is in contravention of the provisions of the Biodiversity Act 2002, which stresses the protection of natural breeds of animals and conservation of biological diversity.³

- The grounds on which licenses may be refused or revoked under this Act are vague and ambiguous.
- The Act gives immense powers to the Licensing Officer to order castration of bulls which is in contravention of animal rights. The objective of the Act- which is to improve the livestock in the State of Karnataka- does not necessarily require the scrub bulls to be castrated. The regulation of breeding activities can be carried out by way of licensing.
- Further, the Act penalizes those who keep a bull, in contravention of the provisions of this Act, or of any conditions of a license; or those who have license to keep the bull but fails to submit a bull for inspection or to produce a license when required to do so.
- The Karnataka Warehouses Act 1961, hence, does not serve any purpose and, should be repealed.

Issues

There are no legal issues that would impede repeal.

² Section 13, Karnataka Livestock Improvement Act, 1961.

³ Giji K. Raman, Castration Drives Local Cattle to Extinction, THE HINDU (January 29, 2014) available at <http://www.thehindu.com/todays-paper/tp-national/tp-kerala/castration-drives-local-cattle-to-extinction/article5629154.ece>.

3

THE KARNATAKA DRAMATIC PERFORMANCES ACT, 1964

Subject: CONTROL OF PUBLIC DRAMATIC PERFORMANCES
Reason: Contravenes Constitutional and Humanitarian Rights
Grade: 5

What is the Law?

The Act regulates public dramatic performances with the objective of preventing objectionable performances.

Key Features

The term 'objectionable performance' as defined in the Act has an extremely broad meaning. It includes effects such as 'the seduction of members of the armed forces from their duty', the blaspheming or profaning of religious beliefs or gross obscenity and indecency. It also bestows the power on the State Government to ask for a copy of the written dramatic piece to ascertain if it is objectionable. The State Government can, by order and stating reasons, prohibit any performance which it considers objectionable. Penalties for disobedience of such an order include imprisonment for up to 3 months and/or fines up to one thousand rupees. Even the owner or occupier who open their premise for such a performance shall be subject to the prescribed penalties.

Reasons for Repeal

- The Act has a high potential for misuse given the broad scope of the term 'objectionable performances' and the vast powers that have been granted to the State Government to prevent such performances.

- The vague nature of the provisions is in contravention of the Right to Freedom of Speech and Expression which is inherent in the conduct of dramatic performances.⁴

- There are provisions in other statutes such as the Indian Penal Code (IPC) which impose 'reasonable restrictions' on free speech and objectionable and inciting content. A specific law to impose restrictions on dramatic performances over and above Constitutionally permitted limitations to free speech is restrictive for citizens and is harmful.

- The court in the case of *N.V. Sankaran Alias Gnani vs The State of Tamil Nadu*⁵ decided on 23 January 2013, involving a similar Act, opined in respect of the Tamil Nadu Dramatic Performances Act, 1954 that the definition under Section 2(1) defining "objectionable performance" is too vague to be brought within the restriction of Article 19(2) of the Constitution thereby declaring the Act to be unconstitutional. The Act in question prescribes the same definition for "objectionable performance" and therefore is deserving of annulment.

- Hence, the must be repealed.

Issues

There are no legal issues that would impede repeal.

⁴ *Bhautik Vijaykumar Bhatt v. Central Board for Film Certification*, (C/WPPIL/104/2013).

⁵ *N.V. Sankaran Alias Gnani vs The State of Tamil Nadu* (2013(1) CTC686)

4

KARNATAKA PROVISIONAL COLLECTION OF TAXES ACT, 1974

Subject:	LEVIES & TAXES
Reason:	The Act has been subsumed by Central legislation, namely the Goods and Services Act, 2017
Grade:	5

What is the Law?

The Act provides for immediate effect being given for a limited period to provisions in Acts relating to the imposition or increase of taxes. It also deals with the provisional collection of taxes.

Key Features

This is a temporary legislation for collection of taxes by the State Government till there is a relevant legislation enacted by the Central Government

Reasons for Repeal

- The Act has been subsumed by the recent Goods and Services Act, 2017.

- The statement of objects and reasons of this Act enabled the State Government to provisionally collect taxes, pending enactment of the relevant legislation. Since a more comprehensive legislation has been enacted the Act, does not serve any purpose. Hence, provisions have become obsolete.

Issues

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

5

KARNATAKA VILLAGE PANCHAYATS (POSTPONEMENT OF ELECTIONS) (AMENDMENT) ACT, 1976

Subject:	PANCHAYAT ELECTIONS
Reason:	The Purpose has been Achieved
Grade:	5

What is the Law?

