



MIZORAM

**REPEAL LAW
COMPENDIUM**

2018

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REPEAL LAW
COMPENDIUM
2018

An initiative of



In collaboration with

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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To accomplish such a feat would require a ground- up hygiene check of existing laws, and the subsequent repealing of outdated laws, wherever necessary.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 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 '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' Project.¹ 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/

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.

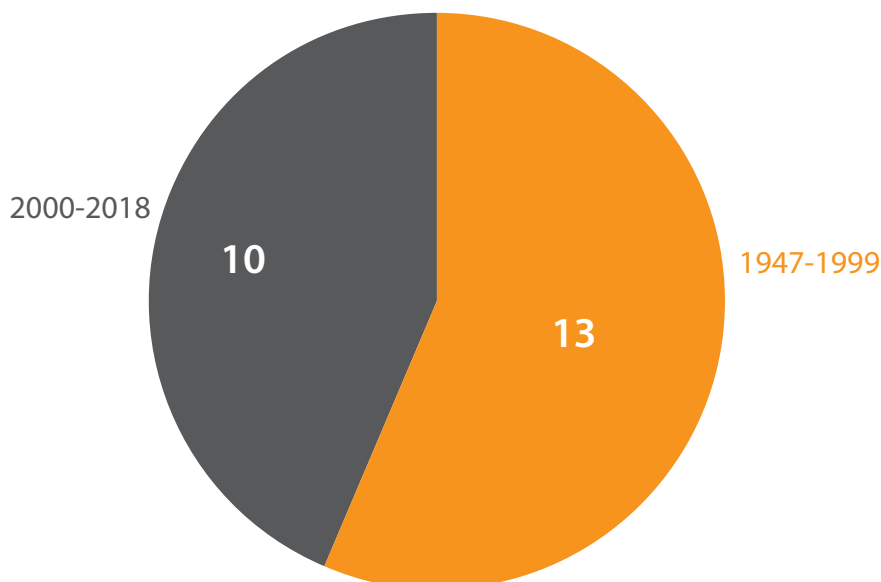
‘Grading’ of Cases for Repeal

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.

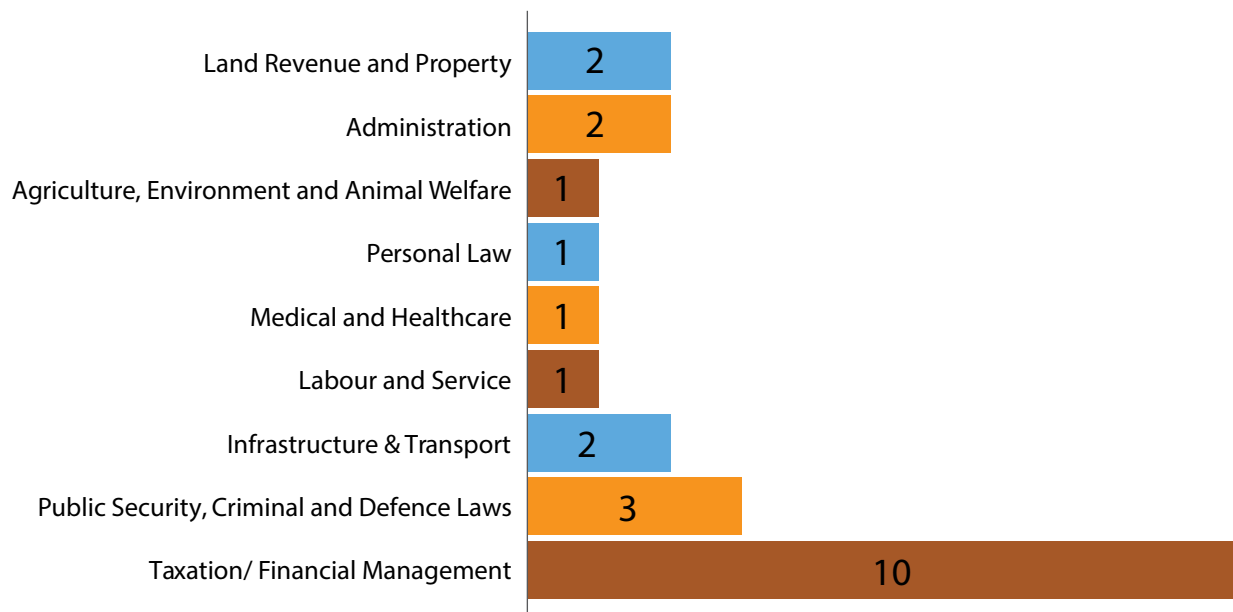
Key Features

This compendium of “Recommended laws for Repeal in the state of Mizoram” has a total of 23 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:

