

DELHI – Laws for Repeal

Centre for Civil Society

DELHI

Compendium of Laws to be Repealed.

A COLLABORATIVE CIVIL SOCIETY INITIATIVE



CENTRE FOR CIVIL SOCIETY
Social Change Through Public Policy



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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 behavior 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.

Our enthusiasm for legislation has left us with statutes, several of which are obsolete, redundant or repetitive. 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. Citizen 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. Competitive dynamics are adversely affected when fewer people 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)¹, 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 Election, 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 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 (Third) Bill, 2015 in the Lok Sabha, recommending revision of about 180 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.

Centre of Civil Society, along with iJustice, NIPFP Macro/Finance Group and Vidhi Legal Policy Centre began what was called the ***Repeal of 100 laws Project***. This was an independent research and advocacy initiative to identify central laws that are redundant or materially impede the lives of citizens, entrepreneurs and the Government. This culminated in a report on the 100 Laws Repeal Project (www.ccs.in/100laws). This project was acknowledged by the Law Commission of India's report on 'Obsolete Laws: Warranting Immediate Repeal, released in September 2014.

23 of the Central Laws suggested by the abovementioned report, were included in the Repealing and Amending (Third) Bill, 2015.

Accordingly, Centre for Civil Society, commenced operations on *Phase-II* of the *Laws for Repeal Project*. This project essentially covers 25 state laws that require repeal. The instant report is prepared by iJustice through Centre for Civil Society, in collaboration with Tanikella Rastogi Associates, for the Delhi.

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

¹Commission on Review of Administrative Laws, Report of the Commission on Review of Administrative Laws, Government of India, 1998-09, http://darp.gov.in/darpwebsite/cms/Document/file/Review_Administrative_laws

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. 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.

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.

Name: Delhi Prohibition of Smoking and Non-Smokers Health Protection Act 1996

Subject: Public Welfare

Reason: Superseded by more recent laws

What is the law?

This Act prohibited smoking in places of public work or use, and in public service vehicles. Further, the Act prohibits the advertisement of tobacco products and the sale of the same to minors, and provides penalties for the same.

Reasons for Repeal

- The Act has been subsumed by a more recent Central Government legislation. 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 thereunder 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 the earlier legislations.
- Finds mention in the matter of *World Lung Foundation-South Asia through its President V. New Delhi Municipal Council through its Chairperson & Ors.* (W.P.(C) 4579/2012 & CM No. 9509/2012), passed on the ban of Hookah in public places.

Issues

A savings clause might have to be added in the repealing legislation with respect to the three cases filed under this Act, stating that the repealing legislation shall not affect them.

Name: Delhi (Places of Public Entertainment) Prohibition of Smoking Act 1953

Subject: Public Welfare

Reason: Superseded by more recent laws

What is the law?

This law was enacted to prohibit smoking in places of public entertainment in Delhi during a “prohibited period” which was defined as a period of thirty minutes before; thirty minutes after; and the duration of the entertainment.

Reasons for Repeal

- This Act has been subsumed by the Delhi Prohibition of Smoking and Non-Smokers Health Protection Act 1996, as well as the Cigarettes and Other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act 2003. Both these Acts ban smoking in public places entirely, and not just places of public entertainment.
- The pecuniary penalties imposed under the 2003 Act are heavier and are more likely to act as deterrents. Further, offenders may subvert the penalties of the Central legislation by invoking the Delhi Act, which imposes lower penalties.
- The Act has not been in use and there are no instances of any cases filed with respect to it.

Issues

There are no legal issues that would impede repeal.

Name: Delhi Right to Information Act 2001

Subject: Public Welfare

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

What is the law?

The Act was implemented to make provisions for securing access to information under the control of public authorities by the citizens of Delhi, in order to facilitate accountability and transparency in the working of bodies established by the Constitution, by any law made by the government, or by any other body substantially funded by the government.

