



JAMMU & KASHMIR

**REPEAL LAW
COMPENDIUM**

2018

JAMMU AND KASHMIR

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COMPENDIUM
2018

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In collaboration with



and



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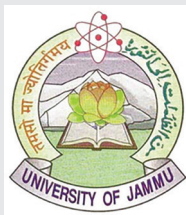
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Introduction

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To accomplish such a feat would require a ground- up hygiene check of existing laws, and the subsequent repealing of outdated laws, wherever necessary.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

Bhartiya 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 100 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 'i Justice', 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' Project . 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'.

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. The grading method has been explained below.

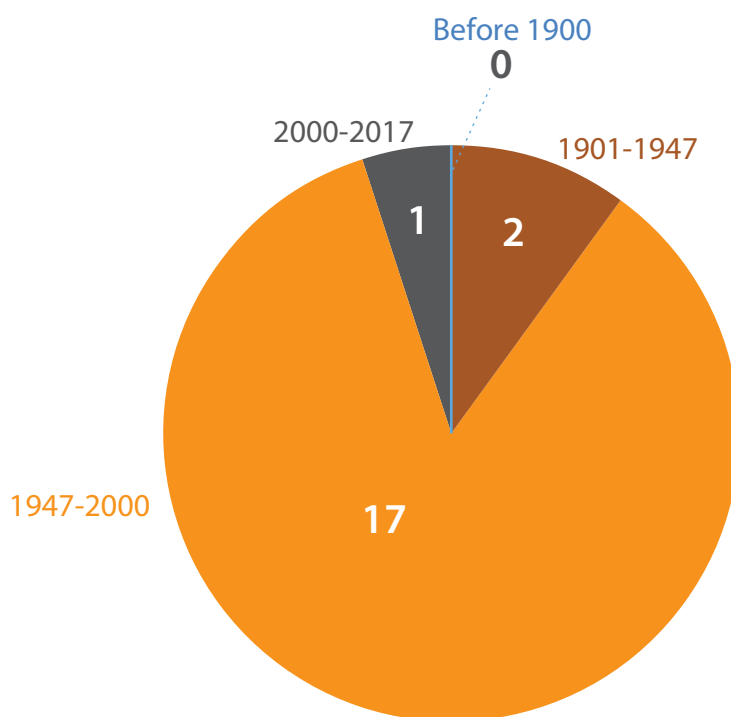
'Grading' of Cases for Repeal

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

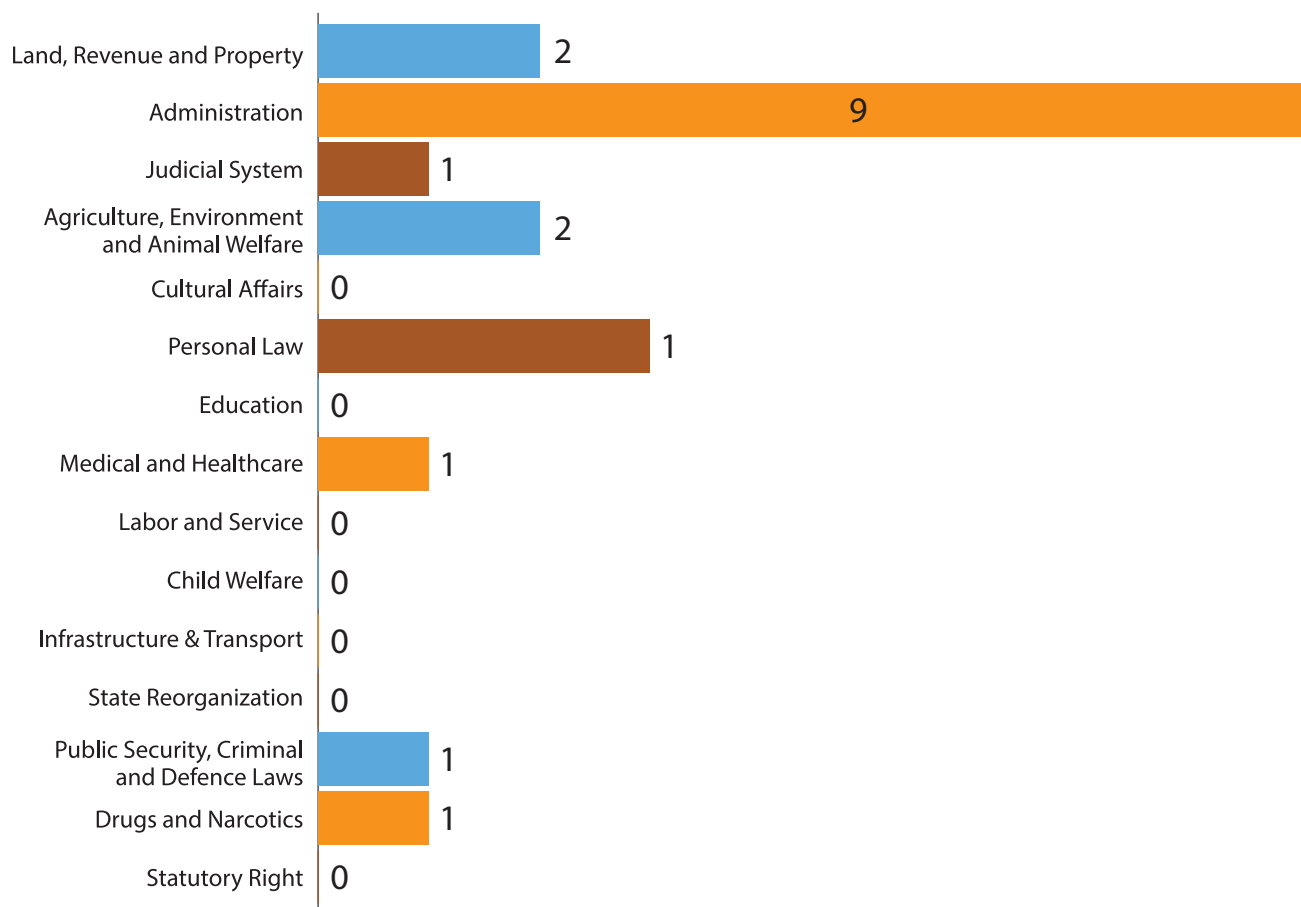
Key Features

This compendium of "Recommended laws for Repeal in the state of Jammu and Kashmir" has a total of 20 laws ranging from British to more recent laws. There are laws dealing with various subjects and the reasons for repeal are also very varied. Few of the key features are:

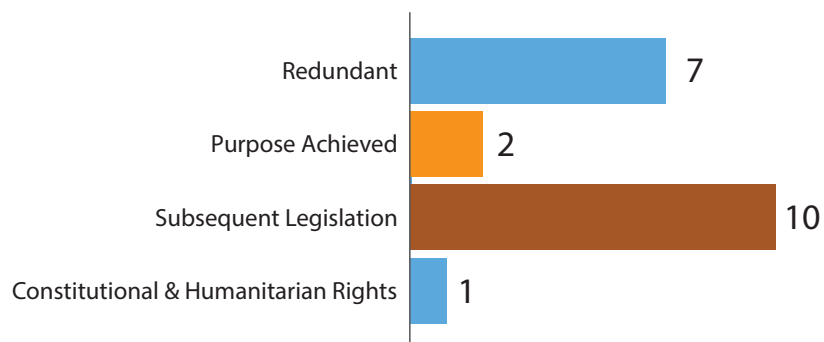
A. Law Enactment Year



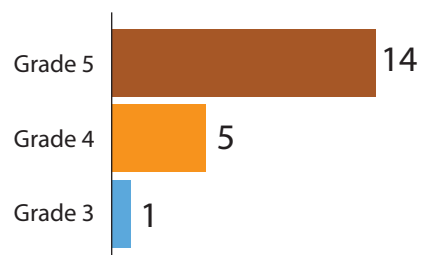
B. Themes



C. Reasons for repeal



D. Grading





COMPENDIUM OF LAWS TO
BE REPEALED IN
JAMMU AND KASHMIR

1

THE JAMMU AND KASHMIR BANKER'S BOOK EVIDENCE ACT, 1920

Subject:	ADMINISTRATION
Reason:	The provisions of the Act has been incorporated in the Jammu And Kashmir Evidence Act 1977
Grade:	3

What is the Law?