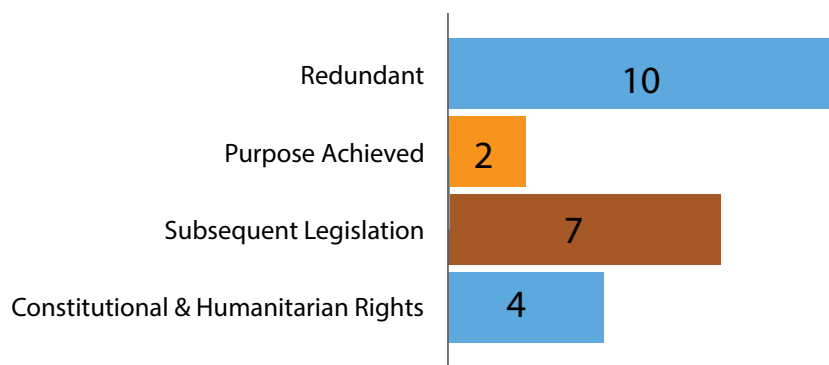
A. Law Enactment Year



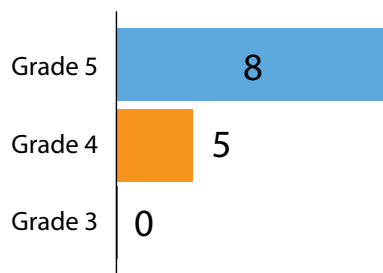
B. Themes



C. Reasons for repeal



D. Grading





COMPENDIUM OF LAWS
TO BE REPEALED IN
MIZORAM

1

THE MIZORAM (SALES OF PETROLEUM AND PETROLEUM PRODUCTS, INCLUDING MOTOR SPIRIT AND LUBRICANTS) TAXATION ACT, 1973

Subject:	TAXES, TOLLS & CESS LAWS; ENERGY LAWS
Reason:	The Act is redundant/ obsolete.
Grade:	5

What is the Law?

It was enacted for the levy and collection of a tax from every retail dealer on the retail sales of motor spirit and lubricants, at a particular rate, on the value of such sales in the state of Mizoram.

Key Features

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

Reasons for Repeal

- The Act is recommended for repeal by the "Mizoram Goods and Services Tax Act, 2017".²
- A few state legislations serving a similar function like "The Manipur (Sales of Motor Spirit and Lubricants) Taxation Act, 1962" was recommended to be immediately repealed by the Law Commission.³ Similarly, "The Nagaland (Sales of Petroleum and Petroleum Products including Motor Spirit and Lubricants) Taxation Act, 1967 was repealed by the state GST Act."⁴

Issues

If required, 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 in all matters except with respect to goods included in Entry 54 of the State List of the Seventh Schedule to the Constitution and other saving provisions as listed in say, section 174 of the Nagaland Goods and Services Tax Act, 2017.

² s 173

³ Law Commission of India, *Obsolete Laws: Warranting Immediate Repeal (Interim Report)* (Law Com No. 248, 2014) 108.

⁴ *The Nagaland Goods and Services Tax Act 2017, s 174 repealed the 'Nagaland (Sales of Petroleum and Petroleum Products including Motor Spirit and Lubricants) Taxation Act 1967'.*

2

MIZORAM URBAN AREAS RENT CONTROL ACT, 1974

Subject: RENT AND TENANCY
Reason: Unreasonable
Grade: 5

What is the Law?

