



# Issues Paper

## India: Land Disputes & Moneylenders in Punjab

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# 1. Overview

Claims of risk of serious harm due to involvement in property disputes and/or debts to moneylenders constituted the largest combined claim group in the Refugee Review Tribunal (RRT) India caseload in the 2012 calendar year. Business intelligence from the Department of Immigration and Citizenship (DIAC) indicates that these two claims will continue to constitute a plurality of cases in 2013.

The first part of this paper will examine the phenomenon of land disputes in India, with a particular emphasis on the state of Punjab (hitherto, the source of most such claims in the RRT caseload). The section will examine the frequency of such disputes; the conditions that allow them to proliferate; and the adequacy of state protection of property rights and from potential harm due to involvement in a dispute.

The second part of this paper examines the extent and characteristics of the informal financial system (IFS) in Punjab, with an emphasis on the main source of informal credit, namely rural commission agents (*arhtiyas*). This section will examine the extent of debt; whether such debts expose debtors and their families to the risk of serious harm; and the adequacy of state protection from unscrupulous and potentially violent creditors.

## 2. Land Disputes in Punjab

### 2.1 Introduction

While no statistics were located specifically in relation to the number of land disputes in Punjab in recent years, sources indicate that land ownership disputes are common throughout India. *Forbes India* reported in June 2010 that “[a] third of the 11 million civil cases pending in the lower courts involve fights over property”, and “[a]s much as 1.3 percent of the gross domestic product (GDP) is locked away in such fights”.<sup>1</sup>

Fuelling these property disputes is India’s chronic land shortage; a *BBC News* article reported that in 2012, India had a shortage of approximately 26 million dwellings. Furthermore, “there is a huge pent-up demand for commercial spaces and land for building factories and huge infrastructure projects such as roads, ports and power plants”.<sup>2</sup>

This land shortage has led to dramatic rises in the property values, particularly in relation to greenfield sites near India’s rapidly growing cities (see [2.4 Urbanisation and Land Values](#)). A consequence of this is that opportunists, often family members and neighbours, seek to appropriate exclusive land title of such lands with the intention of selling for profit. Indian media reports indicate that these disputes sometimes result in violence, including deaths.<sup>3</sup>

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<sup>1</sup> Kumar, K P 2010, ‘The Law of the Land’, *Forbes India*, 23 June <<http://forbesindia.com/printcontent/14382>> Accessed 10 September 2012

<sup>2</sup> Srinivas, A 2012, ‘India: Why land is at the centre of all scandals’, *BBC News*, 10 December <<http://www.bbc.co.uk/news/world-asia-india-20457766>> Accessed 1 March 2013

<sup>3</sup> Kamal, N 2012, ‘Father killed, son injured in land dispute’, *The Times of India*, 25 December <[http://articles.timesofindia.indiatimes.com/2012-12-25/chandigarh/35998884\\_1\\_land-dispute-arms-act-punjab-village](http://articles.timesofindia.indiatimes.com/2012-12-25/chandigarh/35998884_1_land-dispute-arms-act-punjab-village)> Accessed 1 March 2013; ‘Elderly killed by son over land dispute in Punjab’ 2012, *Jagran Post*, 24 June <<http://post.jagran.com/elderly-killed-by-son-over-land-dispute-in-punjab-1340510369>> Accessed 1 March 2013; ‘Son held for killing father over property dispute’ 2012, *ZeeNews*, 26 June

Also common are disputes stemming from cases where persons granted power-of-attorney regarding the management of a property have sold land to real estate agents or property developers without the knowledge and consent of the owner(s). Non-resident Indians (NRIs) are particularly vulnerable to such scenarios; in 2011, *The Times of India* reported that “[i]n [the] majority of land fraud cases of NRIs, caretakers have sold properties by forging the documents and without the consent of NRIs”.<sup>4</sup> A 2010 article on the World Bank website states “[i]n the last few years, many Indian migrants (non-resident Indians or NRIs) have experienced strangers and even relatives taking over their land, tenants refusing to vacate their apartments, and sometimes being cheated by real estate developers. Complex and long judicial procedures have not helped matters”.<sup>5</sup> *Asian Pacific Post* commented in 2008 that Punjab’s land price rises have “invigorated the ‘land mafia’ – a group of unscrupulous real estate agents who keep a close watch on the lands and properties of NRIs who hardly visit the state”.<sup>6</sup>

## 2.2 The Punjab Land Titles Record System

Sources argue that India’s various systems of land title records facilitate property disputes by failing to provide definitive records of current ownership; *BBC News* describes India’s property title records as “opaque”, with records often “stored in inaccessible places”.<sup>7</sup> According to *Forbes India*, there is no single land title system in India; “each state follows its own method of record-keeping”, often recorded in a local language. More problematic is the antiquated and complex nature of record keeping, resulting in inaccurate records, or no records at all; “[i]nstances of more than one person holding the papers for the same piece of land are common”, and “[t]housands of plots have no documents at all”. Such circumstances create “avenues for manipulation of records and stealing of property”.<sup>8</sup>

Punjab has a complex system of land titles, resulting in an equally complex system of record keeping. A 2006 Punjab Land Records Society (PLRS) report explains that the state is divided into 13001 villages, each with a clearly defined boundary and a local official in charge of maintaining the village record of land ownership and usage. The official is known as a *patwari*, the land ownership register is known as a *jamabandi*, and the land usage register is known as the

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<[http://zeenews.india.com/news/punjab/son-held-for-killing-father-over-property-dispute\\_783929.html](http://zeenews.india.com/news/punjab/son-held-for-killing-father-over-property-dispute_783929.html)> Accessed 10 September 2012; ‘Siblings hacked to death’ 2012, *WebIndia*, 8 September  
<<http://news.webindia123.com/news/Articles/India/20120908/2059844.html>> Accessed 10 September 2012; ‘Woman burnt alive over property dispute’ 2012, *WebIndia*, 29 August  
<<http://news.webindia123.com/news/articles/India/20120829/2053165.html>> Accessed 10 September 2012; ‘UP: Father-son duo killed over property dispute’ 2012, *Zeenews*, 9 September <[http://zeenews.india.com/news/uttar-pradesh/up-father-son-duo-killed-over-property-dispute\\_798659.html](http://zeenews.india.com/news/uttar-pradesh/up-father-son-duo-killed-over-property-dispute_798659.html)> Accessed 10 September 2012; ‘Neighbour shoots man’ 2012, *The Tribune*, 28 August <<http://www.tribuneindia.com/2012/20120828/punjab.htm#11>> Accessed 10 September 2012

<sup>4</sup> Sharma, P 2011, ‘Punjab govt changes rules for NRI property sale’, *The Times of India*, 20 January <<http://timesofindia.indiatimes.com/india/Punjab-govt-changes-rules-for-NRI-property-sale/articleshow/7327513.cms>> Accessed 18 February 2011

<sup>5</sup> Mohapatra, S 2010, *Protecting real estate investments of Indian migrants*, World Bank website, 3 July <<http://blogs.worldbank.org/peoplemove/node/1241>> Accessed 9 October 2012

<sup>6</sup> Saunders, L C 2008, ‘Property boom triggers land grabs’, *Asian Pacific Post*, 30 July <[http://www.asianpacificpost.com/portal2/c1ee8c441b716617011b75d11d6d0060\\_Property\\_boom\\_triggers\\_land\\_grabs.do.html](http://www.asianpacificpost.com/portal2/c1ee8c441b716617011b75d11d6d0060_Property_boom_triggers_land_grabs.do.html)> Accessed 18 February 2011

<sup>7</sup> Srinivas, A 2012, ‘India: Why land is at the centre of all scandals’, *BBC News*, 10 December <<http://www.bbc.co.uk/news/world-asia-india-20457766>> Accessed 1 March 2013