The Act was passed to amend the Karnataka Village Panchayats (Postponement of Elections) Act, 1975. This Act sought to substitute the figure and words "31st December 1976" in place of "31st December 1975" in sub-section 3 of Section 1. Accordingly, the Act sought to postpone the village Panchayat elections from 1975 to 1976.

Key Features

This Act postponed the village Panchayat elections from 1975 to 1976 by amending the Karnataka Village Panchayats (Postponement of Elections) Act, 1975. This Act also repeals the Karnataka Village Panchayats (Postponement of Elections) (Amendment) Ordinance, 1975.

Reasons for Repeal

- As the purpose of the Act- to postpone the elections in a year- has been fulfilled, the Act does not serve any purpose. Hence the provisions have become obsolete.

Issues

There are no legal issues that would impede repeal.

6

RELIEF UNDERTAKINGS (SPECIAL PROVISIONS) ACT, 1977

Subject:	BUSINESS & ECONOMY
Reason:	The Act is Redundant
Grade:	4

What is the Law?

This Act was enacted to provide temporary relief through financial assistance to businesses, in the form of loans or grants from the government. This was for the benefit of the employees of such businesses who would be left without a job if these businesses ran into financial ruin. Similar laws existed in the State of Gujarat and Delhi, which have been repealed.

Key Features

This Act suspends the liabilities of undertakings that have been declared as 'relief undertakings' under this Act. The main purpose of this legislation is to assist the employees of the businesses, which ran into financial problems.

Reasons for Repeal

- The Act suspends liabilities of undertakings that have been declared 'relief undertakings' under this Act. This makes the legislation prone to misuse since it can be used as a tool by undertakings to evade financial obligations towards their creditors.
- The Act does not lay down a specific criterion for a business to be declared a 'relief undertaking', but leaves it at the discretion of the State Government to grant businesses financial assistance and declare them as 'relief undertakings'. This may allow the Government to favor certain businesses while denying relief to others, and hence be a tool for corruption.

- Further, the Act overrides the Industrial Disputes Act, and thus leaves few options available to banks and creditors of industries that are unable to repay their financial dues.
- The Insolvency and Bankruptcy Code, 2016 provides for the Insolvency Resolution Process, during which financial creditors assess whether the debtor's business is viable to continue and the options for its rescue and revival. The Code provides for a mechanism through which an industrial undertaking can be revived. This process is devoid of all the issues that are associated with providing financial assistance as provisioned under this Act, such as the risk of improper use of the financial assistance, the state government being discriminative in its approach while declaring certain industries as "relief undertakings" etc.
- Similar laws existed in the State of Gujarat and Delhi, which have been repealed.⁶

Issues

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

⁶ Centre for Civil Society, DELHI- Laws for Repeal, available at <http://ccs.in/sites/default/files/research/30-laws-for-repeal-delhi.pdf>.

7

KARNATAKA PREVENTION OF DESTRUCTION AND LOSS OF PROPERTY ACT, 1981

Subject:	CRIMINAL LEGISLATION
Reason:	The Act has been subsumed by Central Legislation
Grade:	5

What is the Law?

The Act provides punishments for loss or damage caused to property either by an unlawful assembly under Section 141 of the IPC or at a time when an assembly of five or more persons is unlawful due to a curfew. The Act permits the State Government to impose a collective fine upon the inhabitants of an area in case they abet the offence or fail to assist the police.

Key Features

Owing to events preceding this act, it was considered expedient to provide legislation for deterrent punishment and to impose a collective fine on the inhabitants or other persons concerned or otherwise involved in their commission and to apportion among them the loss or damage sustained.

Reasons for Repeal

- Damaging/destroying property and obstruction of a police investigation are already punishable under the IPC, 1860.

- For same offence, IPC prescribes for lesser punishment. This makes law on unlawful assembly confusing.
- The enactment of the legislation in question was the need of the hour as indicated by the statement of objects and reasons. The present circumstances do not require a special law for punishing loss or damage caused to property.
- The Act, though a criminal legislation, provides for a fine for an entire area of people by executive order without a hearing. A hearing is provided only subsequently if the order is appealed. Further, the result of the appeal merely results in the deduction of the appellant's fine from the total. No provision for a collective appeal has been made in the Act.
- Since the offence is already punishable under IPC, duplicate provision for same offence with different punishment under this Act and the IPC is not desirable.

Issues

There are no legal issues that would impede repeal.



KARNATAKA APPROPRIATION (VOTE ON ACCOUNT) ACT, 1981

Subject:	FINANCE
Reason:	The Purpose has been Achieved
Grade:	5

What is the Law?

This Act was passed to authorize payment and appropriation of certain sums from and out of the Consolidated Fund of the State of Karnataka for the services of a part of the financial year 1981-82. It authorizes payment of an amount of 630,76,86,000 out of the Consolidated Fund of Karnataka.

