The Constitutional Framework surrounding Debt Relief in India

Aditi Shukla[1]

Abstract

According to the National Crime Records Bureau (NCRB) data, more than 1,60,000 farmers have ended their lives over the last one decade. Realizing the sheer magnitude of the disaster caused by indebtedness, the government has consistently attempted to address the problem by waiving the debts through several legislations and schemes. However, the legal framework in India has consistently failed to address the problem of indebtedness among the poor. This article seeks to highlight that the failure of the schemes is a consequence of the tussle between the Centre and the State created by the Constitutional framework in India.

Introduction

Extreme level of indebtedness has consistently been a hindrance to the process of development and growth in India. The persistent burden of debt especially affects the people belonging to the agricultural sector. It has been empirically proved that the rising number of suicide rates among farmers is directly linked to the rising rural indebtedness.

The roots of such measures lie in the colonial times. In fact, several legislations passed by the provincial assemblies before independence continue to be revived till date. However, post-independence, there has been a constant tussle between the Centre and the State on the issue of competency to legislate over the matter of debt relief. While rural indebtedness and money lending fall under State List (Entry 30, List II), several areas affected by debt waiver such as banking are the subject matter of the Union. Through this article, the researcher seeks to *firstly* understand the reasons behind the enactment of such legislations by briefly looking into their history. *Second*, analyze the Constitutional framework pertaining to the matters of debt relief and

[1] National Law School of India University, Bangalore

suggest solutions for the conflicts arising out it. *Third*, critically assess a few State laws and suggest recommendations. *Lastly*, the researcher seeks to evaluate the benefits and shortcomings of the Agricultural Debt Waiver and Debt Relief Scheme, 2008 (henceforth ADWDRS) launched by the government to determine whether Central schemes are a viable solution for the problem.

A Brief History of the Debt Relief Initiatives

The roots of the legal system governing agricultural credit and debt relief lie in the colonial period.[2] The colonial agricultural policy was a profit making tool used for commercial exploitation and revenue collection. The feudal arrangement of land tenure, apart from being an effective method of taxing agricultural produce and land, was also an efficient method for administrative, social and economic control.[3] But this system had serious repercussions on the tenants who were forced to produce cash crops instead of food crops to serve the interests of the landlords. The complete ignorance of the needs of the tenants has been considered to be the major reason behind the widespread famines in the 19th century.[4] Consequent upon such disastrous famines and reports of the famine commissions indicating a complete breakdown of the agricultural credit in India, the colonial government was forced to provide facilities for cheap credit to the farmers. Two laws were then implemented, namely, the Land Improvements Loan Act, 1883 and the Agriculturists Loans Acts. These two acts began the formation of the legal system of agricultural credit in India.[5]

The Land Improvements Loan Act was basically implemented to simplify credit availability for the famers. Under this Act, long term loans could be advanced after the authorization of the government which could be repayed in instalments.[6] It also permitted village communities to borrow with joint and several liabilities. The Agriculturists Loan Act too was enacted for short-term credit facilities. However, such loans, also known as taccavi loans, were criticized for their high rates of interest, onerous terms related to time period of loan payment, rigidity of collection

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[2]*Agricultural Legislation in India: Relief of agricultural indebtedness*, DIRECTORATE OF ECONOMICS AND STATISTICS, 332 (1958).
[3] Uduman Mohideen, INSTITUTIONAL CREDIT AND AGRICULTURAL DEVELOPMENT, 127 (1991).
[4] *Id.*
[5] Uduman, *supra* note 2, at 120-124.
[6] Section 6, The Land Improvement Loans Act, 1883.

and conditions pertaining to the collateral security required.[7] Post the First World War and with the growth of the Indian National Movement, the colonizers had to respond to the growing social concerns of its subjects.[8] In this background, the Usurious Loan Act 1918 was passed which for the very first time prioritized the interests of the farmers over the market interest rates. The Act authorized the judiciary to relieve the debtors of the liability to pay excessive interest if i) the interest was excessive or ii) the transaction was substantially unfair.[9] The power to determine whether the interest rate was excessive rested with the Courts and an excessive interest alone was sufficient to determine substantial unfairness of the transaction.[10] Many such important steps were also taken to protect the interests of the farmers with the passage of the Government of India Act, 1935. Several provincial assemblies passed and amended legislations for protecting farmers from excessive rate of interest on loans imposed by money lenders as wells as banks. For instance, the Usurious Loans Act was amended by the Madras Legislature in 1936 and two important provisions 1) A rebuttable presumption of the substantial unfairness of a transaction if the interest is excessive; and an irrebuttable presumption of excessive interest if compound interest is charged on an agricultural loan.[11] Compound interest on agricultural loans was also prohibited. Similar changes were brought in the Punjab Relief of Indebtedness Act, 1934 that prohibited the court from decreeing a loan for an amount double the principal amount and made such debts voidable at the instance of the debtor. [12]