<sup>8</sup> Kumar, K P 2010, ‘The Law of the Land’, *Forbes India*, 23 June <<http://forbesindia.com/printcontent/14382>> Accessed 10 September 2012

*khasra guirdwri*. Above patwaris is a hierarchy of bureaucracies and records at the sub-*tehsil*, *tehsil* (district subdivision), district, division, and state levels.<sup>9</sup>

For the purpose of demarcating land ownership and usage, each village is divided into units known as *musttil*. Each field in a *musttil* is assigned a number, known as a *khasra*; the patwari records the owner of a field by listing that owner against the *khasra* in the *jamabandi*:

...the village land is divided in 25 acre blocks called *Musttil*. Each field has a *khasra* number to identify each field. The state maintains records of ownership in a register called 'Jamabandi' and harvest details of each *Khasra* in a register called 'Khasra Guirdwri'. The unit of ownership is known as *Khewat*. Each *Khewat* contains the names of the owners and the *Khasra* numbers they own are mentioned.<sup>10</sup>

In India, any change to property ownership or land usage is known as a 'mutation'. More specifically, a transfer of property in Punjab and some other parts of India is known as an *intkal*. A property title document is known as a *farad* (also spelt *fard*).<sup>11</sup> According to the PLRS, any change in property ownership details, whether it be change of ownership, lease, or mortgage details, must be entered into various mutations records. Approximately 400,000 mutations take place in Punjab annually.<sup>12</sup>

Given that so many mutations take place per annum, the complexity of the system, the lack of computerisation, and the many layers of bureaucracy, records can easily become incorrect or incomplete:

...land records are to be maintained and updated at regular intervals, yet in practice, this is not adhered to due to a variety of reasons...Mutations in the rights of the holders due to inheritance, sale, mortgage, etc. are entered in the mutation registers by the patwari and later on dealt with and certified by the tehsildar/naib tehsildar during their field visits. Delay generally takes place for the original entry as well as for certification though a time frame has been fixed for the purpose. The maintenance and updation (sic) become cumbersome as the staff is mostly overburdened and unable to maintain land records in time.<sup>13</sup>

A 2011 article in *The Indian Express* reported that by September of that year, Punjab's farmers would be able to access farads online, without having to deal with the village patwari.<sup>14</sup> However, a 2012 report in *Dawn* indicated that this project was not completed, with only the Sangrur district's property records fully digitised.<sup>15</sup>

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<sup>9</sup> Punjab Land Records Society 2006, *Request for Proposal: To Outsource Computerisation of Lands Record management System and Provisioning of Citizen and Back-end Services through Establishment and Operations & Management of Citizen Services Centres throughout the State of Punjab on Public Private Partnership Model* [cited *Request for Proposal* hereafter] pp.19-20

<sup>10</sup> Punjab Land Records Society 2006, *Request for Proposal*, pp.19-20

<sup>11</sup> Agnihotri Chaba, A 2011, 'Soon, just click to access Punjab's land records', *Indian Express*, 5 August <<http://www.indianexpress.com/news/soon-just-click-to-access-punjab-s-land-records/827338>> Accessed 28 February 2013

<sup>12</sup> Punjab Land Records Society 2006, *Request for Proposal*, pp.19-20

<sup>13</sup> Punjab Land Records Society 2006, *Request for Proposal*, pp.18-19

<sup>14</sup> Agnihotri Chaba, A 2011, 'Soon, just click to access Punjab's land records', *Indian Express*, 5 August <<http://www.indianexpress.com/news/soon-just-click-to-access-punjab-s-land-records/827338>> Accessed 28 February 2013

<sup>15</sup> Bokhari, A 2012, 'Saying goodbye to patwari culture', *Dawn*, 30 April <<http://dawn.com/2012/04/30/saying-goodbye-to-patwari-culture/>> Accessed 10 October 2012; despite the digitisation of land records in Sangrur district, disputes continue. See Kamal, N 2012, 'Father killed, son injured in land dispute', *The Times of India*, 25 December

*Forbes India* reports that India aspires to introduce the Torrens lands title recording system,<sup>16</sup> however implementing such a system is an enormous task:

Implementing the Torrens system in this confusing mess will be an enormous challenge. India is a vast country with 640,000 villages, one-third of which have fewer than 500 people each. Many lack roads, electricity and water; so computers are out of question. "Paperwork is almost non-existent in such places. So establishing the current ownership would be a really difficult task," says an executive who handles land acquisition for a large firm.<sup>17</sup>

### 2.3 The Land Mafia and Corrupt Officials

As mentioned in the introduction, India reportedly had a residential shortfall of approximately 26 million dwellings in 2012, as well as a chronic shortage of land for commercial use and infrastructure projects. *BBC News* explains that "[t]he combination of a demand-supply mismatch and speculative urge provides opportunities for bribery". Given India's "opaque" land records and the sheer volume of disputed land, legitimate entrepreneurs are reluctant to purchase land with untrustworthy or "incomplete documents". As sellers of disputed property often demand cash payments in order to avoid legal attention and taxation, "[t]he only buyers who can enter such a market are those with access to illegal money". Subsequently, an enormous property black market in property now exists in India, with the main purchasers being criminal organisations.<sup>18</sup>

Indian media reports commonly refer to the existence of a so-called 'land mafia', with strong connections to corrupt politicians, bureaucrats, and police officers.<sup>19</sup> This situation exists in Punjab as much as it does elsewhere. *The South Asian Post* reported in September 2010 that local Punjabi media had recently publicised "several cases of land grabs by gangsters and cops, who allegedly managed to sell the properties through forged documents and impersonation in the Doaba region".<sup>20</sup> A December 2010 article in *The Indian Express* article quotes former Director General of Police in Punjab, Chander Shekhar, who claims that there exists "a nexus of land mafia with some politicians, bureaucrats, police officers" involved in the sales of illegal properties.<sup>21</sup> A May 2011 article, also in *The Indian Express*, reported that the personal secretary

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<[http://articles.timesofindia.indiatimes.com/2012-12-25/chandigarh/35998884\\_1\\_land-dispute-arms-act-punjab-village](http://articles.timesofindia.indiatimes.com/2012-12-25/chandigarh/35998884_1_land-dispute-arms-act-punjab-village)> Accessed 1 March 2013

<sup>16</sup> The land title system developed by Robert Richard Torrens, registrar of South Australia in the 1850s, and adopted by all states and territories in Australia. See NSW Government n.d. *Land & Property Information; Torrens Title* <[http://www.lpi.nsw.gov.au/land\\_titles/land\\_ownership/torrens\\_title](http://www.lpi.nsw.gov.au/land_titles/land_ownership/torrens_title)> Accessed 19 March 2013

<sup>17</sup> Kumar, K P 2010, 'The Law of the Land', *Forbes India*, 23 June <<http://forbesindia.com/printcontent/14382>> Accessed 10 September 2012

<sup>18</sup> Srinivas, A 2012, 'India: Why land is at the centre of all scandals', *BBC News*, 10 December <<http://www.bbc.co.uk/news/world-asia-india-20457766>> Accessed 1 March 2013

<sup>19</sup> 'India's booming land values spark family feuds' 2013, *BBC News*, 28 January

<<http://www.bbc.co.uk/news/world-asia-21171262>> Accessed 1 March 2013; 'Punjab's land mafia thrives as property prices soar' 2010, *South Asian Post*, 2 September

<<http://www.southasianpost.com/news/topnews/article/punjab%E2%80%99slandmafiathrivespropertypricessoar>> Accessed 18 February 2011; Saunders, L C 2008, 'Property boom triggers land grabs', *Asian Pacific Post*, 30 July