Key Features

The Act authorizes payment of an amount of 630,76,86,000 out of the Consolidated Fund of Karnataka.

Reasons for Repeal

- The purpose of this legislation has been achieved and hence it must be repealed. Repeal of Appropriation Acts does in no way have any negative impact on actions that were validly taken under these Acts.

- The Law Commission of India has recommended the repeal of certain obsolete Central Acts (including Appropriation Act) in its 248th Report.
- The Commission states that the Appropriation Act should be repealed as they are enacted for one financial year only and become redundant after a period.⁷
- Thus, the Act is fit for repeal as it has become redundant as the purpose has been achieved.

Issues

There are no legal issues that would impede repeal.

⁷ 248th Law Commission of India, *Obsolete Laws: Warranting Immediate Repeal*, 7 (2014).

9

KARNATAKA CONTINGENCY FUND (AMENDMENT) ACT, 1981

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

What is the Law?

This is an Act to amend the Karnataka Contingency Fund Act, 1957. It alters the amount of Contingency Fund from 'twenty crores of rupees' to 'thirty crores of rupees'.

Key Features

The Act alters the amount of Contingency Fund from twenty crore rupees to thirty crore rupees.

Reasons for Repeal

- The Karnataka Contingency Fund Act, 1957 was

further amended by the Karnataka Contingency Fund (Amendment) Act, 1984 and the Karnataka Contingency Fund (Amendment) Act, 1985 that was passed subsequently, and the latter is still in effect. The amendment made by the 1981 Amendment Act has thus become redundant.

- Thus, the Act is fit for repeal as it has become redundant.

Issues

There are no legal issues that would impede repeal.

10

KARNATAKA CONTINGENCY FUND (AMENDMENT) ACT, 1984

Subject:	FINANCE
Reason:	The Purpose has been Achieved
Grade:	5

What is the Law?

This is an Act to amend the Karnataka Contingency Fund Act, 1957. It alters the amount of Contingency Fund from 'thirty crores of rupees' to 'sixty crores of rupees'.

Key Features

This Act alters the amount of Contingency Fund from thirty crores of rupees to sixty crores of rupees.

Reasons for Repeal

- The Karnataka Contingency Fund Act 1957 was

further amended by the Karnataka Contingency Fund (Amendment) Act, 1985 that was passed subsequently and is still in effect. The Karnataka Contingency Fund (Amendment) Act, 1985 altered the amount from 'sixty crore rupees' to 'eighty crore rupees'. The amendment made by the 1984 Amendment Act has thus become redundant.

- Thus, the Act is fit for repeal as it has become redundant

Issues

There are no legal issues that would impede repeal.

11

KARNATAKA PREVENTION OF DANGEROUS ACTIVITIES OF BOOTLEGGERS, DRUG-OFFENDERS, GAMBLERS, GOONDAS, IMMORAL TRAFFIC OFFENDERS. SLUM-GRABBERS AND VIDEO OR AUDIO PIRATES ACT, 1985

Subject:	CRIMINAL LEGISLATION
Reason:	The Act has been held Unconstitutional
Grade:	5

What is the Law?

The Act provides for preventive detention of persons for several offences, on the grounds of being 'prejudicial to the maintenance of public order'.

Key Features

Under the provisions of this Act, the State Government may, if it is satisfied in such regard, order detention of such persons as specified under the Act, and no order passed in this regard shall be deemed invalid or inoperative merely because it is vague, non-relevant, or not connected or proximately connected to such person. The maximum period for which any person may be detained shall be twelve months from the date of detention.

Reasons for Repeal

- All the offences provided for by the Act are punishable by imprisonment (as opposed to preventive detention under this Act) either under the IPC, 1860 or the Information Technology Act, 2000.
- Similar Goonda Acts have been enacted across states in India. In some states, the Goonda Act has been

repealed or found unconstitutional. For instance, the Supreme Court of India in *State of Madhya Pradesh v. Baldeo Prasad*⁸ found the Act unconstitutional because adequate safeguards were not provided under the Act. It stated that a threshold test to pass an order under the Act is that the person must be goonda (or one of the other offenders mentioned in the Act). However, the ambiguous definition of 'goonda' provided under the Act does not provide sufficient guidance to the Magistrate responsible for passing orders under the Act.

- The Act, following several amendments, prohibits a wide variety of offences ranging from online piracy, bootlegging to regular IPC offences. Consequently, the Act is overbroad, i.e., it includes behavior that the legislature is not entitled to prohibit. The Supreme Court has found the legislation unconstitutional on grounds of overbreadth.⁹

Issues

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

⁸ *State of Madhya Pradesh v. Baldeo Prasad*, (AIR 1961 SC 293).