However, before Independence, even the laws intended to curb money lending did not put an outright ban on usury and compound interest. Furthermore, the Acts did not cover banks and cooperative institutes. The only exception was the Bihar Money Lenders (Regulation of Transactions) Act 1939 which included within its definition of "loan" and " money lender" banks and co-operatives as well.[13] It prohibited the banks and co-operatives from imposing compound interest and usury. Nevertheless, the historical difference between commercial and agricultural credit can clearly be seen. Protecting the interest of the farmers has consistently remained the objective of the government. Post independence, several states implemented several laws to

[7] National Statistics Commission, REPORT OF THE COMMITTEE ON STATISTICS OF AGRICULTURE AND ALLIED SECTORS, 19 (2013).
[8] *Supra* note 1, at 35.
[9] Section 3, The Usurious Loans Act, 1918.
[10] Section 3, The Usurious Loans Act, 1918.
[11] Sethmal & Company v Sri Laxmi Paradise 1999 (5) ALD 642.
[12] Section 30, Punjab Relief of Indebtness Act, 1934.
[13] Meghraj Tibrawala vs Panchu Sahu Teli And Ors. AIR 1952 Pat 39.

control money lending and protect the poor from usurious debts. A few such legislations have been analyzed in this paper.

Constitutional Framework Surrounding Debt Relief: The Tussle Between Union and the States

Regulation of money lending is exclusively a state subject under the Constitution as is evident from Entry 30 of List II which reads:

Money-lending and money-lenders; relief of agricultural indebtedness.[14]

Furthermore, the State also enjoys considerable authority to regulate money lending activities since they do not fall into the category of "trade" under article 19(1)(g). This has been held in the landmark case of *Fatehchand Himmatlal v State of Maharashtra*[15] wherein the Maharashtra Debt Relief Act, 1975 had been constitutionally challenged. In this judgment, Justice Krishna Iyer held that:

> "Money lending may be ancillary to commercial activity and benignant in its effect, but money lending may also be ghastly when it facilitates no flow of trade, no movement of commerce, no promotion of intercourse, no servicing of business, but merely stagnates rural economy, strangulates the borrowing community and turns malignant in its repercussions. The former may surely be trade but the latter – the law may well say – is not trade."[16]

Thus, money lending has been placed outside the purview of article 19(1)(g) by applying the doctrine of *res extra commercium*. However, this doctrine has exempted the dealing of banks and other financial institutions. Such an exemption has been considered reasonable since the modern commercial credit system does not exploit the debtor and has some nexus with trade. In contrast, the old village based feudal pattern of lending money forces the destitute to repay in perpetual labour, heavy and usurious interests.[17] Thus money lending is more of a countryside incubus which oppresses the debtor rather than a trade which contributes to the prosperity of the country. Similar reasoning has been given to consider regulation of money lending practices as a

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[14] Entry 30, List II, THE CONSTITUTION OF INDIA, 1950.
[15] Fatehchand Himmatlal v State of Maharashtra, AIR 1977 SC 1825. (Supreme Court of India).
[16] *Per* Justice Krishna Iyer, Fatehchand Himmatlal v State of Maharashtra, AIR 1977 SC 1825. (Supreme Court of India).
[17] Fatehchand Himmatlal v State of Maharashtra, AIR 1977 SC 1825. (Supreme Court of India).

"reasonable restriction" under article 301(b).[18] The constitutional concern for the weaker sections of the society who have been ignored by the institutional credit systems has thus been upheld by the courts and the States have been given the power to regulate such pernicious activities.