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

Key Features

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

Reasons for Repeal

- There are no provisions dealing with the Rights and Duties of the Landlord

- Fair rent provisions state that according to the procedure provided, no landlord shall be entitled to charge rent for any house at a figure higher than the standard rent.
- There are also no provisions for the Rights of Tenants.
- The current developments point to a Committee on "Mizoram Urban Areas Rent Control Bill, 2017" being constituted under chairmanship of the General Secretary has been constituted and the matter of amendments is under active consideration.

Issues

There are no legal issues that would impede repeal.

3

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

Subject: DELIMITATION AND ELECTIONS
Reason: Redundant/ Obsolete
Grade: 4

What is the Law?

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

Key Features

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

Reasons for Repeal

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

Issues

There are no legal issues that would impede repeal.

4

PRISONS (EXTENSION TO MIZORAM) ACT, 1980

Subject: CRIMINAL JUSTICE
Reason: Redundant/ Obsolete
Grade: 5

What is the Law?

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

Key Features

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

Reasons for Repeal

- The Act is redundant after 'The Constitution (53rd Amendment) Act, 1986'. It confers Statehood on Mizoram and ensures against unnecessary interference by the Central Government with the laws relating to spheres of social relationship and community conduct applicable to Mizoram.
- As being state now Mizoram is governed by Prisons Act, 1894 .

Issues

There are no legal issues that would impede repeal.

5

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

Subject: FINANCIAL LAWS
Reason: The Act has achieved its objective.
Grade: 5

What is the Law?

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

Key Features

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

Reasons for Repeal

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

Issues

There are no legal issues that would impede repeal.

6

MIZORAM PASSENGERS AND GOODS TAXATION ACT, 1988

Subject: TAXES, TOLLS & CESS LAWS
Reason: Redundant/ Obsolete
Grade: 5

What is the Law?

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

Key Features

This Act specifies the rate of tax and the manner of assessment, taxing authority, exemptions, penalty for non-payment of tax, manner of appeal and other such matters. It further allows for seizure of books of accounts, setting up of checkpoints and specifies which vehicles

cannot be used in the event of non-payment of taxes.

Reasons for Repeal

- All the areas of taxation provided in this Act are now governed by the Mizoram Goods and Services Act, 2017.

Issues

Though the tax applicable has been changed, certain provisions with respect to the proper implementation of the tax might be saved.

7

MIZORAM SALES TAX, 1989

Subject: TAXES, TOLLS & CESS LAWS
Reason: Redundant/Obsolete
Grade: 5

What is the Law?

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

Key Features

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

Reasons for Repeal

- Taxation on the sale of goods and services is now governed by the Mizoram Goods and Services Tax Act, 2017.
- Hence, this Act is redundant and may be repealed.

Issues

Though the tax applicable has been changed, certain provisions with respect to the proper implementation of the tax might be saved.

8

MIZORAM MAINTENANCE OF ESSENTIAL SERVICES ACT, 1990

Subject:	LABOR LAWS
Reason:	The Act restricts the 'Right to Strike'. It thus violates the Humanitarian and Constitutional Rights to be violated.
Grade:	5

What is the Law?

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

Key Features

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

Reasons for Repeal

- This Act has been used by the state government in order to suppress dissent of employees against bad work conditions, non-payment of salaries and other such basic rights.
- This law also allows the government suppress dissent and redress the grievances of employees through draconian measures.
- This Act was used in Mizoram in 2008 to prevent agitating nurses from withholding services who were demanding improvement in work conditions.

Issues

There are no legal issues that would impede repeal.

9

MIZORAM PUBLIC LIBRARIES ACT, 1993

Subject: MEDIA, COMMUNICATIONS AND PUBLISHING
Reason: Non-implementation
Grade: 4

What is the Law?

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

Key Features

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

Reasons for Repeal

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

Issues

There are no legal issues that would impede repeal.

10

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

Subject:	FINANCIAL LAWS
Reason:	The Act has completed its purpose.
Grade:	5

What is the Law?

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

Key Features

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

Reasons for Repeal

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

Issues

There are no issues for the repeal of this law. However, a savings clause might be added to protect the beneficiary of this act who are still alive.

11

MIZORAM PREVENTION OF DEFACEMENT OF PROPERTY ACT, 1995

Subject: CRIMINAL JUSTICE
Reason: Redundant/ Obsolete
Grade: 4

What is the Law?