⁹ Gautam Bhatia, *Karnataka's Amendments to the Goonda Act Violate Article 19(1)(a)*, INDIAN CONSTITUTIONAL LAW AND PHILOSOPHY (Aug. 5, 2014), available at <https://indconlawphil.wordpress.com/2014/08/05/karnatakas-amendments-to-the-goonda-act-violate-article-191a/> (Last visited on Oct. 21, 2017).

12

THE KARNATAKA REGULARISATION OF UNAUTHORISED CONSTRUCTIONS IN URBAN AREAS ACT, 1991

Subject: OUTMODED MUNICIPAL MEASURES
Reason: The Purpose has been Achieved
Grade: 5

What is the Law?

The Act creates a Statutory Authority to regularize unauthorized constructions in urban areas made prior to the 1 January 1995.

Key Features

Under the provisions of this Act, any unauthorized construction made in any urban area, made prior to the first day of January 1995 by any person on land may, on the application of such person made be regularized. For regularization, the State Government may appoint an officer to be a Competent Authority for such area as may be specified by it, who shall scrutinize the application received and make a provisional order of regularization of such unauthorized constructions.

Reasons for Repeal

- The Act only permits regularization of constructions made prior to the 1st of January 1995. Applications to the Authority under the Act were to be made prior to the 31st of December 1995.
- Since the date for applications to the Authority has lapsed now, the Act does not serve any purpose. Hence provisions have become obsolete now.

Issues

There are no legal issues that would impede repeal.

13

THE KARNATAKA HINDU RELIGIOUS INSTITUTIONS AND CHARITABLE ENDOWMENTS ACT, 1997

Subject:	REGULATION OF HINDU RELIGIOUS INSTITUTIONS AND CHARITABLE ENDOWMENTS
Reason:	The Act contravenes constitutional provisions
Grade:	4

What is the Law?

The law has been enacted to regulate the establishment, management and funding of Hindu religious institutions and charitable endowments.

Key Features

Section 7 of the Act mandates that the Commissioner, Deputy Commissioner, Assistant Commissioner or any other Officer who has been appointed to carry out the functions laid down under the Act shall be a Hindu. The Officer shall cease to hold that office when said Officer ceases to profess the Hindu faith. It also contains provisions relating to the audit of financial accounts of such institutions and the alienation of immovable property belonging to them.

Reasons for Repeal

- Recent years have seen a trend in Karnataka where non-Hindus have been appointed as officers of Hindu religious institutions and endowments. However, this has been accompanied by calls for the removal of such priests using this Act. In one case, a Muslim official who issued temple invites was sought to be removed using Section 7.¹⁰ Hence, there is a need to curb the potential for misuse that arises out of this statute.

- The Court in *Shri Sahasra Lingeshwara temple v. State of Karnataka*¹¹ has held that the impugned Act is violative of Article 14 of the Constitution of India. The court noted that in the guise of uniform religious law to the State, the State has chosen to exclude a Math or Temple attached thereto for applicability of the Act and no valid and acceptable reasons are forthcoming of such an exclusion. The exclusion of Maths would be in violation of Article 14 of the Constitution of India - Further held, that the matter of Exclusion of Sikhs, Jains etc. is a discriminatory matter in violation of Article 14 of the Constitution of India.
- Further, amendments made to the Act are merely cosmetic in nature insofar as it relates the matter of unconstitutionality as held by the Supreme Court. The Court in *Grand Kakatiya Sheraton Hotel and Towers Employees and Workers Union vs. Srinivasa Resorts Limited and others*¹² held that, in a situation where a statute is held to be unconstitutional, the offending provisions cannot be reintroduced with cosmetic changes.

Issues

There are no legal issues that would impede repeal.

¹⁰ Raghava M. 'Temple function invitation issued as per protocol', *THE HINDU* (March 16, 2016), available at <http://www.thehindu.com/news/cities/Mangalore/temple-function-invitation-issued-as-per-protocol/article8358505.ece> (last visited on October 21, 2017).

¹¹ *Shri Sahasra Lingeshwara temple v. State of Karnataka* 2006 (4) KCCR 2608

¹² (2009) 5 SCC 342

14 KARNATAKA RENT ACT, 1999

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

What is the Law?

This is the law in the State of Karnataka to regulate rent and eviction, which replaced the Karnataka Rent Act, 1961.

Key Features

The application of this legislation is restricted to any residential building the Standard Rent of which does not exceed rupees 3,500 per month in the areas covered by Karnataka Municipal Corporation Act, 1976 and rupees 2,000 per month in other areas and a commercial building having plinth area of not exceeding 14 square meters; and buildings which are more than 15 years old.

The Rent Deed is required to be in writing and registered. Under this legislation, tenancy is made inheritable to a limited extent.