However, the tussle between the Union and the State arises when States set limits on interests in order to relieve agricultural indebtedness. It conflicts with the domain of the Union which has exclusive jurisdiction over areas such as banking.[19] This has been a bone of contention in several cases specially when there is an apparent conflict with the Union law. For instance, the Union has an exclusive power to legislate on gold loans by virtue of Entry 52 of List I of the Constitution. However, debt reliefs or interest reduction granted by the State seems to encroach upon an occupied field of the Union which has enacted the Gold Control Act.

To resolve such conflicts, the Courts have consistently provided a liberal and realistic interpretation of the entries under Schedule VII. The State's power to legislate on issues related to money lending has been upheld by applying the doctrine of pith and substance.[20] The impugned laws related to agricultural indebtedness have been traced back to the State list thereby preventing them from being struck down for legislative incompetence. The Supreme Court in *Fatehchand Himmatlal*[21] has gone to the extent of saying that even if the both the Debt Relief Act in Maharashtra and the Gold Control Act enacted by the Union are conflicting, the State law shall prevail. It was held that both the Acts lie under Concurrent List as they are both related to law of contracts and since the President's assent has been obtained the State law shall prevail by virtue of article 254(2).

However, a major setback to the State's domain over debt relief was received when the Parliament amended the Banking Regulation Act, 1949. Section 21A was inserted through this amendment which barred the Courts from scrutinizing banking debt transactions on the ground that the interest charged by the bank is excessive.[22] This section applies notwithstanding section 3 of Usurious Loans Act as well as any State laws in force related to indebtedness. Thus the Union has clearly overridden the power of the States through this amendment. Prior to this amendment, the Courts had used such legislations to relieve the debtor of the liability if the loans

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[18] Pathumma v State of Kerala, AIR 1978 SC 771. (Supreme Court of India).
[19] Entry 45, List I, THE CONSTITUTION OF INDIA, (1950).
[20] Zameer Ahmed Latifur Rehman Sheikh v. State of Maharashtra and Ors. AIR 2010 SC 1975.
[21] *Fatehchand Himmatlal*, AIR 1977 SC 1825. (Supreme Court of India).
[22] Section 21A, Banking Regulation Act, 1949.

were unfair.[23] But in *Andhra Bank v Chittabathuni Shree Ramula*,[24] the court clearly dismissed the distinction between agricultural credit and commercial credit while interpreting section 21A and held that the respondents were not entitled to any relief under Andhra Pradesh Agriculturists Act even if the debt was for agricultural purposes.

Hence, it can be seen that there is a clear conflict between the State and the Union when it comes to matters of agricultural debt relief that affect the banking sector. The State needs to demonstrate that the pith and substance of the impugned legislation comes under the State List or the Concurrent List. If it does not fall in either of these two lists, it automatically comes under the Union's domain by virtue of entry 97 of the Union List read with article 248 which gives residuary power to the Union.[25] Furthermore, in the Concurrent list the Unions power prevails over that of the State. [26] In order to ensure that the States do not lose their power to legislate on debt relief the Courts must (a) give a broad interpretation to the entries under the Lists[27] (b) ensure that while interpreting the entries "*each general word should be held to extend to all ancillary and subsidiary matters which can be said to be fairly and reasonably comprehended in them*"[28] and (c) resort to a harmonious construction in spite of the principles of exclusivity and repugnancy.[29]

The states have an absolute jurisdiction to provide relief to debtors from agricultural indebtedness with the exception of matters related to banking. Applying the constitutional principles, the State's power must be extended to regulate bank debts related to agriculture as well. Meanwhile, in the absence of any relevant Union law specializing in micro finance law and the incompetence of the State to enact laws on loans advanced by banks, the regulatory power of the Reserve Bank of India may be useful. RBI's directions are mandatory in nature as has been envisaged in section 21(3) and section 35A(1) of the Banking Regulation Act. Circulars of RBI have in fact been held to have statutory effect.[30] Thus, in the exercise of its regulatory powers