Reasons for Repeal

- The Act has been subsumed by a more recent Central Government legislation.
- The Right to Information Act, 2005 and the rules made thereunder are more comprehensive² since the Act also provides for the constitution of a Central Information Commission (CIC) and State Information Commission (SIC).
- The RTI Act, 2005 covers all the provisions of the Delhi Right to Information Act, thus making the 2001 Act redundant and causing an overlap in legislation.
- The Right to Information Act, 2005 imposes a stringent penalty on non-furnishment of information or refusal to receive an application without any reasonable cause. However, the penalties imposed by the Delhi RTI Rules, 2001 are disparate and offenders may subvert the penalties of the Central legislation by invoking the Delhi Act, which imposes lower penalties;
- Even Karnataka and Maharashtra, which had State-level legislations on the right to information, repealed them after the passing of the central RTI Act

Issues

Savings clause for those cases filed under the Delhi RTI Act alone and currently pending in court

²ShriS Surendra K v Directorate of Education, GNCTD MANU/CI/0109/2007.

Name: The Local Govt. in Delhi (Disqualification for Membership)(Small Family)Act, 1996

Subject: Health

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

What is the law?

An Act to disqualify from membership to an office under a local government, any person, who has more than two children. Provided that the birth within ten months from the date of commencement of this Act of an additional child shall not be taken into consideration.

Reasons for Repeal

This legislation is unwarranted and deserves to be repealed. There are far more relevant reasons for disqualification from the membership of an office under a local government, than the instant one. Not to mention the disparate impact of the instant law on the appointment of women due to their lack of reproductive autonomy³.

Issues

There are no legal issues that would impede repeal.

³ Javed v. State of Haryana

Name: Delhi Bhoodan Yagna Act, 1955

Subject: Land

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

What is the law?

An Act to facilitate the activity in connection with the Bhoodan Yagna initiated by Shri Acharya Vinobha Bhave and to provide for the constitution of Bhoodan Yagna Board, the donation of land to the said Board, the distribution of land received in donation to landless persons and to provide for matters ancillary thereto.

Reasons for Repeal

- The Act provides for the establishment of a Bhoodan Yagna Board during the life time of Shri Acharya Vinobha Bhave, wherein the Chairman, Secretary and members shall be appointed on his nomination;
- Delhi does not have a Delhi Bhoodan Yagna Board and accordingly, this Act is defunct; and
- There are also no known cases cited under the Act, which proves the usage of the instant Act.

Issues

There are no legal issues that would impede repeal.

Name: Delhi Stay of Proceedings (Revenue Courts) Act 1953

Subject: Administration, Law & Order

Reason: The Act no longer serves any purpose

What is the law?

This legislation was enacted to halt legal proceedings for a period of one year in cases filed under three Acts related to revenue matters. These three Acts were the Punjab Tenancy Act, 1887, the Agra Tenancy Act 1901 and the Punjab Tenants (Security of Tenure) Act, 1950, which have since been repealed.

Reasons for Repeal

- This Act has served its purpose. It was designed for the singular objective of staying certain legal proceedings till 1955 under certain acts. This objective has been fulfilled, and the Act has no goals independent of that, thus rendering it redundant. For example under: The Punjab Tenancy Act, 1887 (XVI of 1887). Application under clauses (d), (i) and (m) of sub-section (1) of section 76. Suits under clauses (e) (other than suits based on non-satisfaction of decrees for arrears of rent), (f) and (h) of sub-section (3) of section 77 etc.
- This Act is not in use. No cases have been filed under this Act, and further, the Act is not cited in any judgments.

Issues

There are no legal issues that would impede repeal.

Name: Delhi Primary Education Act 1960

Subject: Education

Reason: Superseded by a subsequent legislation

What is the law?

This act was passed to provide free and compulsory education to children from six to fourteen years. Under this Act, local authorities must prepare lists of children eligible for such education and ensure their attendance. It imposes a duty on parents to ensure their children attend school, and punishes parents who fail to do so. Further, it also punishes those who employ children and thus prevent them from attending school.