Reasons for Repeal

- The provisions of the law are redundant considering the new Model Tenancy Law, 2011.
- The Act gives unbridled powers to the landlords such as providing vacant possession to the landlord under section 34 of the Act.
- The instances of agreements submitted to the jurisdictional officer have been few and far between.
- Hence, it is submitted that this Act has become redundant.

Issues

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

15

THE KARNATAKA RIGHT TO INFORMATION ACT, 2000

Subject:	STATUTORY RIGHT
Reason:	The Act has been subsumed by subsequent legislation, namely the Right to Information Act, 2005
Grade:	5

What is the Law?

The Act provides that public authorities in Karnataka must maintain records in the manner laid down. Further, it provides citizens with the statutory Right to Information. Citizens can access the aforesaid records, with a few exceptions laid down by the Act, by applying to the competent authority under the Act in the manner prescribed. This Act is a precursor to the Right to Information Act, 2005 enacted by the Central Government.

Key Features

The Act acknowledges the necessity to have a legislation to provide right of access to information to the citizens of the State which would promote openness, transparency and accountability in administration and ensure effective participation of people in the administration. Further, every Public Authority shall maintain all records consistent with their operational requirements

duly catalogued and indexed; and publish all relevant facts concerning policies that affect the public while announcing such policies.

Reasons for Repeal

- The subsequent Right to Information Act, 2005 enacted by the Central Government performs the same function as this Act. This is currently not used, as public authorities in Karnataka as well are governed by the Central Legislation. Applications to public authorities in Karnataka must be made as per the Central Legislation and not this Act.
- Consequently, the Act serves no purpose.

Issues

There are no legal issues that would impede repeal.

16

THE KARNATAKA RESERVATION OF APPOINTMENT OR POSTS (IN THE CIVIL SERVICES OF THE STATE) FOR RURAL CANDIDATES ACT, 2000

Subject:	AFFIRMATIVE ACTION
Reason:	The Act is Redundant
Grade:	3

What is the Law?

The Act was passed to provide horizontal reservation to the extent of ten per cent for rural candidates.

Key Features

Sec. 2(2) of the Act defined a rural candidate as one who has completed a specifically defined part of their education in a non-urban area, or a non-transitional area as defined under the Karnataka Municipalities Act.¹³ Section 3 provides for horizontal reservation of 25 per cent of the vacant seats for direct recruitment to the civil services, for rural candidates. It also provides for the concept of Creamy Layer to be applied to exclude rural candidates from benefitting from such reservation under specific categories.¹⁴

Reasons for Repeal

- Classification based on residence is not permissible under Art. 15 of the Constitution, and violates the Fundamental Right to Equality of other applicants.¹⁵
- The metric of classification as a 'rural candidate' is different from the one laid down in the Civil Services Rules, 1997.¹⁶

Issues

There are no legal issues that would impede repeal.

¹³ Section 349, Karnataka Municipalities Act, 1964.

¹⁴ Section 3, Karnataka Reservation of Appointment or Posts (In the Civil Services of the State) for Rural Candidates Act, 2000

¹⁵ State of Uttar Pradesh v Pradip Tandon, AIR 1975 SC 563.

¹⁶ Rule 2(o), Karnataka Civil Services (General Recruitment) Rules, 1977.

17

THE KARNATAKA CONTROL OF ORGANIZED CRIMES ACT, 2000

Subject: CRIMINAL LEGISLATION
Reason: The Act is Redundant
Grade: 4

What is the Law?

The Karnataka Control of Organized Crimes Act, 2000 makes special provision for prevention and control of organized crime. It defines "organized crime" as *any continuing unlawful activity by an individual, singly or jointly, either as a member of an organized crime syndicate or on behalf of such syndicate, by use of violence or threat of violence or intimidation or coercion, or other unlawful means, with the objective of gaining pecuniary benefits, or gaining undue economic or other advantage for himself or any other person or promoting insurgency.*¹⁷

Key Features

The Act provides special provision for prevention and control of criminal activity by an organized crime syndicate. If the organized crime results in death, it is punishable with death or imprisonment for life and a fine not less than 1 lakh. If anyone harbors or conceals or attempts to conceal any member of the organized crime syndicate, they can be punished with an imprisonment of not less than five years.

An offence under this Act can only be tried by a Special Court in whose jurisdiction the offence was committed. Appeal from the decision of the Special Court lies to the High Court. The Act further permits interception of wire, electronic or oral communication by investigating office subject to required permission.

Reasons for Repeal

- Section 19 of the Act allows for certain confessions made to the police officer to be taken into consideration. The Supreme Court considering Section 25 of the Indian

Evidence Act, 1872 in *Dagdu v. State of Maharashtra*¹⁸ has held that "*The archaic attempt to secure confessions by hook or by crook seems to be the be all and end all of the police investigation*" Such a provision facilitates forced extraction of confessions by police officers and violates the right against self-incrimination guaranteed under Article 20(3) of the Constitution.