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[23] Srinivasa Vardachariar v Gopala Menon AIR 1967 SC 412; State Bank of Travancore v C.T George AIR 1975 Ker 169.
[24] Andhra Bank Vs. Chittabathuni Sree Ramulu, 1998 (3) ALD 675.
[25] Entry 97, List II, THE CONSTITUTION OF INDIA, 1950. *See also*, Union of India v. H. S. Dhillon, AIR 1971 SCC 779.
[26] Article 254, THE CONSTITUTION OF INDIA, 1950.
[27] Atiqa Begum v. United Provinces AIR 1941 FC 16.
[28] Elel Hotels and Investment v. Union of India AIR 1989 SC 698.
[29] Harakchand Ratanchand Banthia v. Union of India, AIR 1970 SC 1453.
[30] Canara Bank v. P. R. N. Upadhyaya, (1998) 6 SCC 526.

over all banks across the country, RBI can fix the maximum rate of interest and control other aspects of agricultural loans. In an important case it has been held that

> "Section 21 of the Banking Regulation Act enables the Reserve Bank to give directions to all other banks in regard to loan policies with a view to control credit facilities and curb speculative activities. This is clearly a matter of public interest. This provision authorises the Reserve Bank to give directions to other banks inter alia in regard to the rate of interest to be charged on advances/financial accommodation."[31]

RBI also has the authority to penalize the banking companies that do not comply with its directions.[32] Thus, RBI's supervisory powers must be utilized to curb usurious practices in money lending in agricultural sector to protect the interests of the farmers.

State Legislations For Debt Relief: A Critical Analysis

<u>1. Tamil nadu Debt Relief Act, 1980</u>

This Act has very loosely defined the persons who are entitled to relief in Tamil Nadu with no clarity on what exactly comes under the ambit of debt, debtor and creditor. The Act applies only to people whose annual household income does not exceed Rs 4800.[33] This income includes the income of all members of the family from all sources. For the purpose of this Act, a creditor is any person from whom the debtor has borrowed or incurred debt.[34] Clause 3(d) defines debtors as any person from whom 'any debt' is due.[35] The scope of this definition is too wide and includes every person who is indebted or who might have incurred liability. Section 4(a) of the Act discharges any debts or advances incurred falling within the ambit of the Act prior to 1.1.1980 including any interest thereon.[36] But as per section 5, the application must be made within 6 months from the commencement of the Act to claim the relief.[37] Section 4(b) bars any Civil Court from entertaining any suit for recovering the debt from the debtors in future.

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[31] Corporation Bank v. D. S. Gowda, (1994) 5 SCC 213.
[32] Section 47-A, Banking Regulations Act, 1949.
[33] Section 6, Tamil Nadu Debt Relief Act, 1980.
[34] Section 3(b), Tamil Nadu Debt Relief Act, 1980.
[35] Section 3(d), Tamil Nadu Debt Relief Act, 1980.
[36] Section 4(a), Tamil Nadu Debt Relief Act, 1980.
[37] Section 5, Tamil Nadu Debt Relief Act, 1980.

[38]Furthermore, section 5 and 6 give the power to the Tahsildar to release any mortgaged or pawned property to the debtor.[39] However, the burden lies upon the debtor to prove that he is entitled to the exemption under the Act as against the previous Acts in Tamil Nadu which provided for a rebuttable presumption in favour of the debtors.[40] More importantly, section 12 grants exemption to ordinary debts.[41] The applicability and the scope of this exemption are yet to be judicially interpreted. It is not clear whether banks can claim exemption under this section from ordinary debts.[42]

2. Kerala Farmers Debt Relief Act, 2006

The government of Kerala has set up a Commission under the Kerala Farmer's Debt Relief Commission Act, 2006 to redress the grievances of the farmers who are distressed due to indebtedness.[43] The Commission has been empowered with the authority to pass awards and to recommend appropriate measures for relieving the farmers of their grievances arising out of indebtedness. This was enacted because the Kerala Agricultural Debtors (Temporary Relief) Act of 2001 was applicable only to debts incurred before its enactment. The new Act is quite comprehensive and has implemented a new method of debt relief. Section 2(vi) defines 'creditors' as person engaging in money lending activity whether licensed or not and includes co-operative societies as well.[44] Section 2 (vii) further defines debt as any secured or unsecured liability due from a farmer before the commencement of the act.[45] It specifically includes any co-operative societies as well as institutional creditors. Institutional creditor does not include private banks and is restricted to the SBI or any Schedule Bank. Furthermore, it specifically excludes any loans taken by the farmers for commercial purposes as well as any amount payable to any government body.[46] The Committee has the power to declare any area as a *"distress affected area"* or any person as a *"distress affected person"*[47] as it deems fit, subject to the guidelines of the Government. The Committee consists of 2 representatives for the farmers, a retired HC judge, an agricultural expert and a person representing the economic sector. The Commission has