Reasons for Repeal

- The Right of Children to Free and Compulsory Education Act 2009, which fulfills the objectives of the Delhi Act and is more comprehensive, has superseded this Act. It provides for situations not envisaged in the Delhi Act, such as provisions for transfer to other schools, and lays down the duties of schools and teachers as well.
- This legislation is outdated. It penalizes the moral obligation of the parents to send their children to school in case of default.

Issues

There are no legal issues that would impede repeal.

Name: East Punjab (Exchange of Prisoners) Act 1948

Subject: Administration, Law & Order

Reason: Act has outlived its purpose

What is the law?

This Act was implemented soon after independence to provide for the exchange of prisoners with Punjab in Pakistan. It relates to the procedure to be followed for repatriated prisoners from Pakistan who were either convicted and serving a sentence, undergoing trial or in police custody in Pakistan.

Reasons for Repeal

This legislation has served its purpose. Repatriated prisoners from Pakistan who were serving a sentence or under trial, once brought to India, were dealt with according to Indian law. The circumstances out of which this Act arose no longer exist, since there are no more pre-Independence Indian prisoners in Pakistan who are yet to be transferred back to India. This legislation is thus no longer in use, and is redundant.

Issues

There are no legal issues that would impede repeal.

Name: Punjab Village and Small Towns Patrol Act 1918

Subject: Administration, Law & Order

Reason: Outdated law that is now redundant

What is the law?

The Act was implemented to provide for the performance of a nightly patrol duty by the inhabitants of villages and small towns in case of an emergency. The Act makes all 'able-bodied adult male inhabitants' liable to patrolling the village or town, either by rotation or by a draw of lots. At a time when raids on villages were common and security threats to entire villages were likely, the need for such a legislation was imminent.

Reasons for Repeal

- The security situation in the present day is much more stable, and there are no threats to villages in Delhi. The situations out of which the Act arose are thus vastly different from the current state of Delhi.
- The existence of an organized police force renders this Act redundant. Further, it is impractical in the modern context to impose patrolling duties on villagers, since public security is the duty of the State.
- The Act does not define 'emergency' situations. This makes it ambiguous, giving the government wide-ranging powers to invoke this Act.
- The fine imposed on those failing to perform their patrol duties under this Act is five rupees, which is hardly compelling.
- This Act is not in use in Delhi. No cases have been filed under this Act, and further, the Act is not cited in any judgments.

Issues

There are no legal issues that would impede repeal.

Name: Madras Restriction of Habitual Offenders Act 1948

Subject: Administration, Law & Order

Reason: Act is liable to misuse, has discriminatory provisions

What is the law?

This legislation was enacted to restrict the activities and movements of habitual offenders, keeping in mind public security and safety. It also extended the Criminal Tribes Act 1924, which has since been repealed. The Criminal Tribes Act was discriminatory towards certain tribes in declaring them “criminal”, and the 1948 Act continued this discrimination by continuing to recognize these tribes as criminal. The constitutional validity of the Act was called into question in a Madras High Court case, where a two-judge bench upheld its validity.⁴

Reasons for Repeal

- The Act gives the Chief Commissioner wide powers to restrict the movements of habitual offenders, and bars any court from questioning such a restriction. These provisions make the Act liable to misuse.
- The Act puts tribes notified as ‘criminal tribes’ under the Criminal Tribes Act under the aegis of established settlements. It gives the government the power to continue to place restrictions on those people whose movements were restricted under the Criminal Tribes Act, which was highly racist.
- The Act restricts not just the movements of habitual offenders, but also those of ordinary citizens who voluntarily reside in ‘settlements’ established under the Act.
- The Act is archaic. It gives police officers the power to arrest without warrant a notified offender who moves out of the restricted areas, instead of seeking to reform them as a modern criminal justice system should.

Issues

There are no legal issues that would impede repeal.