This Act aims to amend the law of evidence with respect to bankers' books.

Key Features

This law provides a definition of the term company, bank, banker, banker's books, legal proceedings, the court, judge, trial and certified copy. The government under this Act extend the provisions of this Act to the books of any partnership or individual carrying on the business of bankers under its administration. According to the Act, a certified copy of any entry in a banker's book shall be received as prima facie evidence however no bank shall be compelled to produce any banker's book in any legal proceeding to which it is not a party.

Reasons for Repeal

- Section 34 of the Jammu And Kashmir Evidence Act 1977 provides for situations when the entries in the books of account are relevant and subject to inspection. This section covers the main objective of the Jammu and Kashmir Banker's Book Evidence Act, 1920.
- Further, an amendment has been made in Information Technology Act of 2000 for including accounts in electronic forms but no such change has been made to the Bankers Books Accounts Act 1920. Hence the proposed Act remains obsolete.
- The Act of 1920 is not relevant in respect of the Electronic records of the banks but which is the latest trend in all the banks. The law has not changed with the changing times.

Issues

There are no legal issues that would impede repeal.

2

THE JAMMU AND KASHMIR HINDU DISPOSITION OF PROPERTY ACT, 1940

Subject:	PERSONAL LAW
Reason:	The Act has been subsumed by a subsequent Central Legislation
Grade:	5

What is the Law?

An Act to remove certain existing disabilities in respect of the power of disposition of property by Hindus for the benefit of persons not in existence on the date of such disposition.

Key Features

The Act provides that no disposition of a property by a Hindu, by transfer inter vivos or by will, shall be invalid by reason only that the person for whose benefit it may have been made was not in existence at the date of such transfer.

Reasons for Repeal

- The provisions of the Act have been covered under the Jammu And Kashmir Hindu Succession Act 1956.
- Hence, the Act may be repealed.

Issues

There are no legal issues which would impede the repeal.

3

THE JAMMU AND KASHMIR NAMDHA QUALITY CONTROL ACT, 1953

Subject:	Administration
Reason:	The Act has been subsumed by a subsequent Central Legislation
Grade:	5

What is the Law?

An Act to improve the trade and quality of Namdha in the Jammu and Kashmir state and to make certain regulations for the same.

Key Features

The Act provides for the registration of Namdha manufacturers and dealers before the expiration of two months from the date of commencement of this act. It provides for the details of composition and function of the Namdha Quality Control Board. It also provides penalties in case of contraventions.

Reasons for Repeal

- The provisions of the said Act have been subsumed by newer legislation, i.e., the Jammu and Kashmir Namdha Quality Control Act, 2010.
- Hence, the Act may be repealed.

Issues

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

4

THE JAMMU AND KASHMIR UTILIZATION OF LANDS ACT, 1953

Subject:	LAND AND REVENUE
Reason:	Subsumed by newer legislation
Grade:	4

What is the Law?

An Act to provide for the utilization of lands deserted by the cultivators in the state of Jammu and Kashmir.

Key Features

- The Act provides for utilization of deserted land for cultivation on the notice served by the collector to the owner of such land within 30 days, on the failure of which the land would be taken into possession by the collector for leasing it either to a person or government for the purpose of production of crops, fodder etc.
- It also provides for the payment of compensation to

the owner of such land. Under this Act, lease cannot be made for more than 20 years and any decision taken by the collector in any matter, is appealable to the revenue commissioner within 30 days of such decision.

Reasons for Repeal

- The provisions of the Act are subsumed by the Jammu and Kashmir Utilization of Lands Act, 2010.
- Hence, the Act may be repealed.

Issues

There are no legal issues that would impede repeal.

⁵ *Ram Lakhan vs. State (137 (2007) DLT 173)*

5

THE JAMMU AND KASHMIR GOVERNMENT SERVANTS (HELD IN DETENTION) ACT, 1956

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

What is the Law?

An Act to make certain provisions regarding government servants detained for certain periods of time.

Key Features

Validation of removal from service orders of government servants who were detained any time under section 3 of Jammu and Kashmir Public Security Act 2003, relating to hindering of public safety or peace, for a period which exceeded 2 months before the commencement of this Act.