<[http://www.asianpacificpost.com/portal2/c1ee8c441b716617011b75d11d6d0060\\_Property\\_boom\\_triggers\\_land\\_grabs.do.html](http://www.asianpacificpost.com/portal2/c1ee8c441b716617011b75d11d6d0060_Property_boom_triggers_land_grabs.do.html)> Accessed 18 February 2011

<sup>20</sup> 'Punjab's land mafia thrives as property prices soar' 2010, *South Asian Post*, 2 September

<<http://www.southasianpost.com/news/topnews/article/punjab%E2%80%99slandmafiathrivespropertypricessoar>> Accessed 18 February 2011

<sup>21</sup> 'Ex-DGP alleges nexus between land mafia and politicians, cops, babus; seeks CBI probe' 2010, *The Indian Express*, 18 December <<http://www.indianexpress.com/news/exdgp-alleges-nexus-between-land-mafia-and-politicians-cops-babus;-seeks-cbi-probe/726318/0>> Accessed 18 February 2011

of a Punjab government minister agreed to ‘bury’ a complaint regarding the illegal sale of land near Chandigarh in return for a bribe.<sup>22</sup>

The acquisition of land by real estate agents and others within the land mafia is facilitated by family members and neighbours of land owners willing to appropriate and sell land to them.<sup>23</sup> However, equally important in this facilitation of such practices is the existence of corrupt officials who willingly aid the misappropriation of land by adjusting property ownership details in exchange for payments.<sup>24</sup> As stated in the previous section, the official responsible for maintaining the jamabandi (the village land record) is the patwari.<sup>25</sup> The official who supervises a number of patwaris in a given tehsil is called a *kanungo*.<sup>26</sup> The Indian media routinely report stories of patwaris and kanungos demanding payments in return for making legal mutations and providing documents (farads), and assisting in the misappropriation of lands in exchange for bribes.<sup>27</sup>

## 2.4 Urbanisation and Land Values

As is the case in much of India, the population of Punjab is rapidly urbanising. In 2001, 33.92 per cent of the state’s population was classified as urban. This proportion grew to 37.49 per cent by 2011. The 2011 census indicates that the most rapidly urbanising regions in Punjab are Amritsar, Ludhiana, Jalandhar, Patiala, and SAS Nagar (adjacent to the state capital Chandigarh).<sup>28</sup> The

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<sup>22</sup> Pubby, V 2011, ‘Behind Punjab govt scandal is a land dispute, a buried complaint’, *The Indian Express*, 11 May <<http://www.indianexpress.com/news/behind-punjab-govt-scandal-is-a-land-dispute-a-buried-complaint/788750/0>> Accessed 1 March 2013

<sup>23</sup> Kamal, N 2012, ‘Father killed, son injured in land dispute’, *The Times of India*, 25 December <[http://articles.timesofindia.indiatimes.com/2012-12-25/chandigarh/35998884\\_1\\_land-dispute-arms-act-punjab-village](http://articles.timesofindia.indiatimes.com/2012-12-25/chandigarh/35998884_1_land-dispute-arms-act-punjab-village)> Accessed 1 March 2013; ‘Elderly killed by son over land dispute in Punjab’ 2012, *Jagran Post*, 24 June <<http://post.jagran.com/elderly-killed-by-son-over-land-dispute-in-punjab-1340510369>> Accessed 1 March 2013; ‘Son held for killing father over property dispute’ 2012, *ZeeNews*, 26 June <[http://zeenews.india.com/news/punjab/son-held-for-killing-father-over-property-dispute\\_783929.html](http://zeenews.india.com/news/punjab/son-held-for-killing-father-over-property-dispute_783929.html)> Accessed 10 September 2012; ‘Siblings hacked to death’ 2012, *WebIndia*, 8 September <<http://news.webindia123.com/news/Articles/India/20120908/2059844.html>> Accessed 10 September 2012; ‘Woman burnt alive over property dispute’ 2012, *WebIndia*, 29 August <<http://news.webindia123.com/news/articles/India/20120829/2053165.html>> Accessed 10 September 2012; ‘UP: Father-son duo killed over property dispute’ 2012, *Zeenews*, 9 September <[http://zeenews.india.com/news/uttar-pradesh/up-father-son-duo-killed-over-property-dispute\\_798659.html](http://zeenews.india.com/news/uttar-pradesh/up-father-son-duo-killed-over-property-dispute_798659.html)> Accessed 10 September 2012; ‘Neighbour shoots man’ 2012, *The Tribune*, 28 August <<http://www.tribuneindia.com/2012/20120828/punjab.htm#11>> Accessed 10 September 2012

<sup>23</sup> Sharma, P 2011, ‘Punjab govt changes rules for NRI property sale’, *The Times of India*, 20 January

<sup>24</sup> Dogra, A 2012, ‘Jalandhar DC suspends patwari’, *Punjab Newslines*, 15 September <<http://www.punjabnewslines.com/news/Jalandhar-DC-suspends-patwari.html>> Accessed 10 October 2012; Singh Gill, M 2012, ‘DC dismisses patwari from service for corruption’, *The Tribune*, 30 August <<http://www.tribuneindia.com/2012/20120831/asrtrib.htm#8>> Accessed 10 October 2012; Yes Punjab 2012, *Vigilance Nabs Jalandhar Kanungo for Accepting Bribe*, 18 October <<http://yespunjab.com/punjab/item/9995-vigilance-nabs-jalandhar-kanungo-for-accepting-bribe>> Accessed 30 October 2012

<sup>25</sup> Punjab Land Records Society 2006, *Request for Proposal*, pp.19-20

<sup>26</sup> Lawzoneonline n.d., *Field kanungo* <<http://www.lawzoneonline.com/legalencyclopedia/f/Field-kanungo.htm>> Accessed 30 October 2012

<sup>27</sup> Dogra, A 2012, ‘Jalandhar DC suspends patwari’, *Punjab Newslines*, 15 September <<http://www.punjabnewslines.com/news/Jalandhar-DC-suspends-patwari.html>> Accessed 10 October 2012; Singh Gill, M 2012, ‘DC dismisses patwari from service for corruption’, *The Tribune*, 30 August <<http://www.tribuneindia.com/2012/20120831/asrtrib.htm#8>> Accessed 10 October 2012; Yes Punjab 2012, *Vigilance Nabs Jalandhar Kanungo for Accepting Bribe*, 18 October <<http://yespunjab.com/punjab/item/9995-vigilance-nabs-jalandhar-kanungo-for-accepting-bribe>> Accessed 30 October 2012

<sup>28</sup> Jain, S 2011, *Rural – Urban Population Provisional Totals: Data Sheet Punjab*, Directorate of Census Operations, Punjab, p.2

growth of a young middle class seeking residences in Punjab's cities is one of the driving factors behind rapid urbanisation. This in turn has led to a dramatic rise in land values on the fringes of Punjab's major cities, as developers seek land to build new housing, particularly apartments. A January 2013 article by *BBC News* reported that two acres of land on the edge of the city of Jalandhar is worth approximately £1 million.<sup>29</sup> A 2010 article in the *South Asian Post* reported that real estate agents in Punjab were predicting a rise in values of approximately 700 per cent by 2015.<sup>30</sup> A similar report in the *Asian Pacific Post* in 2008 quoted Merrill Lynch predictions of 700 per cent increase in property values across India by 2015.<sup>31</sup>

## 2.5 Incidence of Harm

While no statistics were located regarding the number of people harmed or killed in property disputes in Punjab or elsewhere in India, a survey of Indian news sources indicates that disputes over land title sometimes result in violence, including murder. Perpetrators commonly include the victim's children, siblings, parents, and neighbours.<sup>32</sup>

While reports of violence are not uncommon, they occur in a country where it is estimated that at least "[a] third of the 11 million civil cases pending in the lower courts involve fights over property".<sup>33</sup> In this context, reports of property-related violence are small relative to the sheer volume of such disputes.