⁴ P. Arumugham and Others v State of Madras, Through The Chief Secretary, Fort St. George, Madras and Another AIR 1953 MAD 664.

Name: Punjab Copying Fees Act 1936

Subject: Administration, Law & Order

Reason: Superseded by more recent laws

What is the law?

This legislation was enacted to facilitate the recovery of fees payable for copies made or supplied of records in offices under the control of Revenue, Judicial and other officers of Government. When these offices supplied information in the form of documents to the public, it was important to shift the burden of the printing and copying costs to those seeking information, since the volume of documents supplied made such cumulative costs significant.

Reasons for Repeal

- This legislation is not needed since the Indian Evidence Act provides for the fees payable on requisition of court documents.
- The Right to Information Act 2005 provides for the payment of the appropriate fee while requisitioning information from a government office in Section 6. Further, the RTI rules specify the amount of the fee that has to be paid as well. Hence there is an overlap and this Act is rendered redundant.
- This Act does not seem to be in use in Delhi. No cases have been filed under this Act, and further, the Act is not cited in any judgments.

Issues

There are no legal issues that would impede repeal.

Name: Punjab Military Transport Act, 1916

Subject: Administration, Law & Order

Reason: The Act has not been in use.

What is the law?

This legislation was enacted to make better provisions for the impressments (act or policy of seizing people or property for public service or use) of animals, vehicles, boats and other gears in Delhi for the purposes of military transport. The Act provided for impressments by way of hire or purchase.

Reasons for Repeal

- The Act gives the Chief Commissioner wide powers to specify the list of animals/things liable to impressments.
- The Act provides for the rates at which the government hires animals, vehicles or other gears. These rates are meager and are not subject to periodic revisions.
- The Act also provides for the liability of the government in case of loss or destruction of animals, vehicles. This is in the form of very low compensation, which again is not subject to periodic revisions.
- There are no reported instances of the Act being in use in the state of Delhi.

Issues

There are no legal issues that would impede repeal.

Name: The Madras Livestock Improvement Act 1940

Subject: Agriculture & Animal Husbandry

Reason: Redundant law that has not been in use

What is the law?

This Act was created to improve the quality of livestock in the Union Territory of Delhi by regulating the breeding of bulls. Under this Act, any person who owns a bull requires a license for the same. Licenses could be denied on the grounds that the bull was of a breed ‘undesirable to propagate’. This Act also gave the licensing officer the power to order the castration of non-licensed bulls.

Reasons for Repeal

- The rules to be made under this Act, which are necessary for the fulfillment of its provisions, have not been made or notified.
- The Act is liable to be misused since it gives the licensing officer the power to enter upon any premises where he has reason to believe a bull is kept, without specifying the extent of his powers once he does enter the premises.
- The Act is unfair because it clubs a bull owner who has not attempted to obtain a license for his/her bull, and a bull owner who attempts to obtain a license for his/her bull and is denied the same, in the same category and makes them both liable to pay a penalty. It makes no provision for an owner who has been denied a license.
- The Act raises questions regarding the rights of the castrated animals.
- A similar legislation passed in Kerala in 1961, although intending to promote hybrid varieties of cattle, has almost caused the extinction of indigenous varieties of bulls. This is in contravention of the provisions of the Biodiversity Act 2002, which stresses the protection of natural breeds of animals.
- This Act has not been in use and there are no instances of any cases filed with respect to it.

Issues

There are no legal issues that would impede repeal.

Name: East Punjab Tractor Cultivation (Recovery of Charges) Act 1949

Subject: Agriculture & Animal Husbandry

Reason: Act is no longer in use

What is the law?

This Act was implemented to provide for the cultivation of certain areas by tractors by the Department of Agriculture, East Punjab, and for the recovery of the charges for this cultivation. It was enacted to help those farmers who did not own a tractor by allowing them to avail of such facilities for a fee from the government, and thus aimed to improve agriculture in the state.