- A trial under the KCOC can be held in camera and the details of witnesses kept secret. Such permission militates against the framework of civilized society. "It destroys transparency and openness of Justice". (Krishna Iyer).
- According to Section 22, bail can be granted only if the Court is satisfied that there are reasonable grounds for believing that the accused is not guilty of the offence and that she is not likely to commit the offence while on bail. The Provision requires the Judge to determine the guilt of the accused at the preliminary stage itself and violates the right to fair trial.
- The Act vests unbridled powers with the police, thereby, leaving a huge scope for misuse. For example, an individual's communication channels may be intercepted by police which may amount gross violation of individual's right to privacy.¹⁹
- Another serious concern is the procedure permitting detention for indefinite period, which amounts to punishment. There is no definite time frame for disposal of cases.

Issues

There are no legal issues that would impede repeal.

¹⁷ Section 2(e), The Karnataka Control of Organized Crimes Act, 2000.

¹⁸ *Dagdu v. State of Maharashtra* 1977 AIR 1579 ¹⁵ *State of Uttar Pradesh v Pradip Tandon*, AIR 1975 SC 563.

¹⁹ Section 14, The Karnataka Control of Organized Crimes Act, 2000.

18

PROHIBITION OF SMOKING AND PROTECTION OF HEALTH OF NON-SMOKERS ACT, 2001

Subject:	PROTECTION OF PUBLIC HEALTH FROM SMOKING
Reason:	The Act has been subsumed by subsequent legislation, namely the Cigarettes and Other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003
Grade:	4

What is the Law?

The Act aims to prohibit smoking in public places and vehicles, and for the protection of the health of public in the state of Karnataka; and protect the non-smoking public from the hazards of passive smoking. The Act recognizes that the promotion of smoking through advertisements needs to be discouraged.

Key Features

The most important feature of the Act is that it prohibits the act of smoking in public places or public vehicles. It also prohibits advertisements that promote the sale and use of cigarettes and 'beedis' except the ones on cigarette packages or those displayed near warehouses and shops distributing cigarettes or beedis. It further provides that a person who smokes in a public place can be removed should she refuse to desist from smoking after being asked by an authorized officer or a police officer not below the rank of Sub-Inspector. Penalties of imprisonment for a period of up to three months and fines up to one thousand rupees for repeat offences are provided for in the legislation.

Reasons for Repeal

- The Cigarettes and Other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act 2003 and the Rules made there under are more comprehensive since they give detailed restrictions on the nature and size of advertisements, and make health warnings on cigarette packs mandatory.
- The 2003 Act covers all the provisions of this Act, thus making them redundant and causing an overlap in legislation.
- The pecuniary penalties imposed under the 2003 Act are heavier and are more likely to act as deterrents as compared to this legislation. It would be undesirable to have dual standards at the Central and State level about the restrictions applicable to the production and sale of tobacco.

Issues

There are no legal issues that would impede repeal.

19

KARNATAKA DETERMINATION OF SENIORITY OF GOVERNMENT SERVANTS, 2002

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

What is the Law?

This law provides for determination of seniority of Government Servants. This law removes the catch-up rule and provides for consequential seniority to the SCs/STs in promotion.

Key Features

The purpose of this law is to ensure that ambiguities are removed, and it is ensured that Government Servants belonging to the Scheduled Castes and the Scheduled Tribes are promoted and entitled to seniority in accordance with the policy of reservation contained in the Reservation Order.

Reasons for Repeal

- The Supreme Court has struck down the provisions of this legislation as being violative of the Indian Constitution.²⁰
- The Act is ultra vires of Article 14 and 16 of the Indian Constitution as it does away with the catch-up rule

and provides for consequential seniority to persons belonging to Scheduled Caste/Scheduled tribes in promotion.

- The Supreme Court in the case of *B.K. Pavitra and Ors. v. Union of India (UOI) and Ors.*²¹ stated that the exercise for determining 'inadequacy of representation', backwardness and inefficiency is a must for exercise of power under Article 16(4A). The Court noted that just because there is no proportional representation in the posts for promotion of SCs/STs, it is not enough to give consequential seniority to promotees who are junior and thereby not giving seniority to those are given promotion because of reservation. The State shall place material to show the compelling necessity of such exercise. In the instant case, no such exercise was undertaken.

Issues

There are no legal issues that would impede repeal.

²⁰ *B.K. Pavitra and Ors. vs. Union of India (UOI) and Ors.*, AIR 2017 SC 820.