Reasons for Repeal

- The detention of government servant under this Act was done in the pursuance of section 3 of Public Safety Act 2003 which is repealed.
- The Act specifies that such government servant is to be held in detention and exempted from government service throughout their life. On close inspection of the Act, one finds that such government servants have been detained a long time ago and at present, most of them have achieved superannuation.

Issues

There are no legal issues that would impede repeal.

6

THE JAMMU AND KASHMIR REGISTRATION OF DEEDS (VALIDATION) ACT 1956

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

What is the Law?

An Act to validate the registration and authentication of certain documents and acts connected therewith.

Key Features

- The Act was passed to validate every registration and authentication of documents made by Munsif, Ramban acting or purporting to Act under Jammu and Kashmir registration Act 1977 within his territorial jurisdiction. As such Munsif at any time during the period from 22nd day of April 1955, and every Act done in connection with such registration and authentication during the said period shall be deemed to be, and always have been as valid as if the said Munsif had been duly invested with powers of sub registrar with powers of sub registrar during the said period.

Reasons for Repeal

- The purpose of this Act is to validate every registration and authentication of certain documents made by Munsif, Ramban acting or purporting to Act under Jammu and Kashmir registration Act 1977 within his territorial jurisdiction.
- Such registration and authentication of certain documents has been completed and therefore, this Act may be repealed.
- No cases have been filed under this act, and further this Act is not cited in any judgement.

Issues

There are no legal issues that would impede repeal.

7

THE JAMMU AND KASHMIR (EXTENSION OF LAWS) ACT, 1956

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

What is the Law?

The aforesaid Act has been enacted to provide for the extension of certain laws to the State of Jammu and Kashmir and for matters connected therewith. The aforesaid Act came into force on the 25th September 1956.

Key Features

The Act provides for the extension of certain laws to the State of Jammu and Kashmir which are mentioned in the Schedule appended to the Act.

Reasons for Repeal

- The Act has been recommended for repeal by the P.C. Jain Commission

- The Law Commission of India in its 250th Report has recommended the Act for repeal.
- Corresponding amendments have been made to the Short Title, Extent and Commencement clause of the Acts sought to be extended to the State of Jammu and Kashmir.
- This Act has now served its purpose and hence is redundant.

Issues

There are no legal issues that would impede repeal.

8

THE JAMMU AND KASHMIR STATE VILLAGE AND TOWN PATROL ACT, 1959

Subject: ADMINISTRATION
Reason: The Act has achieved its purpose.
Grade: 5

What is the Law?

An Act to provide for the performance of night patrol duty by the inhabitants of villages and towns in the state in case of emergency.

Key Features

Under this Act the District Magistrate has the power to order for night patrol duty of all able-bodied adult male inhabitants of towns and villages. Under this Act the appeal against the order of magistrate shall lie to the government.

Reasons for Repeal

- The Act has achieved its purpose.
- Moreover, there has been no order after the year 1969.

Issues

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

9

THE JAMMU AND KASHMIR PREVENTION OF BEGGARY ACT, 1960

Subject:	PUBLIC WELFARE
Reason:	Violative of Protection of Life & Liberty
Grade:	5

What is the Law?

The Act is to consolidate the law relating to beggars and to provide for the prevention of begging, for the detention, training and employment of beggars and their dependents in certified institutions. The Act provides for the custody, trial and punishment of beggar offenders in the State of Kashmir.

Key Features

- Under the Act, the State is empowered to detain persons who are engaged in begging, which includes “having no visible means of subsistence and wandering about or remaining in any public place or in a temple, mosque or other place of public worship in such condition or manner as makes it like that the person doing so exists by soliciting alms”.
- Section 4 of the Act provides that police officers or other person authorized in this behalf in accordance with rules made by the State Government to arrest without a warrant any person who is found begging.

Reasons for Repeal

- The Act treats beggars as criminals. If convicted under this law, a person can spend anything between 1 to 7 years in beggars’ home.
- The present Act gives discretionary and arbitrary powers to the police to pick up anyone on a hunch that the individual is a beggar or a destitute with no means of fending for himself.
- The Hon’ble Delhi High Court in Ram Lakhan vs. State² held that the detention of persons begging because of poverty is dehumanizing to them, and is a disgrace and a failure of the State.