Reasons for Repeal

- This Act is redundant with respect to Delhi. This Act does not fall under any of the Delhi state government departments and has not been in use by any department. Delhi does not have an agriculture department to implement this Act, unlike Punjab.
- The Department of Agriculture, East Punjab no longer exists.
- The post of the Land Development Commissioner, Delhi, which is essential for the purposes of this act, no longer exists.
- The Act is no longer in use. No cases have been filed under this Act, and further, the Act is not cited in any judgments.

Issues

There are no legal issues that would impede repeal.

Name: East Punjab Agricultural Pests, Diseases and Noxious Weeds Act, 1949

Subject: Agriculture & Animal Husbandry

Reason: Act is no longer in use

What is the law?

The Act was enacted to provide for the prevention of the introduction, spread or reappearance of pest, plant diseases and noxious weeds in the state of Punjab. The Act empowers the State Government to declare insect, vertebrate or invertebrate animal, plant diseases and noxious weeds as injurious to plants and all male persons above the age of 14 years have to render all possible assistance in carrying out preventive or remedial measures and in the destruction these notified Pests and Weeds.

Reasons for Repeal

- The Act gives the Inspector wide powers to enter upon any notified land or premises to ascertain pest, plant diseases and noxious weeds and preventive/remedial measures. However, no inspectors have been appointed by the Chief Commissioner as per the Act in Delhi.
- There are no reported instances of the Act being in use in the state of Delhi. Since the passing of the Act, no areas or noxious agricultural weeds pests have been notified. Hence, the law is redundant.

Issues

There are no legal issues that would impede repeal.

Name: Bombay Relief Undertakings (Special Provisions) Act 1958

Subject: Business & Economy

Reason: Redundant act prone to misuse for evading financial liabilities

What is the law?

This Act was extended to Delhi 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. It has since been repealed in Gujarat.

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 their financial obligations towards their creditors.
- The purposes of this Act, i.e. the protection of the employees of industries and assisting financially unviable companies, are covered by the Sick Industrial Companies Act 1985.
- The Act does not lay down specific criteria 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 relief undertakings. This can allow the Government to favour certain businesses while denying relief to others, and hence can 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.

Issues

A savings clause might have to be added in the repealing legislation with respect to cases pending under the Act, stating that the repealing legislation shall not affect them.

Name: Orissa Warehouses Act 1956

Subject: Business & Economy

Reason: Highly prone to misuse for evading financial liabilities

What is the law?

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

Reasons for Repeal

- The subject matter of the Act has been subsumed by the Warehousing (Development & Regulation) Act, 2007, which is more comprehensive in nature.
- Warehouse Licenses in Delhi are usually obtained from the local body/other authorities for operating warehouses.
- Additionally, Customs Act, 1962 is employed to obtain licenses for operating warehouses.
- The purpose of the Act is served by other laws.

Issues

There are no legal issues that would impede repeal.

Name: Bombay Smoke Nuisances Act 1912

Subject: Environment

Reason: Subsumed by a more recent legislation

What is the law?

This legislation was enacted to reduce the nuisances arising from the smoke of furnaces. It provides for the creation of a Smoke Nuisances Commission, which would oversee the establishment of furnaces and chimneys, and impose penalties of two hundred and fifty rupees for excessive smoke emissions by furnaces.

Reasons for Repeal

- This Act is archaic from the viewpoint of modern day emissions since it does not cover emissions from motor vehicles.
- The Air (Prevention and Control of Pollution) Act 1981, which is a central legislation, covers all aspects the 1912 Act does and is more in line with modern day needs by providing for emissions from industrial plants and not just furnaces. It also makes provisions for violations by government departments and is all-encompassing in that sense.
- The Act is redundant as the Smoke Nuisances Commission, which is essential to carrying out the purposes of this Act, has not been constituted. Smoke emissions cannot be regulated without this commission.
- The penalties provided for in this Act are paltry and hardly serve as a deterrent. Moreover, they may be used to evade heftier penalties under the new law.
- The Act is no longer in use in Delhi. No cases have been filed under this Act, and further, the Act is not cited in any judgments.