## 2.6 State Protection

### 2.6.1 Law

Threatening to commit violence and causing hurt in order to extort property is a criminal offence under section 327 of the *Indian Penal Code 1860*:

327. Voluntarily causing hurt to extort property, or to constrain to an illegal to an act.--Whoever voluntarily causes hurt, for the purpose of extorting from the sufferer, or from any person interested in the sufferer, any property or valuable security, or of constraining the sufferer or any person interested in such sufferer to do anything which is illegal or which may facilitate the commission of

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<sup>29</sup> 'India's booming land values spark family feuds' 2013, *BBC News*, 28 January <<http://www.bbc.co.uk/news/world-asia-21171262>> Accessed 1 March 2013

<sup>30</sup> 'Punjab's land mafia thrives as property prices soar' 2010, *South Asian Post*, 2 September <<http://www.southasianpost.com/news/topnews/article/punjab%E2%80%99slandmafiathrivespropertypricessoar>> Accessed 18 February 2011

<sup>31</sup> Saunders, L C 2008, 'Property boom triggers land grabs', *Asian Pacific Post*, 30 July <[http://www.asianpacificpost.com/portal2/c1ee8c441b716617011b75d11d6d0060\\_Property\\_boom\\_triggers\\_land\\_grabs.do.html](http://www.asianpacificpost.com/portal2/c1ee8c441b716617011b75d11d6d0060_Property_boom_triggers_land_grabs.do.html)> Accessed 18 February 2011

<sup>32</sup> 'Son held for killing father over property dispute' 2012, *ZeeNews*, 26 June <[http://zeenews.india.com/news/punjab/son-held-for-killing-father-over-property-dispute\\_783929.html](http://zeenews.india.com/news/punjab/son-held-for-killing-father-over-property-dispute_783929.html)> Accessed 10 September 2012; 'Siblings hacked to death' 2012, *WebIndia*, 8 September <<http://news.webindia123.com/news/Articles/India/20120908/2059844.html>> Accessed 10 September 2012; 'Woman burnt alive over property dispute' 2012, *WebIndia*, 29 August <<http://news.webindia123.com/news/articles/India/20120829/2053165.html>> Accessed 10 September 2012; 'UP: Father-son duo killed over property dispute' 2012, *Zeenews*, 9 September <[http://zeenews.india.com/news/uttar-pradesh/up-father-son-duo-killed-over-property-dispute\\_798659.html](http://zeenews.india.com/news/uttar-pradesh/up-father-son-duo-killed-over-property-dispute_798659.html)> Accessed 10 September 2012; 'Neighbour shoots man' 2012, *The Tribune*, 28 August <<http://www.tribuneindia.com/2012/20120828/punjab.htm#11>> Accessed 10 September 2012

<sup>33</sup> Kumar, K P 2010, 'The Law of the Land', *Forbes India*, 23 June <<http://forbesindia.com/printcontent/14382>> Accessed 10 September 2012

an offence, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.<sup>34</sup>

Misappropriation of property and disposal of such property are criminal acts under Section 405 of the *Indian Penal Code 1860*:

405 Criminal breach of trust.--Whoever, being in any manner entrusted with property, or with any dominion over property, dishonestly misappropriates or converts to his own use that property, or dishonestly uses or disposes of that property in violation of any direction of law prescribing the mode in which such trust is to be discharged, or of any legal contract, express or implied, which he has made touching the discharge of such trust, or wilfully suffers any other person so to do, commits "criminal breach of trust".<sup>35</sup>

Deliberate and dishonest mutations of property ownership records by patwaris and other government officials is proscribed as a criminal offense under Sections 408 and 409 of the *Indian Penal Code 1860*.<sup>36</sup>

### 2.6.2 Adequacy of Protection

Persons who believe that their property was misappropriated or are at risk of harm due to a dispute regarding the ownership of property must lodge a First Information Report (FIR) with the police.<sup>37</sup> Both the Indian Kanoon legal database and the Punjab and Haryana High Court database indicate thousands of such disputes end up in the courts, with persons found guilty of misappropriation of property fined and sentenced to terms in prison.<sup>38</sup> As noted earlier, across India, "[a] third of the 11 million civil cases pending in the lower courts involve fights over property".<sup>39</sup> However, a January 2013 report by *BBC News* stated that many of these legal cases "can take up to 25 or 30 years and can cost thousands of pounds".<sup>40</sup>

There are reports of successful arrests and prosecutions of members of the land mafia and those threatening to take others' land. A March 2010 report stated that following a clash over a land dispute that left one person dead, police were said to have arrested 12 people.<sup>41</sup> The *Asian Pacific Post* reported in 2008 on a recent judgment where five members of the land mafia were sentenced to prison for illegally selling five and half acres of land.<sup>42</sup> Also noteworthy is a *Punjab News Online* report in March 2011 on the arrest of an alleged leader of the land mafia and eight members of a gang in the neighbouring state of Haryana. A police spokesman urged the people to

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<sup>34</sup> *Indian Penal Code 1860*, Section 327

<sup>35</sup> *Indian Penal Code 1860*, Section 405

<sup>36</sup> *Indian Penal Code 1860*, Sections 408-409

<sup>37</sup> Mission Safer India n.d., *First Information Report* <<http://www.saferindia.com/kiranbedi/firdemo.jsp>> Accessed 29 August 2012

<sup>38</sup> Indian Kanoon 2012, *Punjab Land Dispute Search*

<<http://indiankanoon.org/search/?formInput=land+dispute+punjab>> Accessed 11 October 2012; Punjab and Haryana High Court at Chandigarh 2012, *Free Text Search* <<http://lobis.nic.in/phhc/>> Accessed 11 October 2012

<sup>39</sup> Kumar, K P 2010, 'The Law of the Land', *Forbes India*, 23 June <<http://forbesindia.com/printcontent/14382>> Accessed 10 September 2012

<sup>40</sup> 'India's booming land values spark family feuds' 2013, *BBC News*, 28 January

<<http://www.bbc.co.uk/news/world-asia-21171262>> Accessed 1 March 2013

<sup>41</sup> 'Community clash over land dispute in Punjab; 1 dead, 7 hurt', 2010, *Daily News and Analysis*, 27 March

<[http://www.dnaindia.com/india/report\\_community-clash-over-land-dispute-in-punjab-1-dead-7-hurt\\_1364245](http://www.dnaindia.com/india/report_community-clash-over-land-dispute-in-punjab-1-dead-7-hurt_1364245)> Accessed 11 April 2011

<sup>42</sup> Saunders, L C 2008, 'Property boom triggers land grabs', *Asian Pacific Post*, 30 July

<[http://www.asianpacificpost.com/portal2/c1ee8c441b716617011b75d11d6d0060\\_Property\\_boom\\_triggers\\_land\\_grabs.do.html](http://www.asianpacificpost.com/portal2/c1ee8c441b716617011b75d11d6d0060_Property_boom_triggers_land_grabs.do.html)> Accessed 18 February 2011



immediately inform the police if “anyone occupied or try to occupy their land and plot illegally” and reassured that the names of complainants would be kept confidential.<sup>43</sup>

*The Times of India* reported that following a spate of incidents in which non-resident Indians (NRIs) returned to Punjab, only to discover that their lands had been sold in their absence; “Punjab police have started the process of bringing changes in rules governing the sale of properties of NRIs”. Furthermore, the government is set to change the rules to prevent persons with power of attorney from being able to sell NRI-owned property “without the involvement of latter”.<sup>44</sup>

In 2008, Punjab police opened six stations exclusively for non-resident Indians (NRIs) from Punjab to lodge complaints regarding property disputes. The stations are located in Ludhiana, Hoshiarpur, Kapurthala, Moga, Nawanshahr and Jalandhar.<sup>45</sup> In addition, a State Commission was established to “to speed up the resolution of... land and property disputes”. There are reportedly a number of NRI advocacy groups, sponsored by the Punjab state government.<sup>46</sup>

### 2.6.3 Police Corruption

A police official in Punjab informed *BBC News* that some police are involved in misappropriating land with the so-called land mafia:

“We have come across a number of cases where organised gangs – comprising property dealers and maybe a few government revenue officials or police department personnel – may be involved,” says Inspector General Gurpreet Deo, who is responsible for NRI (Non-Resident Indian) affairs in Punjab.