- The Hon’ble High Court in the matter of Harsh Mander v. Union of India struck down twenty-five sections of the Bombay Prevention of Begging Act, 1959, and held as under:

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

- The Central Government has brought a draft bill “Persons in Destitution (Protection Care and Intervention)” Model Bill, 2016, to be implemented by all State Governments that will give rights to destitute to demand help from the states. It aims to do away with the laws that criminalize begging and to “provide protection, support training and other services to all persons in destitution.”
- The model bill states that “Persons in destitution” refers to homeless persons, persons in begging, persons with physical and mental disabilities, the old, infirm and other such persons who are above 18 years of age and in a state of poverty or abandonment arising from economic or social deprivation and sustained unemployment.” It further provides for “procedure for dealing with beggar offenders” and that the infrastructure, human resource and institutions established under the Beggary.

Issues

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

² 137 (2007) DLT 173

10

THE JAMMU AND KASHMIR VACCINATION ACT, 1967

Subject: MEDICARE AND HEALTHCARE
Reason: The purpose of this Act is fulfilled.
Grade: 5

What is the Law?

An Act to provide for compulsory vaccination for securing eradication and prevention of smallpox in the state.

Key Features

- This Act focuses on the vaccination of children for the prevention of smallpox.
- Duty on parent or guardian for primary vaccination of every child by the public vaccinator or registered medical practitioner.
- It also provides for the appointment of Superintendents and Assistant Superintendents and discusses the role and function of these officers.

Reasons for Repeal

- As per World Health Organization "In December 1979, an agreement was reached under which all remaining stocks of the virus would either be destroyed or passed to secure laboratories. That process was completed in the early 1980s and since then no other laboratory has officially had access to the virus which causes smallpox".
- The purpose of this Act is fulfilled.

Issues

There are no legal issues that would impede repeal.

11

THE TAXATION LAWS (EXTENSION TO JAMMU AND KASHMIR) ACT, 1972

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

What is the Law?

The aforesaid Act has been enacted to provide for the extension of certain taxation laws to the State of Jammu and Kashmir and for matters connected therewith. The aforesaid Act came into force on the 1st July, 1972.

Key Features

The Act provides for the extension of certain laws to the State of Jammu and Kashmir which are mentioned in the Schedule appended to the Act.

Reasons for Repeal

- The Act has been recommended for repeal by the P.C. Jain Commission

- The Law Commission of India in its 250th Report has recommended the Act for repeal.
- Corresponding amendments have been made to the Short Title, Extent and Commencement clause of the Acts sought to be extended to the State of Jammu and Kashmir.
- The Schedule prescribing the laws to be extended has repealed by the Repealing and Amending Act, 1978
- This Act has now served its purpose and hence is redundant.

Issues

There are no legal issues that would impede repeal.

12

THE JAMMU AND KASHMIR HINDU INHERITANCE (REMOVAL OF DISABILITIES) ACT, 1977 (1940 A.D.)

Subject:	PERSONAL LAW
Reason:	The provisions of the Act has been covered under the Jammu and Kashmir Hindu Succession Act 1956.
Grade:	5

What is the Law?

An Act prohibiting exclusion of persons suffering from disability from inheritance or from any right or share in joint family property.

Key Features

The Act specifies that no person who is governed by the Hindu law and is a lunatic or idiot from birth shall be excluded from the inheritance or from any other right or share in the joint family property by reason of any disease, deformity or physical or mental defect.

Reasons for Repeal

- Section 25 of the Jammu And Kashmir Hindu Succession Act 1956 (separately passed by J&K on the lines of Hindu Succession Act, 1956) provides that no person shall be disqualified from succeeding to any property on the ground of any disease, defect any other ground and hence serves the same purpose.

Issues

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

13

JAMMU AND KASHMIR MUSLIM MARRIAGES REGISTRATION ACT, 1981

Subject:	Personal Laws; Registration of Marriages and Divorces
Reason:	Does not align with the present jurisprudence on registration of marriages and divorces
Grade:	4

What is the Law?

The Act empowers the Local Government to a sub-registrar for the registration of Moslem marriages.