Issues

There are no legal issues that would impede repeal.

Name: Punjab Wild Birds and Animal Protection Act, 1933

Subject: Environment

Reason: The Act has been superseded by a central legislation

What is the law?

This Act was enacted to make better provisions for the protection and preservation of certain wild birds and wild animals in Delhi. The legislation primarily aimed at non-forest areas of Punjab & Delhi.

Reasons for Repeal

- The Wildlife Protection Act, 1972 supersedes the current Act, making it redundant.
- This Act has not been in use and there are no instances of any cases filed with respect to it.
- Two legislations governing the same subject-matter may lead to confusion and therefore the state legislation which is not in use should be repealed.
- The Delhi Wildlife Protection Rules, 1973 define Act as the Wildlife Protection Act, 1972.

Issues

There are no legal issues that would impede repeal.

Name: Punjab Cinemas (Regulation) Act, 1952

Subject: Media, Communications and Publishing

Reason: The Act has been superseded by a more recent law.

What is the law?

The Act was enacted to make provisions for regulation exhibitions by means of cinematographs in Delhi. The Act provides for the competent authority (licensing authority) that can grant licenses that permit a person to give an exhibition by means of a cinematograph.

Reasons for Repeal

- The Act has been superseded by a central legislation, the Cinematograph Act, 1953 and an overlap is created in terms of licensing authority and penalties.
- The scope of the central legislation is broader and covers the 1952 Act. It provides for a board of film certification.
- The Delhi Cinematograph Rules, 2002 defines Act as the Cinematograph Act, 1953.

Issues

There are no legal issues that would impede repeal.

Name: East Punjab Opium Smoking Act 1948

Subject: Public Welfare

Reason: Outdated legislation superseded by a new law

What is the law?

The Act was implemented to control opium smoking and eventually secure complete prohibition of the same in East Punjab. It bans the manufacture, possession or use of opium and imposes a punishment of imprisonment for a maximum period of one year for the same. The Act also allows for an exception to this ban in the case of those who produce a certificate from a medicinal practitioner, affirming that they cannot give up opium smoking without detriment to their health. Such persons would be ‘registered smokers’.

Reasons for Repeal

- The Narcotic Drugs and Psychotropic Substances Act, 1985 is far more detailed in its definitions and comprehensive than the East Punjab Act and subsumes the purposes for which it was enacted.
- This Act is redundant since it has failed its objective of regulating opium smoking. The Delhi Opium Smokers Register, which is provided for in the Act, does not exist.
- Further, the Act provides that the register be closed one year after it is opened, and hence the Act is outdated, since at the time of registration one would have to be of the minimum age of twenty-five years. In that sense, the Act no longer regulates the people for whom it was enacted, and does not regulate present opium smokers.
- This Act is not in use in Delhi. No cases have been filed under this Act, and further, the Act is not cited in any judgments.

Issues

There are no legal issues that would impede repeal.

Name: Madras Gift Goods (Unlawful Possession) Act 1961

Subject: Public Welfare

Reason: Purpose of the Act is served by other laws

What is the law?

The Act was implemented to punish any person who unlawfully possessed gift goods. Gift goods are defined as goods given by any relief organisation to any government, or any person on behalf of the government. This includes commeal, milk powder and vegetable oil. The Act imposes a penalty of imprisonment of up to two years as well as a fine for such an offence, which it makes cognizable.

Reasons for Repeal

- The purposes of this Act are substantially covered by the provisions of the Indian Penal Code, as the offender shall be punished for stealing, unlawfully obtaining or criminally misappropriating the goods, or committing a criminal breach of trust.
- This Act is not in use in Delhi. No cases have been filed under this Act, and further, the Act is not cited in any judgments.

Issues

There are no legal issues that would impede repeal.

Name: East Punjab Animal Contagious Diseases Act 1948

Subject: Public Welfare

Reason: Superseded by more recent laws

What is the law?