[38] Section 4(b), Tamil Nadu Debt Relief Act, 1980.
[39] Section 5, Tamil Nadu Debt Relief Act, 1980.
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[41] Section 12, Tamil Nadu Debt Relief Act, 1980.
[42] Manimekalai Ammal v Swamidorai Padayatchi, AIR 2001 Mad 689.
[43] Section 3, The Kerala Farmers' Debt Relief Commission Act, 2006.
[44] Section 2(vi), The Kerala Farmers' Debt Relief Commission Act, 2006.
[45] Section 2(vii), The Kerala Farmers' Debt Relief Commission Act, 2006.
[46] Section 2(vii), The Kerala Farmers' Debt Relief Commission Act, 2006.
[47] Section 6, The Kerala Farmers' Debt Relief Commission Act, 2006.

the same power as that of a Civil Court under CPC in some matters.[48] Statistics suggest that this approach has resulted in positive outcomes. As per the Economic Review 2007, the suicide rate has fallen substantially due to the debt relief commission set up by this legislation.[49] The commission has given a lot of hope to the farmers for a speedy and efficient waiver of debt. Admittedly, the problem of indebtedness continues to exist in Kerala, but this model has surely helped in reducing the problem of indebtedness in the State.

3. Bihar Debt Relief Act, 1976

Bihar has one of the most comprehensive, precise and clear legislation for debt relief. The scope of the act extends to rural artisans and agricultural labourers as well.[50] More importantly, the act covers the banks as defined under the Banking Regulation Act, 1949.[51] This has widened the scope of the act to a great extent as all debts prior to the act have been waived from such banks as well apart from the co-operative societies, SBI and its branches. Furthermore a provision of imposing penalty for non-compliance with the orders has been provided.[52] Another unique feature of the act is the prohibition from making a scheduled debtor work in lieu of the debt owed.[53] All such customs and practices prevalent before the commencement of this act have been derecognized. However, even though the scope has been broadened and certain unique provisions have been incorporated, no separate authority has been constituted as in Kerala to deal with the issue expeditiously.

Hence it can be seen through these legislations that while some acts are not comprehensive enough in their description, others in spite of being comprehensive have been inefficient at the stage of implementation. A combined model of legislations like Bihar and Kerala can be used to ensure clarity as well as effective implementation. The common practice across the states has been to re-enact the legislations without any significant amendments. It must be acknowledged that such legislations came in to force decades ago and significant changes in the agrarian economy as well as banking sector have taken place since then. A new and better model must be adopted by the States to deal with the problem effectively.

[48] Section 3, The Kerala Farmers' Debt Relief Commission Act, 2006.
[49] Kerala State Planning Board, *Economic Review*, 34 (2007).
[50] Section 2(b), Bihar Debt Relief Act, 1976.
[51] Section 2(g)(i), Bihar Debt Relief Act, 1976.
[52] Section 6, Bihar Debt Relief Act, 1976.
[53] Section 4, Bihar Debt Relief Act, 1976.

Central Schemes For Debt Waiver: A Perfect Solution?

The Government of India, in the financial year 2008-09, announced a debt waiver scheme for farmers as a part of its budget proposals called the Agricultural Debt Waiver and Debt Relief Scheme (ADWDRS), 2008. It was estimated to cost Rs 71,680 Crore and has been considered to be among the largest debt relief programs in history.[54] It has affected around 36 million households in the country and has been estimated to be equivalent to 1.6% of the country's GDP.[55] The scheme covered agricultural as well as investment loans taken by the farmers.[56] The eligibility criterion was divided according to the area of land owned by the farmers. The farmers were further entitled to avail the benefits of the scheme depending upon i) whether they were small, marginal or other farmers ii) the amount of loan that is unpaid and iii) the period of disbursal of loans.[57] While the entire debt of the Marginal and Small farmers was to be waived off, the 'Other' farmers could avail a relief of 25% of the eligible amount.[58] The debt relief was administered through lending institutes with the Department of Financial Services as the Apex authority responsible for its effective implementation.[59]