²¹ *ibid*

20

SPECIAL TAX ON ENTRY OF CERTAIN GOODS ACT, 2004

Subject:	TAXATION
Reason:	Superseded by more recent legislations, namely the Goods and Services Act, 2017
Grade:	5

What is the Law?

The Act provides for the levy of a special tax on the entry of certain goods into local areas of Karnataka for consumption, use or sale.

Key Features

Chapter II of the Act provides for the levy of taxes on the entry of 'notified goods' into the State of Karnataka for consumption, use or sale therein. This burden of payment of the tax lies on the 'importer' of the goods. However, such tax can be offset against any Sales Tax or Value-Added Tax that may have been levied regarding the same goods within Karnataka. The burden of proving that the entry of goods does not merit the levy of the tax lies on the importer themselves. Finally, Chapter IV

of the Act defines offences under the Act, and provides for penalties, for both individuals and companies who commit these offences.

Reasons for Repeal

- Taxation of goods has been subsumed within the Central Goods and Services Act, 2017.
- The later Act is more comprehensive and in consonance with the economic policy of the nation. Hence, this act has become redundant.

Issues

There are no legal issues that would impede repeal.

²⁰ B.K. Pavitra and Ors. vs. Union of India (UOI) and Ors., AIR 2017 SC 820.

²¹ *ibid*

21

KARNATAKA APPROPRIATION (VOTE ON ACCOUNT) ACT, 2008

Subject:	FINANCE
Reason:	The Purpose has been Achieved
Grade:	5

What is the Law?

An Act to provide for the withdrawal of certain sums from and out of the Consolidated Fund of the State of Karnataka for the services of a part of the financial year 2008-09. It authorizes payment of an amount of 2,90,27,30,77,000 out of the Consolidated Fund of Karnataka.

Key Features

The Act authorizes payment of an amount of INR 2,90,27,30,77,000 out of the Consolidated Fund of Karnataka.

Reasons for Repeal

- The purpose of this legislation has been achieved and hence it must be repealed. Repeal of Appropriation Acts

does in no way have any negative impact on actions that were validly taken under these Acts.

- The Law Commission of India recommended repeal of certain obsolete Central Acts (including Appropriation Act) in its 248th Report.
- The Commission states that the Appropriation Acts should be repealed as they are enacted for one financial year only and they become redundant after a period.²²
- Thus, the Act is fit for repeal as it has become redundant as the purpose of the Act has been achieved.

Issues

There are no legal issues that would impede repeal.

²² 248th Law Commission of India, *Obsolete Laws: Warranting Immediate Repeal*, 7 (2014).



KARNATAKA APPROPRIATION ACT, 2008

Subject: FINANCE
Reason: The Purpose has been Achieved
Grade: 5

What is the Law?

An Act to provide for the withdrawal of certain sums from and out of the Consolidated Fund of the State of Karnataka for the services of a part of the financial year 2007-08. It authorizes payment of an amount of INR 33,11,01,01,000 out of the Consolidated Fund of Karnataka.

Key Features

The Act authorizes payment of an amount of INR 3,311,01,01,000 out of the Consolidated Fund of Karnataka.

Reasons for Repeal

- The purpose of this legislation has been achieved and hence it must be repealed. Repeal of Appropriation Acts

does in no way have any negative impact on actions that were validly taken under these Acts.

- The Law Commission of India recommended repeal of certain obsolete Central Acts (including Appropriation Act) in its 248th Report.
- The Commission states that the Appropriation Acts should be repealed as they are enacted for one financial year only and they become redundant after a period.²³
- Thus, the Act is fit for repeal as it has become redundant as the purpose of the Act has been achieved.

Issues

There are no legal issues that would impede repeal.

²³ 248th Law Commission of India, *Obsolete Laws: Warranting Immediate Repeal*, 7 (2014).

23

KARNATAKA CIVIL SERVICES (WATER RESOURCE SERVICE) (SPECIAL RECRUITMENT OF ASSISTANT ENGINEERS AND JUNIOR ENGINEERS) ACT, 2013

Subject:	RECRUITMENT
Reason:	The Purpose has been Achieved
Grade:	3

What is the Law?

On July 13, 2012, the Karnataka High Court declared the Karnataka Civil Services (Absorption of Assistant Engineers and Junior Engineers appointed on contract basis and on adhoc basis in Water Resources Services) (Special) Rules, 2002 as unconstitutional. It directed the government to initiate fresh recruitment. The High Court's order was challenged before the Apex Court, which had on December 14, 2012, dismissed the Special Leave Petition, but ordered that any person who has been working on ad hoc basis and was eligible at the initial time of his appointment can apply in pursuance of any advertisement made even if they have become above-age.

Key Features

The Karnataka High Court declared the Karnataka Civil Services (Absorption of Assistant Engineers and Junior Engineers appointed on contract basis and on adhoc basis in Water Resources Services) (Special) Rules, 2002 as unconstitutional. This Act was enacted for the purpose to fill the vacancies created.