This act was created to prevent and control the spread of contagious diseases in animals. It provided for veterinary surgeons and inspectors who were to examine and isolate infected animals, and had the power to destroy them as well.

Reasons for Repeal

- The Prevention and Control of Infectious and Contagious Diseases in Animals Act 2009 has subsumed the purpose of this Act. The 2009 Act is more comprehensive inasmuch as it makes provisions for check posts and quarantine camps for infected animals; gives the power to veterinary officers to draw samples from animals; and penalizes offences by companies and not just individuals. The 2009 Act covers all situations that the 1948 Act does.
- Section 45 (iii) of the 2009 Act provides for the repeal of any law of any State, which is inconsistent with the provisions of the 2009 Act. While the provisions of the 1948 Act are not entirely inconsistent with the 2009 Act, it creates an overlap in terms of the functions of the officers appointed under both these Acts and hence could lead to confusion.
- This legislation is outdated. The penalties imposed under this Act for contraventions of the sections therein extend to one hundred rupees for a first time offender and five hundred rupees for repeat offenders. These are paltry penalties in today's economic context and hardly serve as a deterrent.
- The Act has not been in use recently. There have been no cases filed with respect to this Act.

Issues

There are no legal issues that would impede repeal.

Name: Uttar Pradesh Municipalities Act 1916

Subject: Public Welfare

Reason: Constitutional validity of the law is questionable

What is the law?

Section 248 of this Act alone was extended to Delhi in 1945. This section criminalizes begging and makes it a cognizable offence, with the law providing for punishment of offenders by putting them in ‘poor-houses’.

Reasons for Repeal

- Citizens are granted the right to life and personal liberty under the Constitution of India. This Act violates that right, by interfering with the personal liberty of beggars.
- There is no justification for criminalizing the act of begging, since begging in itself does not cause any harm to any person. Begging is not an act that is essentially criminal in nature; the act of one party asking another for money is legal in other forms such as taking a loan.
- By criminalizing begging, the Act ignores the vast number of poor in India who cannot obtain employment, and have no other choice but to beg.
- There are no cases with regard to this Act in Delhi.

Issues

There are no legal issues that would impede repeal.

Name: Tamil Nadu District Municipalities Act 1920

Subject: Public Welfare

Reason: Act has outlived its purposes

What is the law?

Sections 300, 303(1)(3) and 304 of this Act were extended to Delhi in 1945. These sections make vaccinations of all people in municipalities compulsory. This was in light of the smallpox endemic that was prevalent at the time.

Reasons for Repeal

- The legislation is redundant. There is no use for smallpox vaccinations since smallpox has been eradicated.
- The situations that gave rise to this legislation, i.e. the smallpox endemic, no longer exist. India was proclaimed to be free of smallpox in 1977 by the International Commission for the Assessment of Eradication of Smallpox.
- The Vaccination Act, 1880, which made vaccination for smallpox compulsory across the country, has been repealed in light of the world being declared smallpox free in 1980 by the World Health Organisation. Thus, the Tamil Nadu Act should be repealed as well.

Issues

There are no legal issues that would impede repeal.

Name: The Bombay Prevention of Begging Act, 1959

Subject: Public Welfare

Reason: Violative of Protection of Life & Liberty

What is the law?

The legislation was enacted to provide for prevention of begging in Delhi by detaining beggar offenders and their dependents in certain certified institutions. The Act provide for the custody, trial and punishment of beggar offenders and for the detention, training and employment of beggars and their dependents in Certified Institutions. In this respect, the Act empowers any police officer or other person authorized in this behalf to arrest without warrant any person who is found begging.

Reasons for Repeal

- The Act makes no distinction between a Beggar and a Vagrant and includes a vagrant⁵ in its definition of Begging.
- The Act impinges on personal liberty and freedom guaranteed under the Constitution of India.
- The Act criminalizes the act of begging. A beggar cannot tantamount to a criminal.
- As can be seen by the vast beggar population in Delhi, the Act is not in use.
- The Act gives law enforcement officials arbitrary power to make arrests without warrants.