“They operate hand in glove with each other... we realise there are gangs which operate in this manner.”<sup>47</sup>

More generally, corruption and incompetence remain obstacles to adequate state protection in India. The US Department of State (USDOS) reported in 2012 that in India bribes are commonly paid to secure police protection. USDOS reports that some 39,123 police officers were fined for being involved in corrupt practices between 2008 and 2010. It also cited a Transparency International report that found that 54 per cent of respondents in an Indian corruption survey admitted to paying bribes to authorities, primarily in order to gain police protection and other government services.<sup>48</sup>

The Bertelsmann Stiftung Transformation Index (BSTI) 2012 *India Country Report* described Indian police forces as “highly inefficient, politically dependent and corruption-prone”.

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<sup>43</sup> ‘Head of land mafia arrested in Haryana’, 2011, *Punjab Newslines*, 1 March

<<http://www.punjabnewslines.com/content/head-land-mafia-arrested-haryana/29049>> Accessed 11 April 2011

<sup>44</sup> Sharma, P 2011, ‘Punjab govt changes rules for NRI property sale’, *The Times of India*, 20 January

<<http://timesofindia.indiatimes.com/india/Punjab-govt-changes-rules-for-NRI-property-sale/articleshow/7327513.cms>> Accessed 18 February 2011

<sup>45</sup> Two Circles 2008, *Punjab sets up police stations for NRIs*, 13 April <<http://twocircles.net/node/63600>> Accessed 10 September 2012

<sup>46</sup> Mohapatra, S 2010, *Protecting real estate investments of Indian migrants*, World Bank website, 3 July

<<http://blogs.worldbank.org/peoplemove/node/1241>> Accessed 9 October 2012

<sup>47</sup> ‘India’s booming land values spark family feuds’ 2013, *BBC News*, 28 January

<<http://www.bbc.co.uk/news/world-asia-21171262>> Accessed 1 March 2013

<sup>48</sup> US Department of State 2012, *Country Reports on Human Rights Practices 2011 – India*, 24 May, Section 4

Consequently, “the conviction rate of criminals is low, police atrocities against civilians are frequent and the government quite often has to rely on the army to quell internal disturbances”.<sup>49</sup>

Payment of a bribe to police does not necessarily elicit a satisfactory outcome; in June 2012, *The Tribune* reported the case of a NRI resident of Canada who claimed that he paid a large amount of money in bribes to officials and agencies in Punjab in order to gain restitution in a land dispute, without success.<sup>50</sup>

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<sup>49</sup> Bertelsmann Stiftung Transformation Index 2012, *India Country Report*, pp.6, 8 <<http://www.bti-project.org/>> Accessed 3 May 2012

<sup>50</sup> ‘Harassed in property dispute, NRI gives up Sabha membership’ 2012, *The Tribune*, 20 June <<http://www.tribuneindia.com/2012/20120621/jaltrib.htm#7>> Accessed 10 September 2012

## 3. Moneylenders in Punjab

### 3.1 Introduction

Given its size and population, it is perhaps not surprising that a large proportion of the rural population of India does not have ready access to the formal financial sector (FFS); a 2005 paper on microfinance in India reported that as much as 40 per cent of rural credit in India is provided by the informal financial system (IFS).<sup>51</sup> With its relatively modest size and population compared to other states in India, Punjab also has a particularly underdeveloped FFS, with a majority of people in rural areas having poor access to FFS institutions such as banks. According to a February 2010 report in *The Indian Express*, an estimated 51 per cent of farmers in Punjab “do not have any access to credit through institutional sources and 58 per cent of the total rural debt in Punjab is from private lenders”.<sup>52</sup> *The Financial Express* also describes informal moneylenders as the largest source of credit in Punjab.<sup>53</sup> A 2011 paper on agricultural credit in Punjab states that a farmer in that state must make an average 5.49 trips, consuming some 18.5 days, to secure a commercial loan from an institution in the FFS. However, a loan from an informal source involves an average of 1.17 trips, consuming just 3.59 days.<sup>54</sup> While India does have a rapidly growing microfinance sector based on the Grameen Bank model of Muhammad Yunus, such microfinance organisations have almost no presence in the state of Punjab.<sup>55</sup>

One major characteristic of this heavy reliance on moneylenders, commonly known in India as *sahukars*,<sup>56</sup> is that they charge much higher rates of interest than commercial and cooperative banks. As a consequence, farmers who are unable to repay loans due to a poor season, natural disaster, etc. risk spiralling debt and the potential loss of their land. Less clear is the number of farmers and their family members who are physically harmed by moneylenders and their associates. Punjab’s high rural suicide rate is also directly attributed to unserviceable debts and/or loss of land to moneylenders.<sup>57</sup> An organisation called the Movement Against State Repression

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<sup>51</sup> Dasgupta, R 2005, ‘Microfinance in India: Empirical Evidence, Alternative Models and Policy Imperatives’, *Economic and Political Weekly*, Vol. 40, No. 12, 19-25 March, JSTOR, p.1234  
<<http://www.jstor.org/stable/pdfplus/4416372.pdf>> Accessed 12 February 2013

<sup>52</sup> Chaba, A A 2010, ‘Debt swap scheme aims to get farmers out of arhtiya net’, *The Indian Express*, 26 February  
<<http://www.indianexpress.com/news/debt-swap-scheme-aims-to-get-farmers-out-of-arhtiya-net/584613/0>>  
Accessed 12 February 2013

<sup>53</sup> Kaur, S 2010, ‘Five-fold raise in farm debt in Punjab’, *The Financial Express*, 4 January  
<<http://www.financialexpress.com/news/fivefold-raise-in-farm-debt-in-punjab/562817/0>> Accessed 13 February 2013

<sup>54</sup> Kaur, A et al 2011, ‘Chapter-VIII Summary, Conclusions and Policy Recommendations’, in *Comparative Cost of Agricultural Credit in Punjab*, p.78  
<[http://shodhganga.inflibnet.ac.in/bitstream/10603/2311/16/16\\_chapter%208.pdf](http://shodhganga.inflibnet.ac.in/bitstream/10603/2311/16/16_chapter%208.pdf)> Accessed 12 February 2013

<sup>55</sup> Chopra, M 2013, ‘Microfin In Macro Mess?’, *Tehelka*, Issue 5 Volume 7 <<http://tehelka.com/microfin-in-macro-mess/>> Accessed 27 February 2013

<sup>56</sup> Jodhka, S S 2005, *Beyond “Crises”: Rethinking Contemporary Punjab Agriculture*, Centre for Economic and Social Studies, May, pp.22-23 <[http://www.cess.ac.in/cesshome/wp/gaps\\_wp-4.pdf](http://www.cess.ac.in/cesshome/wp/gaps_wp-4.pdf)> Accessed 12 February 2013