Reasons for Repeal

- This law or any notification under it has not been a

matter of dispute post- 2015. This Act was enacted for appointment of the Assistant and Joint Engineers in Water Resource Services.

- The State Government got an extension till January 31, 2015 and through the Karnataka Public Service Commission, completed the process of appointment of 550 Assistant/Junior Engineer. As per the data available in public domain (only till 2015), 422 out of 550 engineers to be appointed as per this Act have received their appointment letter.²⁴ But there was an issue regarding 21 incumbent engineers who failed to qualify the fresh recruitment process. The government responded to the issue by stating that these 21 incumbent engineers need not worry, as out of 550 candidates many would not be joining, allowing the 21 to get a post via wait-list. Though no information after this is available in public domain, if the appointment process has been completed, the purpose of the Act can be assumed to be achieved.
- Therefore, the purpose of the Act has been achieved and it does not serve any other purpose further.²⁵

Issues

There are no legal issues that would impede repeal.

²⁴ Kumar Buradikattia, UKP engineers relieved after appointment orders are issued, THE HINDU (October 24, 2015) available at <http://www.thehindu.com/news/national/karnataka/ukp-engineers-relieved-after-appointment-orders-are-issued/article7798922.ece>.

²⁵ <http://www.thehindu.com/news/national/karnataka/ukp-engineers-relieved-after-appointment-orders-are-issued/article7798922.ece>

24

KARNATAKA PREVENTION OF DANGEROUS ACTIVITIES OF BOOTLEGGERS, DRUG-OFFENDERS, GAMBLERS, GOONDAS, IMMORAL TRAFFIC OFFENDERS. SLUM-GRABBERS AND VIDEO OR AUDIO PIRATES (AMENDMENT) ACT, 2014

Subject: CRIMINAL LEGISLATION
Reason: The Act is Redundant
Grade: 4

What is the Law?

The Act amends the principal legislation to include audio and video piracy as grounds for preventive detention as being opposed to the maintenance of public order.

Key Features

This Act amends the principal Act to provide for detention of persons who are engaged or are preparing for engaging in video or audio pirating habitually for commercial gain, which affect adversely the maintenance of public order in relation to cinematograph film or a record embodying any part of the sound track associated with the film, punishable under the Copyright Act, 1957.

Reasons for Repeal

- Audio and video piracy are punishable under the Information Technology Act, 2000 by imprisonment (as opposed to preventive detention under this Act). Piracy is also punishable under the Copyright Act 1957.
- Seemingly innocuous behavior such as forwarding music on WhatsApp could fall within the ambit of the offence due to the broad definition, rendering the Act extremely liable to misuse.²⁶

- The amendments may be deemed to be violative of the freedom of speech under Article 19(1)(a) of the Constitution as it allows for imprisonment of those preparing to engage in the prohibited behavior. This amounts to a prior restraint of speech on the Internet. The Supreme Court has repeatedly held that prior restraint of speech is impermissible.²⁷

- Article 246 read with List I (Union List) of the Seventh Schedule of the Constitution of India specifies those subjects on which the Centre has the authority to make laws. Offences related to and committed by “video or audio pirates” or “digital offenders” as explained under the Karnataka Goondas Act are subjects on which the Centre has the authority to make laws, by the provisions relating to posts and telegraphs; telephones, wireless, broadcasting and other like forms of communication (Entry 31 of List I) and patents, inventions and designs; copyright; trade-marks and merchandise marks and merchandise marks (Entry 49 of List I).²⁸

Issues

There seems to be no legal issues that would impede repeal. However, appropriate orders may have to be made for detainees currently serving sentences under the Act.

²⁶ Nehaa Chaudhari, Karnataka's 'Goondas Act' – An examination, SPICY IP (Aug. 13, 2014), available at <https://spicyip.com/2014/08/guest-post-karnatakas-goondas-act-an-examination.html> (Last visited on Oct. 21, 2017).

²⁷ Gautam Bhatia, Karnataka's Amendments to the Goonda Act Violate Article 19(1)(a), Indian Constitutional Law and Philosophy (Aug. 5, 2014), available at <https://indconlawphil.wordpress.com/2014/08/05/karnatakas-amendments-to-the-goonda-act-violate-article-191a/> (Last visited on Oct. 21, 2017).

²⁸ Nehaa Chaudhari and Amulya Purushothama, Karnataka Goondas Act – A note on Legislative Competence, Spicy IP (Aug. 28, 2014), available at <https://spicyip.com/2014/08/guest-post-karnataka-goondas-act-a-note-on-legislative-competence.html> (Last visited on Oct. 21, 2017).

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