Issues

There are no legal issues that would impede repeal.

⁵ Section 2 (1) (d), Bombay Prevention of Begging Act 1959

Name: Uttar Pradesh Fire Service Act 1944

Subject: Administration & Order

Reason: The Act has been superseded by the Delhi Fire Service Act 2007

What is the law?

This Act was implemented to constitute a State Fire Service in the Uttar Pradesh. The Act makes effective provisions for the fire prevention and fire safety measures in buildings and premises in the state of Uttar Pradesh. The Act was extended to Delhi in 1945.

Reasons for Repeal

- This Act is redundant with respect to Delhi. The Act is superseded by the Delhi Fire Service Act 2007 and Delhi Fire Service Rules 2010.
- The Delhi Fire Service Act 2007 is more comprehensive as it covers the provisions of the Uttar Pradesh Fire Service Act 1944. Section 5 provides for the constitution of Delhi Fire Service, making the 1944 Act redundant in its application to Delhi.
- The scope of the 2007 Act is broader since it also makes provision for collection of Fire tax and other special fire safety measures in certain buildings and premises in Delhi

Issues

There are no legal issues that would impede repeal.

Name: Madras Temple Entry Authorization 1947

Subject: Public Welfare

Reason: Superseded by more recent laws

What is the law?

The legislation was enacted to authorize entry into Hindu temples in Madras and the offer of worship therein by certain classes of Hindus who by custom or usage are excluded from such entry and worship.

Reasons for Repeal

- The Act was enacted to authorize entry of certain excluded classes of Hindus to all temples in Madras that were open to the general Hindu public. However, by virtue of Article 14, 15 and 17, the legislation is outdated.
- In cases of denial of entry, resort can be had to SC & ST (Prevention of Atrocities Act), 1989⁶ which imposes a harsher penalty.
- The Act has not been in use in Delhi.

Issues

There are no legal issues that would impede repeal.

⁶Section 3 (xiv).

Name: Towns Nuisances Act 1889

Subject: Public Welfare

Reason: Subsumed by a more recent legislation

What is the law?

- The preamble of the Act states that it was enacted to amend the Towns Nuisances Act, 1859 and to improve and consolidate the law relating to nuisances in places outside the town of Madras. However, the 1889 Act does not define “Nuisance”. The 1859 Act, which defines Nuisance and contains vital sections essential to curb nuisance, was never extended to Delhi, making the 1889 Act redundant in Delhi.

Reasons for Repeal

- Section 3 of the Act which provides for penalty for unauthorized use of sound amplifiers in public places is covered by the Environment (Protection) Act, 1986 and the Noise Pollution (Regulation & Control) Rules, 2000.
- The Act does not define Nuisance. However, Noise pollution can be dealt under Sections 268, 290 and 291 of the IPC, as a public nuisance.
- IPC provides for harsher penalties than the Towns Nuisances Act, 1889.
- The Act has no reported judgments and no instances indicating arrests relating to cases where penalty has been imposed under the Act.

Issues

There are no legal issues that would impede repeal.

Name: Punjab Suppression of Indecent Advertisement Act 1941

Subject: Public Welfare

Reason: Outdated legislation superseded by a new law

What is the law?

The Act deems any advertisement relating to syphilis, gonorrhoea, nervous debility or other complaint or infirmity arising from or relating to sexual intercourse to be printed or written matter of an indecent nature and the Act aims to suppress these advertisements.

Reasons for Repeal

- The Drugs and Magic Remedies (Objectionable Advertisements) Act, 1954 supersedes the 1941 Act.
- Additionally, it includes venereal diseases, including syphilis, gonorrhoea within its purview and therefore renders the 1941 Act redundant.
- The Act has not been in use.

Issues

There are no legal issues that would impede repeal.