<sup>57</sup> Kaur, S n.d., ‘Arhtiya system: Root cause of farmer suicides in Punjab’, *Punjab Newsline*  
<<http://www.punjabnewsline.com/content/arhtiya-system-root-cause-farmer-suicides-punjab/48404>> Accessed 13 February 2013; Gill, A 2004, ‘Interlinked Agrarian Credit Markets: Case Study of Punjab’, *Economic and Political Weekly*, Vol. 39, No. 33, 14-20 August, JSTOR, p.3750 <<http://www.jstor.org/stable/pdfplus/4415419.pdf>> Accessed 12 February 2013; Singh Jaijee, I 2004, ‘Arhatiyas & Rural Suicides: Jhumba And Beyond’, in *Abstracts of Sikh Studies*, Volume VI, Issue 3, July – September, p.69 <<http://sikhinstitute.org/pdf/july2004.pdf#page=71>> Accessed 12 February 2013; Jodhka, S S 2005, *Beyond “Crises”: Rethinking Contemporary Punjab Agriculture*, Centre for Economic and Social Studies, May, pp.13-14 <[http://www.cess.ac.in/cesshome/wp/gaps\\_wp-4.pdf](http://www.cess.ac.in/cesshome/wp/gaps_wp-4.pdf)> Accessed 12 February 2013; Asian Centre for Human Rights 2010, *India Human Rights Report*, July-September, p.101 <<http://www.achrweb.org/ihrdq/issue1/ihrdq-jul-sep-2010.pdf>> Accessed 27 February 2013

(MASR) estimates that “at least 50,000 suicides... occurred across Punjab” between 1990 and 2010. The Bhartiya Kisan Union (a farmer’s union) estimates some 90,000 farmer suicides in Punjab between 1990 and 2006.<sup>58</sup> A major legacy of these suicides is that Punjab is home to tens of thousands of female-headed households left destitute after being bequeathed such debts by their deceased husbands.<sup>59</sup>

### 3.2 Arhtiyas

Sources indicate that the most common source of credit for rural persons, including both farmers and landless labourers, are from commission agents, known in Hindi and Punjabi as *arhtiyas* (also *artiyas*, *arhatiyas* and *kacha arhtiyas*). It is also possible that some arhtiyas provide other financial services to rural persons, including taking deposits of savings.<sup>60</sup>

*The Punjab Agricultural Produce Markets (General) Rules, 1962* defines a *kach arhtiya* as “a dealer who, in consideration of commission, offers his services to sell agricultural produce”.<sup>61</sup> Perhaps a more accurate description of an arhtiya is an agent who purchases a farmer’s entire crop before it is harvested, advancing the farmer credit in exchange for the future value of the harvest. *The Hindu* describes this “generations-old relationship” as “at the same time beneficial and exploitative”. Farmers can go many months without income from their harvest and therefore arhtiyas provide much needed finance for production costs, as well as for ordinary consumption expenditure. The arhtiya charges interest on the credit, and also earns a commission on the sale of the harvest.<sup>62</sup> A paper published by the Centre for Economic and Social Studies in Hyderabad in 2005 reports that another incentive for selling a future harvest to a commission agent rather than directly to grain wholesalers at a higher price, is that farmers have to transport their grain to storage facilities/grain markets (*mandis*), where they commonly must wait for up to two weeks for the official buyer to weigh and pay for the harvest.<sup>63</sup>

The most controversial issue regarding the role of arhtiyas is the very high interest rates they charge compared to commercial banks, and the fallout of these debts, particularly should crops fail due to natural disasters.<sup>64</sup> One report stated that, until 2002, arhtiyas were charging between

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<sup>58</sup> Kaur, M 2010, ‘The Paradox of India’s Bread Basket: Farmer Suicides in Punjab’, *PRAXIS*, Volume XXV, pp.39-40 <<http://fletcher.tufts.edu/Praxis/Archives/~media/DD8E2DF1EA6C47028EB789DCD7ED5D37.pdf>> Accessed 27 August 2012

<sup>59</sup> Kaur, M 2010, ‘The Paradox of India’s Bread Basket: Farmer Suicides in Punjab’, *PRAXIS*, Volume XXV, p.48 <<http://fletcher.tufts.edu/Praxis/Archives/~media/DD8E2DF1EA6C47028EB789DCD7ED5D37.pdf>> Accessed 27 August 2012

<sup>60</sup> Kaur remarked in 2011 that the average arhtiya interviewed for the study provides services to 153 farmers, of which an average of 79 are borrowers. This may indicate that the remaining farmers are only people from whom arhtiyas simply purchase produce, or it may suggest that they provide other unspecified financial services. See Kaur, A et al 2011, ‘Chapter-VIII Summary, Conclusions and Policy Recommendations’, in *Comparative Cost of Agricultural Credit in Punjab*, p.83

<[http://shodhganga.inflibnet.ac.in/bitstream/10603/2311/16/16\\_chapter%208.pdf](http://shodhganga.inflibnet.ac.in/bitstream/10603/2311/16/16_chapter%208.pdf)> Accessed 12 February 2013

<sup>61</sup> *The Punjab Agricultural Produce Markets (General) Rules, 1962*, Haryana State Agricultural Marketing Board website <<http://hsamb.gov.in/newrules.doc>> Accessed 12 February 2013

<sup>62</sup> Parsai, G 2012, “Waive our loans,” cry out Punjab’s farmers’, *The Hindu*, 21 November <<http://www.thehindu.com/todays-paper/tp-national/waive-our-loans-cry-out-punjabs-farmers/article4117674.ece>> Accessed 13 February 2013

<sup>63</sup> Jodhka, S S 2005, *Beyond “Crises”: Rethinking Contemporary Punjab Agriculture*, Centre for Economic and Social Studies, May, p.12 <[http://www.cess.ac.in/cesshome/wp/gaps\\_wp-4.pdf](http://www.cess.ac.in/cesshome/wp/gaps_wp-4.pdf)> Accessed 12 February 2013

<sup>64</sup> Gill, A 2004, ‘Interlinked Agrarian Credit Markets: Case Study of Punjab’, *Economic and Political Weekly*, Vol. 39, No. 33, 14-20 August, JSTOR, pp.3743, 3745-3746 <<http://www.jstor.org/stable/pdfplus/4415419.pdf>> Accessed 12 February 2013; Parsai, G 2012, “Waive our loans,” cry out Punjab’s farmers’, *The Hindu*, 21 November

40 and 80 per cent interest.<sup>65</sup> In 2010, it was reported that arhtiyas were charging rates of 36 per cent, compared to the 11.5 per cent charged by formal commercial lenders.<sup>66</sup> A November 2012 report in *The Hindu* indicated that arhtiyas were still charging as much as 24 per cent interest.<sup>67</sup>

### 3.3 Violence

A limited number of sources indicate that some moneylenders have employed violence and other intimidatory tactics as a means to force debtors to repay loans, including the kidnapping of debtors' children.<sup>68</sup> Reports were located of moneylenders attempting to violently seize the land of farmers who were unable to repay debts.<sup>69</sup> A limited number of sources also report that people have been killed while protesting on behalf of farmers who have had their land seized due to unpaid loans.<sup>70</sup> However, sources also indicate that moneylenders have also been killed by debtors unable to repay loans.<sup>71</sup>

### 3.4 State Assistance

In recent years, Punjab has conducted a trial program of debt swaps, whereby farmers borrow money from commercial banks at relatively low rates of interest in order to repay debts to arhtiyas. The scheme, known as *Krishik Saathi*, is being run by the Punjab National Bank (PNB):