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

Key Features

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

Reasons for Repeal

- The offence provided by this Act has already covered under the offence of Mischief as given in Section 425 of the Indian Penal Code, 1860 which makes this Act redundant.
- In case the beneficiary of an offence is a company or a corporation, all people concerned with the management of that company will be deemed to have committed this offence themselves. This is unreasonable and goes against the principles of corporate criminal liability since the officials of a company are being punished for the actions of the company.
- In the absence of this Act, the actions of the workers can be attributed to the company through the principles of corporate criminal liability and vicarious liability.

Issues

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

12

MIZORAM PROFESSIONS TRADES CALLINGS AND EMPLOYMENTS TAXATION ACT, 1995

Subject: TAXES, TOLLS & CESS LAWS
Reason: Redundancy/ Obsolete
Grade: 5

What is the Law?

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

Key Features

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

Reasons for Repeal

- With the enforcement of the Goods and Services Tax Act, 2017 the taxes on professions, trades, callings and employments levied by this Act is no longer applicable in any of the States.
- The Mizoram Goods and Services Tax Act, 2017 is now applicable in the state and therefore this Act has no application in the state.

Issues

Though the tax applicable has been changed, certain provisions with respect to the proper implementation of the tax might be saved.

13

MIZORAM MOTOR VEHICLES TAXATION ACT, 1996

Subject: TAXES, TOLLS & CESS LAWS
Reason: Redundancy
Grade: 5

What is the Law?

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

Key Features

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

Reasons for Repeal

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

Issues

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

14

MIZORAM (PREVENTION OF GOVERNMENT LAND ENCROACHMENT) ACT, 2001

Subject:	LAND LAWS
Reason:	The Act borders on unreasonableness in the subject it governs.
Grade:	5

What is the Law?

This law prohibits the encroachment of government land and provides for the penalty, eviction and forfeiture of the constructed property.

Key Features

The Act provides for the post of revenue officer who will calculate the penalty and pass further orders. It grants the revenue officer the power of summary eviction, forfeiture of property, stay of construction, etc. It also bars the any person from going to a civil court except under certain situations. It gives the person a right to appeal to the district revenue officer within thirty days from the day order is passed by the revenue officer.

Reasons for Repeal

- This Act gives unreasonable powers to the revenue officer decide the penalty in case of the encroachment of government land and order for the eviction or forfeiture of the property.
- It bars the jurisdiction of the civil courts. It only allows for the appeal to the District Revenue Officer within 30 days which is against the fundamental rights of the citizens.
- It doesn't even give an opportunity to the person to be heard which a violation of fundamental rights is again and is against natural law.

Issues

There are no legal issues that would impede repeal.

15

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

Subject: TAXES, TOLLS & CESS LAWS
Reason: Redundant/ Obsolete
Grade: 5

What is the Law?

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

Key Features

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

Reasons for Repeal

- With the enforcement of the Goods and Services Tax Act, 2017 the taxes on lands, buildings and land related uses levied by this Act is no longer applicable in any of the States.
- The Mizoram Goods and Services Tax Act, 2017 is now applicable in the state and therefore this Act has no application in the State.

Issues

Though the tax applicable has been changed, certain provisions with respect to the proper implementation of the tax might be saved.

16

MIZORAM VALUE ADDED TAX ACT, 2005

Subject:	TAXES, TOLLS & CESS LAWS
Reason:	Most functions of the Act have been subsumed by subsequent central legislation i.e., the Goods and Services Act, 2017.
Grade:	5

What is the Law?

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

Key Features

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

Reasons for Repeal

- Taxation on the sale of goods and services is now governed by the Mizoram Goods and Services Tax Act, 2017.
- A 2018 bill seeks to introduce, among other things, a single schedule instead of the 3 VAT schedules

previously.⁵ Henceforth, while the majority of the state's value-added tax (VAT) on the production of goods has been subsumed into GST, certain products like crude oil, diesel, petrol, natural gas and jet fuel have been temporarily kept out of the new tax regime⁶ along with electricity⁷. It is up to the GST Council, to decide when to bring these items into the purview of GST. Furthermore, liquor has been kept out of GST as a constitutional provision and hence an amendment to Constitution will be required if it is to be brought into GST net.