Key Features

Every marriage contracted between Muslims after the commencement of this Act, shall be registered within thirty days from the conclusion of the Nikah ceremony. The entries of the registration books are open for inspection. Any person who does not comply with the provisions of the Act shall be punished with fine which may extend to three hundred rupees.

Reasons for Repeal

- Report No. 270/2017 of the Law Commission of India emphasizes on the importance of compulsory registration marriages in accordance with the ration laid in the judgment of Seema v. Ashwani Kumar, consequently emphasizing on the need for a

unified legislation to the effect. Legislation for voluntary legislation that has no bearing on the validity of registered or unregistered marriages and divorces is not appropriate in the given situation. Registration is a mere facility provided by law.

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

Issues

There are no legal issues that would impede repeal.

14

THE JAMMU AND KASHMIR AGRICULTURIST RELIEF ACT, 1983

Subject: Agriculture and land
Reason: The Act is Redundant
Grade: 4

What is the Law?

The Act is for the relief of indebted agriculturists.

Key Features

This Act defines 'agriculturalist', and deals with the suits instituted by the agriculturist and in which the defendant, or any one of the defendants, is an agriculturist, for the recovery of money alleged to be due to the plaintiff; on account of money lent or advanced to, or paid for, the defendant, or as the price of goods sold, or on an account stated between the plaintiff and the defendant, or on a written or unwritten engagement for the payment of money not hereinbefore provided for.

Reasons for Repeal

- The provisions as mentioned in the Jammu and Kashmir Agriculturist Relief Act, 1926 has been covered in Debtors relief 1976.
- Moreover, there are no judgments and notifications since the last 40 years. Though this alone cannot be a reason for repeal, it shows how law 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 any cases pending under the Act, stating that the same shall not be to subject to the repealing legislation.

15

THE JAMMU AND KASHMIR FOOD CONTROL ACT, 1986

Subject:	ADMINISTRATION
Reason:	The Act has been subsumed by a subsequent Central Legislation
Grade:	5

What is the Law?

The Act aims to consolidate and amend the law relating to food control in Kashmir province.

Key Features

The Act provides that the Government shall continue to decide to purchase for stabilizing prices in the interest of the producer and the consumer in the Kashmir Province. The rates at which the purchase is to be made shall be decided by the Director, Kashmir Valley Food Control, through Government agency or by such other agencies as may be employed by the Director Kashmir Valley Food Control, for this purpose, shall be in accordance with the rates fixed by the Government with the advice of the Board constituted under the provisions of section 11 of this Act.

Reasons for Repeal

- The provisions of The Jammu and Kashmir Food Control

Act, 1986 has been covered by the Food Safety and Standards Act, 2006 which applies to the state of Jammu and Kashmir.

- The subsequent Act is applicable in India including Jammu and Kashmir.
- The Food Safety and Standards Act, 2006 has consolidated the laws relating to food and to establish the Food Safety and Standards Authority of India for laying down science-based standards for articles of food and to regulate their manufacture, storage, distribution, sale and import, to ensure availability of safe and wholesome food for human consumption and for matters connected therewith or incidental thereto.
- Hence the Act of 1986 is fit for repeal.

Issues

There are no legal issues that would impede repeal.

16

THE JAMMU AND KASHMIR JUVENILE SMOKING ACT, 1986

Subject:	ADMINISTRATION
Reason:	This Act is subsumed by the Cigarette and other Tobacco Products Act 2003.
Grade:	5

What is the Law?

An Act to provide for the prevention of smoking by juveniles.

Key Features

The Act gives an inclusive definition of tobacco and public place and provides for a penalty on selling tobacco to youthful persons under the age of 16 years except on the written order of parent or guardian. It provides for seizure of tobacco by any lambardar, zaildar, member of the municipal committee, legal practitioner, if consumed by a juvenile in a public place.

Reasons for Repeal

- The Act has been subsumed by the Cigarette and other Tobacco Products Act, 2003 which has been extended to the State of Jammu and Kashmir.
- Hence, the Act may be repealed.

Issues

There are no legal issues that would impede repeal.

17

THE JAMMU AND KASHMIR LEGAL PRACTITIONERS (FEES) ACT, 1988

Subject:	JUSTICE AND LAW
Reason:	The Act has been subsumed by a subsequent Central Legislation
Grade:	5

What is the Law?