Deputy General Manager, PNB, Jalandhar, P K Sharma, said the farmers can avail a loan of Rs 50,000 under the debt swap scheme by submitting a simple affidavit stating instead of raising a loan from a private lender he intends to raise a loan from the bank to pay off the private debt.<sup>72</sup>

A 2009 report indicated that the debt swap scheme faced a number of obstacles, including reluctance on behalf of farmers to disclose the size of their debts, and the refusal of some arhtiyas

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<<http://www.thehindu.com/todays-paper/tp-national/waive-our-loans-cry-out-punjab-farmers/article4117674.ece>>

Accessed 13 February 2013

<sup>65</sup> Singh Jaijee, I 2004, 'Arhatiyas & Rural Suicides: Jhumba And Beyond', in *Abstracts of Sikh Studies*, Volume VI, Issue 3, July – September, p.69 <<http://sikhinstitute.org/pdf/july2004.pdf#page=71>> Accessed 12 February 2013

<sup>66</sup> Chaba, A A 2010, 'Debt swap scheme aims to get farmers out of arhtiya net', *The Indian Express*, 26 February <<http://www.indianexpress.com/news/debt-swap-scheme-aims-to-get-farmers-out-of-arhtiya-net/584613/0>>

Accessed 12 February 2013

<sup>67</sup> Parsai, G 2012, "'Waive our loans,' cry out Punjab's farmers', *The Hindu*, 21 November

<<http://www.thehindu.com/todays-paper/tp-national/waive-our-loans-cry-out-punjab-farmers/article4117674.ece>>

Accessed 13 February 2013

<sup>68</sup> 'Moneylender's bid to take over farmer's land' 2005, *The Tribune*, 12 May

<<http://www.tribuneindia.com/2005/20050513/punjab1.htm#10>> Accessed 25 February 2013; 'Financier booked for kidnapping boy' 2013, *The Tribune*, 23 January <<http://www.tribuneindia.com/2013/20130124/ldh1.htm#23>>

Accessed 25 February 2013; Asian Centre for Human Rights 2011, *India Human Rights Report*, January to June, p.81 <<http://www.achrweb.org/ihrq/issue3-4/ihrq-jan-june-2011.pdf>> Accessed 27 February 2013

<sup>69</sup> 'Moneylender's bid to take over farmer's land' 2005, *The Tribune*, 12 May

<<http://www.tribuneindia.com/2005/20050513/punjab1.htm#10>> Accessed 25 February 2013

<sup>70</sup> Jeet, N K 2010, *Punjab: A trail of blood follows peasant struggles*, Frontlines of Revolutionary Struggle website, 15 October <<http://revolutionaryfrontlines.wordpress.com/2010/10/22/punjab-a-trail-of-blood-follows-the-peasant-struggles/>> Accessed 6 December 2010; Canadian Sikh Coalition 2012, *Red Rivers of Punjab: A History of Violence & Corruption Under The Badal Regime*, 13 December

<<http://www.canadiansikhcoalition.com/file.axd?file=2012%2F12%2FRed+Rivers+of+Punjab.pdf>> Accessed 25 February 2013

February 2013

<sup>71</sup> Bhardwaj, N, 'Money lender shot dead', *The Tribune*, 2 January

<<http://www.tribuneindia.com/2012/20120103/jaltrib.htm#1>> Accessed 25 February 2013

<sup>72</sup> Chaba, A A 2010, 'Debt swap scheme aims to get farmers out of arhtiya net', *The Indian Express*, 26 February <<http://www.indianexpress.com/news/debt-swap-scheme-aims-to-get-farmers-out-of-arhtiya-net/584613/0>>

Accessed 12 February 2013

“to issue the receipt for discharging the outstanding debt against the final payment in fear of ‘losing regular source of income’.”<sup>73</sup> Another problem is that the debt swap option is generally only available to existing bank customers, rather than the majority of farmers who do not have ready access to banks.<sup>74</sup> As indicated previously, it is the latter group that is most likely to be in considerable debt to moneylenders.

In March 2013, *BBC News* reported that a Comptroller and Auditor General (CAG) report found that a large percentage of the 90,000 scheme participant cases it audited involved serious irregularities, including “[w]aivers were given to many ineligible people while those eligible were not considered”, as well as a large number of cases where bank officials siphoned funds “meant for the scheme”. Irregularities were detected in 22 per cent of all loans audited.<sup>75</sup>

A 2012 paper by the Centre for Development Economics and Innovation Studies has called for the Punjab state government to abolish the arhrtiya system; “[a]s a short term measure, it is suggested that the farmers should be freed from the tyranny of the middlemen by reforming the rent seeking, anti-farmer commission agents/arhrtiya system”. The authors call for an amendment to the *Agricultural Produce Marketing Committee Act 1961*, which they argue allows arhtiyas “recover their dues from farmers, rather than facilitate the farmers”. The authors recommend that the “state government should ensure that the system of making payments to farmers through commission agents should be replaced with direct payments immediately”.<sup>76</sup>

A 2010 essay in *Praxis*<sup>77</sup> argues that the IFS cannot be eradicated in Punjab “without risking a credit vacuum in these villages”. However, “both the Center and State governments can impose regulations on money-lenders similar to the previous British legislation that limited the interest rate, instituted a ceiling on payback amounts, protected against land alienation, and shielded farmers’ primary assets”.<sup>78</sup>

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<sup>73</sup> ‘Debt Swap Scheme for farmers faces hurdles in Punjab’ 2009, *Daily News & Analysis*, 27 October  
<[http://www.dnaindia.com/india/report\\_debt-swap-scheme-for-farmers-faces-hurdles-in-punjab\\_1303830](http://www.dnaindia.com/india/report_debt-swap-scheme-for-farmers-faces-hurdles-in-punjab_1303830)> Accessed 6 December 2010

<sup>74</sup> Sharma, A. 2010, ‘Banks in Punjab come to aid the farmers trapped in the clutches of money lenders’, *Rupee Times*, 11 March  
<[http://www.rupeetimes.com/news/credit\\_cards/banks\\_in\\_punjab\\_come\\_to\\_aid\\_the\\_farmers\\_trapped\\_in\\_the\\_clutch\\_es\\_of\\_money\\_lenders\\_3322.html](http://www.rupeetimes.com/news/credit_cards/banks_in_punjab_come_to_aid_the_farmers_trapped_in_the_clutch_es_of_money_lenders_3322.html)> Accessed 6 December 2010

<sup>75</sup> ‘India auditors allege corruption in farm loan waivers’ 2013, *BBC News*, 5 March  
<<http://www.bbc.co.uk/news/world-asia-india-21666158>> Accessed 15 March

<sup>76</sup> Singh, L & Singh, I 2012, *Rejuvenation of Punjab Economy: A Policy Document*, Centre for Development Economics and Innovation Studies (CDEIS), Punjabi University, Patiala, July, p.3  
<<http://www.punjabiuniversity.ac.in/cdeiswebsite/downloads/Punjabi%20University%20A.pdf>> Accessed 25 February 2013

<sup>77</sup> *PRAXIS* is a journal published by the Institute for Human Security at The Fletcher School, Tufts University. The Fletcher School’s website states that *PRAXIS* “explores the intersections between the historically separate fields of humanitarianism, development, human rights, and conflict resolution”. Furthermore, “[t]he journal, published annually with a different theme each year, is produced entirely by Fletcher students in coordination with the Institute for Human Security”. See The Fletcher School n.d., *PRAXIS, The Fletcher Journal Of Human Security*, Tufts University <<http://fletcher.tufts.edu/Praxis>> Accessed 12 March 2013

<sup>78</sup> Kaur, M 2010, ‘The Paradox of India’s Bread Basket: Farmer Suicides in Punjab’, *PRAXIS*, Volume XXV, p.53  
<<http://fletcher.tufts.edu/Praxis/Archives/~media/DD8E2DF1EA6C47028EB789DCD7ED5D37.pdf>> Accessed 27 August 2012