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

Issues

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

⁵ *The Mizoram Value Added Tax (Amendment) Bill 2017*

⁶ *As they find mention in both sch 7 List I (Entry 84) and List II (Entry 54)*

⁷ *Constitution of India, sch 7 List III (Entry 34) and List II (Entry 53)*

⁸ *Constitution of India, sch 7 List II (Entry 54)*

17

MIZORAM PASSENGERS AND GOODS TAXATION ACT, 2005

Subject: SUCCESSION AND PROPERTY
Reason: Redundancy/ Obsolete
Grade: 5

What is the Law?

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

Key Features

The State List gives the respective states the power to impose “Taxes on goods and passengers carried by road or on inland Waterways”⁹ and while the Union List also provides for “Terminal taxes on goods or passengers, carried by railway, sea or air; taxes on railway fares and freights”.¹⁰ The Act provides for levy and collection of taxes on fares along with taxation rates of goods or passengers carried in a taxable vehicle. The Transport Department is the ‘enforcing agency’ as per the Act and the Rules made

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

Reasons for Repeal

- All the areas of taxation provided in this Act are now governed by section 17 of the Mizoram Goods and Services Act, 2017.

Issues

There is no legal issue that would impede repeal.

⁹ Constitution of India, sch 7 List II (Entry 56)

¹⁰ Constitution of India, sch 7 List I (Entry 89)

18

MIZORAM FISCAL RESPONSIBILITY AND BUDGET MANAGEMENT ACT, 2006

Subject:	TAXES, TOLLS & CESS LAWS
Reason:	The Act is liable to be rendered redundant/ obsolete by subsequent newer legislations.
Grade:	5

What is the Law?

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

Key Features

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

Reasons for Repeal

- The Central Act¹¹ on which the Mizoram Fiscal Responsibility and Budget Management Act, 2005 is closely modelled on, was recommended for repeal by the 'Law Commission of India'¹² and the 'N.K. Singh Committee on FRBM' recommended a new Debt and Fiscal Responsibility Act¹³.
- The Fiscal Management projection of 3% has become dated. A new and flexible method to calculate fiscal policy and the fiscal deficit to Gross State Domestic Product (GSDP) ratio is the need of the times. This

is necessary to estimate whether eliminating the revenue deficit in a specified time frame is feasible.

- The words "... such other exceptional circumstances beyond the control of the State Government" in the proviso to section 6(7) are vague and liable to expedient interpretation to suit the needs of the government in office. If required, certain precise escape clauses may be added which allow for temporary deviation from the target only under pressing circumstances on lines of section 7 of the draft "Debt Management and Fiscal Responsibility Bill, 2017".
- The targets for fiscal and revenue deficit reduction in the present Act and Rules have proved to be malleable. Leading to successive deferment of targets in State's compliance to the FRBM Act. Instances of understatement of expenditures and an extensive list of transparency issues are continuing causes of concern.
- The present Act also doesn't provide for a periodic review of the state government's statement of accounts with mandatory review by the State Comptroller and Auditor General (SCAG).

Issues

The Mizoram Fiscal Responsibility and Budget Management Rules, 2007 were made under section 10 of this Act. If required, new state Act and Rules may be drafted before the repeal of the same on lines of the draft "Debt Management and Fiscal Responsibility Bill, 2017".¹⁴

¹¹ The Mizoram Fiscal Responsibility and Budget Management Act 2003.

¹² Law Commission of India, *Obsolete Laws: Warranting Immediate Repeal (Interim Report)* (Law Com No. 248, 2014) 73.

¹³ PRS India, *Responsible Growth: A Debt and Fiscal Framework for 21st Century India FRBM Review Committee* <http://www.prsindia.org/administrator/uploads/general/1493207354_FRBM%20Review%20Committee%20Report%20Summary.pdf> accessed 12 November 2018.

¹⁴ FRBM Review Committee Report, *Volume-I, Responsible Growth: A Debt and Fiscal Framework for 21st Century India (FRBM Review Committee)* (January 2017) 149-156. <<https://dea.gov.in/sites/default/files/Volume%201%20FRBM%20Review%20Committee%20Report.pdf>> accessed 12 November 2018.