An Act to define in certain cases the right of legal practitioners to sue for their fees and their liabilities to be sued in respect of negligence in the discharge of professional duties.

Key Features

- It interprets legal practitioners as defined in section 3 of the Legal Practitioners Act 1977 who is entitled to institute legal proceedings for the recovery of any fee due to him under the agreement or otherwise computed in accordance with the law for the time being enforced.
- The Act also provides the liability of legal practitioner to be sued in respect of any loss or injury due to any negligence in the conduct of his professional duties.

- Section 3 provides that a legal practitioner who has agreed to act may enter a private agreement with such person for the terms of his engagement and the fee to be paid for his professional service. The Act provides that legal practitioners are not exempted from liability of being sued.

Reasons for Repeal

- The Act in question is subsumed by Advocates' Act 1961 that applies to the state of Jammu and Kashmir.
- Hence, the Act may be repealed.

Issues

There are no legal issues that would impede repeal.

18

THE JAMMU AND KASHMIR VILLAGE SANITATION ACT, 1990

Subject:	ADMINISTRATION
Reason:	Act has been subsumed by a subsequent Central Legislation
Grade:	4

What is the Law?

An Act to make better provision for sanitation in villages in the provinces of Jammu and Kashmir.

Key Features

- The Act defines village, village land, well and magistrates.
- It provides for the government to appoint an officer who from time to time would direct the magistrate to start a local enquiry to look into the sufficiency and purity of water supply in a village.
- The magistrate on an enquiry shall publish a notice for the repair or closing etc. as required, of a well or spring and declare that all rules under section 13 are applicable to the village.

Reasons for Repeal

- The purpose and provisions of the said Act have been subsumed by Jammu and Kashmir Water Resource (Regulation) and Management Act, 2010.
- Hence, the Act may be repealed.

Issues

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

19

THE JAMMU AND KASHMIR LIVESTOCK IMPROVEMENT ACT, 1996

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 Jammu and Kashmir by regulating the breeding of bulls. Under this Act, any person who owns a bull for breeding purposes requires a license for the same.

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 bulls deemed unfit for breeding.

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.

- 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.
- 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 Act does not serve any purpose and, should be repealed.

Issues

There are no legal issues that would impede repeal.

20

THE JAMMU AND KASHMIR OPIUM SMOKING ACT, 2011 (1954 A.D.)

Subject: DRUGS AND NARCOTICS
Reason: Subsumed by a central legislation
Grade: 5

What is the Law?

An Act to provide for the control of the practice of smoking, prepared opium and to secure the ultimate prohibition of smoking of prepared opium in the Jammu and Kashmir state.

Key Features

Provisions regarding:

- This Act allows registered smokers to manufacture as well as smoke opium who have been registered under this act. However, there is no registered smokers so far.
- There is no complete ban on smoking opium unlike 1985 NDPS legislation which is applicable to the state of Jammu and Kashmir.
- Section 5 allows manufacture of opium by registered smokers.
- The Act authorizes the State Government to the prepare register of persons who are in the habit of smoking prepared opium, and no person, not being a registered smoker, shall smoke or manufacture or possess prepared opium in any quantity whatsoever.
- Violation of provisions of the act shall be punishable with imprisonment for a term which may extend to one year or with fine which may extend to one thousand rupees, or with both.

Reasons for Repeal

- The Narcotic Drugs and Psychotropic Substances Act, 1985 is far more detailed in its definitions and comprehensive than the Jammu and Kashmir Opium Smoking Act, 2011 (1954 A.D.) and subsumes the purposes for which it was enacted.
- This Act is redundant since it has failed its objective of regulating opium smoking. The Opium Smokers Register, which is provided for in the Act, no longer serves any purpose.
- Further, the Act provides that the register be closed as per the notification by the Government as provided by section 4 of the Act. Thus, the Act no longer regulates the people for whom it was enacted, and does not regulate present opium smokers.
- Further, cultivation and manufacture of opium is covered under the Entry 59, List I of the seventh schedule of the Constitution of India, and is hence regulated by the scheme of Article 246 of the same. Thus, the central legislation will have an overriding effect

Issues

There are no legal issues that would impede repeal.

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