## 3.5 State Protection

### 3.5.1 Law

A number of Indian states have laws relating to moneylending.<sup>79</sup> Punjab adopted the *Punjab Registration of Money-Lenders Act* in 1938 and the act was retained following independence. Under the Act, all moneylenders must be licenced by the state (section 3ii) and must indicate to a court that he or she has a valid licence when filing a suit for the recovery of a loan (section 3a). The act also specifies conditions under which a moneylender can have his or her licence revoked (section 6).<sup>80</sup> Information on the extent to which moneylenders in Punjab are licenced and pursue debt recovery through the courts was not located. The *Punjab Registration of Money-Lenders Act* (1938) also establishes legal requirements on behalf of licenced money lenders regarding their conduct.<sup>81</sup>

### 3.5.2 Adequacy of Protection

Most of the scholarly analysis of indebtedness and the role of the moneylender in Punjab examined for this paper focus on the role of the ‘Green Revolution’<sup>82</sup> in the transformation of agriculture in the state and the inadequacy of the formal financial system to develop in line with transformation. These studies all highlight the terrible cost these factors have had on the social fabric of the state, as well the environmental degradation wrought by irrigation, overuse of fertilisers, and falling water tables. Indebtedness and unviable farming are the consequences.<sup>83</sup>

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<sup>79</sup> For list of laws in various states see Reserve Bank of India 2006, *Report of the Technical Group to Review Legislations on Money Lending*, Annex III <<http://rbidocs.rbi.org.in/rdocs/PublicationReport/Pdfs/78893.pdf>> Accessed 15 October 2010

<sup>80</sup> *Punjab Registration of Money-Lenders Act* 1938, Laws of India website <<http://www.lawsofindia.org/pdf/haryana/1938/1938HR3.pdf>> Accessed 27 February 2013

<sup>81</sup> *Punjab Registration of Money-Lenders Act* 1938, Laws of India website <<http://www.lawsofindia.org/pdf/haryana/1938/1938HR3.pdf>> Accessed 27 February 2013; Jeet, N K 2010, *Punjab: A trail of blood follows peasant struggles*, Frontlines of Revolutionary Struggle website, 15 October <<http://revolutionaryfrontlines.wordpress.com/2010/10/22/punjab-a-trail-of-blood-follows-the-peasant-struggles/>> Accessed 6 December 2010

<sup>82</sup> The ‘Green Revolution’ is the term used to describe the adoption of commercial crops and innovations by India’s farmers during the 1960s in order to improve yields. Innovations included the use of new crop/seed varieties, irrigation, and the employment of fertilisers and insecticides. The initial result was the dramatic increase in India’s agricultural productive capacity. It also had the effect of making Punjab, for a time, the wealthiest state in the union. See Jodhka, S S 2005, *Beyond “Crises”: Rethinking Contemporary Punjab Agriculture*, Centre for Economic and Social Studies, May, pp.4-5 <[http://www.cess.ac.in/cesshome/wp/gaps\\_wp-4.pdf](http://www.cess.ac.in/cesshome/wp/gaps_wp-4.pdf)> Accessed 12 February 2013; Singh, P 2007, ‘The Political Economy of the Cycles of Violence and Non-Violence in the Sikh Struggle for Identity and Political Power: Implications for Indian Federalism’, *Third World Quarterly*, Vol. 28, No. 3, JSTOR, p.559 <<http://www.jstor.org/stable/20454946>> Accessed 13 August 2012; Kaur, M 2010, ‘The Paradox of India’s Bread Basket: Farmer Suicides in Punjab’, *PRAXIS*, Volume XXV, p.40 <<http://fletcher.tufts.edu/Praxis/Archives/~media/DD8E2DF1EA6C47028EB789DCD7ED5D37.pdf>> Accessed 27 August 2012

<sup>83</sup> Gill, A 2004, ‘Interlinked Agrarian Credit Markets: Case Study of Punjab’, *Economic and Political Weekly*, Vol. 39, No. 33, 14-20 August, JSTOR <<http://www.jstor.org/stable/pdfplus/4415419.pdf>> Accessed 12 February 2013; Jodhka, S S 2005, *Beyond “Crises”: Rethinking Contemporary Punjab Agriculture*, Centre for Economic and Social Studies, May <[http://www.cess.ac.in/cesshome/wp/gaps\\_wp-4.pdf](http://www.cess.ac.in/cesshome/wp/gaps_wp-4.pdf)> Accessed 12 February 2013; Kaur, M 2010, ‘The Paradox of India’s Bread Basket: Farmer Suicides in Punjab’, *PRAXIS*, Volume XXV <<http://fletcher.tufts.edu/Praxis/Archives/~media/DD8E2DF1EA6C47028EB789DCD7ED5D37.pdf>> Accessed 27 August 2012; Singh, L & Singh, I 2012, *Rejuvenation of Punjab Economy: A Policy Document*, Centre for Development Economics and Innovation Studies (CDEIS), Punjabi University, Patiala, July <<http://www.punjabiversity.ac.in/cdeiswebsite/downloads/Punjabi%20University%20A.pdf>> Accessed 25 February 2013

Some of these studies also argue that the protection of the law was stronger prior to this transformation, particularly during the colonial era; a 2010 essay in *Praxis* argues that farmers enjoyed strong protection from moneylenders during the British colonial era under the *Land Alienation Act* (1900). The effect of the Green Revolution was to dramatically increase the role and power of the commission agent/moneylender, and diminish the role of the small-scale farmer in the agricultural economy.<sup>84</sup> They all argue that serious reform is required if economic and environmental viability and productivity are to be restored.

On the issue of protection from moneylenders, only limited sources were located. In cases where people have been killed by moneylenders, reports indicate that perpetrators are usually arrested.<sup>85</sup> In cases where moneylenders have kidnapped children of debtors in order to gain leverage, the children have been rescued and the kidnappers are arrested.<sup>86</sup> In some cases where farmers have committed suicide, family members have lodged First Information Reports (FIR) with police and moneylenders have been arrested and charged with ‘abetment to suicide’ (Sections 306 of the *Indian Penal Code*).<sup>87</sup>

However, the limited number of sources located in relation to both incidents of harm and the adequacy of protection means that it is not clear that indebtedness exposes farmers and their families to a reasonable chance of serious harm by moneylenders.

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<sup>84</sup> Kaur, M 2010, ‘The Paradox of India’s Bread Basket: Farmer Suicides in Punjab’, *PRAXIS*, Volume XXV, pp.42-44 <<http://fletcher.tufts.edu/Praxis/Archives/~media/DD8E2DF1EA6C47028EB789DCD7ED5D37.pdf>> Accessed 27 August 2012

<sup>85</sup> ‘Police arrest money lender, associates’ 2012, *The Times of India*, 8 October <[http://articles.timesofindia.indiatimes.com/2012-10-08/india/34322350\\_1\\_money-lender-ratia-township-police-remand](http://articles.timesofindia.indiatimes.com/2012-10-08/india/34322350_1_money-lender-ratia-township-police-remand)> Accessed 25 February 2013

<sup>86</sup> ‘Financier booked for kidnapping boy’ 2013, *The Tribune*, 23 January <<http://www.tribuneindia.com/2013/20130124/ldh1.htm#23>> Accessed 25 February 2013

<sup>87</sup> ‘Accused held in suicide case’ 2013, *The Tribune*, 7 February <<http://www.tribuneindia.com/2013/20130208/jaltrib.htm#5>> Accessed 25 February 2013; *Indian Penal Code 1860*, Section 306



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