19 MIZORAM ROAD FUND ACT, 2007

Subject: TRANSPORTATION AND INFRASTRUCTURE
Reason: Inadequacy
Grade: 4

What is the Law?

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

Key Features

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

- A section also deals with an Annual report regarding its functioning to be laid before the state legislature.

Reasons for Repeal

- The Central Road Fund Act, 2000 which precedes the above state legislation, was recommended for repeal by the Law Commission.¹⁵
- The Rules as required by the Mizoram Road Fund Act (provided for under Section 12 of the Act) are yet to be made. The law in the absence of a mechanism to enforce the same is therefore without teeth.

Issues

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

¹⁵ Law Commission of India, *Obsolete Laws: Warranting Immediate Repeal (Interim Report) (Law Com No. 248, 2014)* 113

¹⁶ Newmai News Network, 'Mizoram Finance Minister presents over Rs. 9,672 crore Surplus Budget', *The Morung Express (Aizawl, 15 March 2018)* <<http://morungexpress.com/mizoram-finance-minister-presents-over-rs-9672-crore-surplus-budget/>> accessed 11 November 2018

20

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

Subject: PUBLIC HEALTH; MEDICAL AND HEALTHCARE
Reason: Inadequacy
Grade: 5

What is the Law?

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

Key Features

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

Reasons for Repeal

- Section 2(c) of the Act defines the term "Clinical Establishment". The term includes "hospital, nursing home, polyclinic, sanatorium, maternity home, immunization or vaccination clinic, dispensary, dental clinic, special camps" and similar facilities. The Act also brings within its ambit any laboratory which offers "pathological, bacteriological, genetic, radiological, chemical, biological and other diagnostic or investigative services". Be it an establishment owned by the Government or a department of the Government, a trust (public or private), a corporation (including a cooperative society), a local authority or a single doctor establishment.¹⁷

- Thus, the basic drawback of the present Act is that it is applicable to the private sector and also the entire health care delivery systems in India. This is obviously because in India both these sectors are very large and complex. Both the systems have different categories, subcategories and subgroups; in that case, it is not advisable to have a single piece of legislation regulating both the private and public sector. Hence, using a single yardstick to regulate these systems will cause chaos and confusion.
- At the State level, as per the Act, there will be a 'State Health Authority' for clinical establishments. Here also there will not be any new appointment to manage the work envisaged. Here too the bulk of the work has to be supervised by an already overburdened Commissioner/Secretary of the Health and Family Welfare Services who will be the ex-officio Chairman and Secretary respectively.¹⁸
- At the district level, the State Government shall set up the district registering authority. The situation at the district level will be even worse because the chairperson and the secretary of the district registering authority will be the District Collector and the District Health Officer¹⁹ respectively. All these functionaries are already overburdened by the daily chores of governance.

Issues

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

¹⁷ The Clinical Establishments (Registration and Regulation) Act 2010, s 8.

¹⁸ The Mizoram Clinical and Health Establishment (Regulation) Act 2007, s 15.

¹⁹ The Mizoram Clinical and Health Establishment (Regulation) Act 2007, s 4.

21

MIZORAM COMPULSORY REGISTRATION OF MARRIAGES ACT, 2007

Subject: PERSONAL LAWS
Reason: Inadequacy
Grade: 5

What is the Law?

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

Key Features

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

Reasons for Repeal

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

Issues

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

²⁰ Repealed by Section 124(1) of the Delhi Agricultural Produce Marketing (Regulation) Act, 1998 as mentioned in the Law Commission of India, Obsolete Laws: Warranting Immediate Repeal (Interim Report) (Law Com No. 248, 2014) 140.

22

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

Subject: AGRICULTURE AND ANIMAL HUSBANDRY; INFRASTRUCTURE
Reason: Inadequacy bordering on redundancy
Grade: 4

What is the Law?

The Act provides for improvement in market regulations, domestic agricultural trade and development of the farming community in the state of Mizoram.

Key Features

The Act empowers the state government to declare a specified area to be a 'Market Area' under the Act. It provides for every market area to have a 'Market Committee' having jurisdiction over the entire market area and procedure of acquisition of property by the same. The procedure and form of 'Contract Farming Agreement' has also been provided. It prescribes the establishment of the 'State Agricultural Marketing Board' for coordinating activities of markets and for development, promotion and regulation of agricultural markets.

Reasons for Repeal

- The current framework doesn't allow for farmer-producer to realize the optimal value on his produce and increase farm income. Organized wholesale marketing in the country is promoted through a network of regulated markets set up under States' Agricultural Produce Marketing (Regulation) Acts. Over time these markets

have largely become restrictive and monopolistic.

- Furthermore, current regulations do not facilitate the free flow of agricultural produce and direct interface between farmers with processors/exporters/bulk buyers/end users.
- A comprehensive central law superseding the Mizoram State Agricultural Produce Marketing (Development and Regulation) Act and Rules are recommended along with abolition of fragmentation of market within the State/UT by removing the concept of market area. Also, provisions for a single point levy of market fee across the state and unified single trading license.²¹
- The Delhi Agricultural Produce Marketing (Regulation) Act, 1976 was repealed in 1998.
- Furthermore, promotion of a national market for agricultural produce through provisioning inter-state trading license, grading, standardization and quality certification is the need of the times.

Issues

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

23

MIZORAM DRUG (CONTROLLED SUBSTANCES) ACT, 2016

Subject:	DRUGS AND PUBLIC WELFARE; CRIMINAL JUSTICE
Reason:	Humanitarian and Constitutional Rights may be violated. Furthermore it is an impediment to good governance.
Grade:	5

What is the Law?

The legislation aims to provide for control of abuse, possession and sale of certain substances that tend to addiction and misuse, which are not effectively dealt with under the existing laws in force like the Drugs and Cosmetics Act, Assam Drugs Control Act and the Narcotic Drugs and Psychotropic Substances Act, etc., in the state of Mizoram.

Key Features

- The Act authorizes law enforcement agencies to seize and prosecute people possessing selling and using drugs, including those legally manufactured in the country.
- It provides for accreditation, certification and authorized of 'Treatment-cum-Rehabilitation Centres' by the government agency to ensure quality treatment of addicts and related services.
- The new local law aims simplification of procedures, thus, increasing conviction rates in Mizoram which under the Narcotic Drugs and Psychotropic Substances Act, 1985 was extremely low due to complex procedures and stringent provisions laid down in the Act.
- The Act prohibits the possession, sale or stock of sale of any of the controlled substances. Activities in contravention with the Act are punishable with imprisonment-the consequences are penal in nature.
- It provides for powers and procedure for seizure of article or person.

Reasons for Repeal

- Presently, there are no pending criminal proceedings under the Act.
- Additionally, the Act does not make provisions for periodic checking of stock registers at storage sites.
- The line between drug peddlers and users is often

blurred as "seven out of the 10 peddlers themselves are drug users, and they peddle drugs to fund their use".

- The Act also raises the concern whether drug addicts are being effectively rehabilitated into society in Mizoram under the present Act which prescribes in section 38 for immunity from prosecution of addicts charged for an offence under section 9.
- It criminalizes the mere possession of the prohibited substance and therefore fails to address the issue of misuse of the said substances.
- The law should treat drug addiction as a disease rather than a crime.
- Section 4 of the Act provides for a 'Government Nodal Officer'. An authority like this requires a more detailed description of the role and powers attached to the position.
- Further, a clear-cut hierarchy of command is missing in the current Act or Rules and therefore, the powers attached to the post are vague, leaving room for discretion and arbitrariness.

Issues

While there are no pending legal proceedings in any court to impede its repeal, its repeal is not advised. However, parts of it may be amended or repealed and buttressed by a supporting legislation. For example, an authority like the Nodal Officer may require a more detailed and specialized enumeration and elaboration of the role and powers attached with the position (either in the existing legislation or in the form of an amendment or separate legislation).

The current enacting provisions are vague, leaving much room for discretion. However, the saving grace of this legislation is that the Mizoram Drug Act, being a relatively new legislation, has successfully accounted for the lacunae of the NDPS Act, ancillary legislations and additional glaring problems in other state legislation on the same subject.

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