However, an audit conducted by the CAG revealed that the lending authorities had declared 13.5% of the accounts eligible for debt relief ineligible, whereas 8.5% of those who were ineligible were included.[60] A lot of farmers did not receive the benefits in spite of being shortlisted. On the other hand, about Rs. 20.5 Crore was spent on loans that were taken for non-agricultural purposes. Furthermore, no debt waiver receipts were issued by the lending institutions which were meant to act as acknowledgment letters to help farmers get fresh loans from institutions.[61] There was very little monitoring regarding the issuance of fresh loans. The monitoring of the lending institution's compliance with the government's directives was also overall inefficient due to the sole reliance placed by the government on the nodal agencies. These nodal agencies were in turn merely relying on the data supplied by the lending institutions

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[54] Martin Kanz, *What Does Debt Relief do for Development? Evidence from a Large-Scale Policy Experiment*, THE YALE LAW JOURNAL, 4 (2011).

[55] IndiaStat and Rajiya Sabha, *Statewise Number of Farmers Benefited from Agricultural Debt Waiver and Debt Relief Scheme in India*, (2008).

[56] Clause 3.3, Agricultural Debt Waiver and Debt Relief Scheme, 2008.

[57] Clause 4, Agricultural Debt Waiver and Debt Relief Scheme, 2008.

[58] Clause 6, Agricultural Debt Waiver and Debt Relief Scheme, 2008.

[59] Clause 14, Agricultural Debt Waiver and Debt Relief Scheme, 2008.

[60] Ministry of Finance, *Report of the Comptroller and Auditor General of India on Implementation of Agricultural Debt Waiver and Debt Relief Scheme. 2008***,** 21, (2013).

[61] *Id.*

without checking the veracity of the claims.[62]The scheme also failed to take into account that a lot of the lending institutions were in remote areas and thus had different infrastructural facilities and capacities. They were inept in meeting the deadline of preparing the list of beneficiaries in a month, as set by the government. [63]

Thus, it can be seen that in spite of being a welfare scheme launched for the benefit of the farmers quite a few loopholes remained especially when it came to implementation of the scheme. Such schemes are a good alternative, especially in States where the debt relief legislations are not implemented or are non-existent. However, the implementation of these schemes must be improved if announced in future. As suggested by the CAG, better records for the farmers for the purpose of fresh loans. Greater accountability must be put upon the bank officials and internal auditors to ensure that all and only the rightful beneficiaries receive the benefit of the scheme.[64] It should also be ensured that the central schemes are resorted to only in extreme situations and the power of the states is not diluted through the executive action of the state.[65]

Conclusion

The crisis of agriculture in India is manifold and legal reforms are essential to improve the current state of affairs. There is ample evidence suggesting that agricultural debts are a major reason behind the farmer suicides across the country. While the government has been taking steps to curb rural indebtedness, a significant overhaul of the current legal framework for debt relief is required. The roots of the legal regime surrounding debt relief lie in the colonial times. The oppressive feudal arrangement of land tenure completely ignored the needs of the farmers and led to widespread famines. Seeing the decline of agricultural credit system and the rise of the persistent demand for reform during the national movement, the government enacted two major legislations ie. Agricultural Loans Act and the the Land Improvement Loans Act, 1883. This marked the beginning of the legal recognition of the interests of the farmers. Several provincial laws were also enacted which continue to exist and the basic legal framework of these laws remains the same till date.

[62]*Supra* note 59, at 35.
[63] *Supra* note 59, at 35.
[64] *Id.*
[65] *Id.*

However, post independence there has been a constant battle between the Union and the State on the question of competency to enact legislations on debt relief. While rural indebtedness and money lending fall under State List (Entry 30, List II), several areas affected by debt waiver such as banking are the subject matter of the Union. To resolve such conflicts, the Courts have consistently provided a liberal and realistic interpretation of the entries under Schedule VII. The State's power to legislate on issues related to money lending has been upheld by applying the doctrine of pith and substance but it has also led to the prevention of the State from enacting any legislation the pith and substance of which lies in banking. Another major setback to the State's domain over debt relief was received when the Parliament amended the Banking Regulation Act, 1949 which barred the Courts from scrutinizing banking debt transactions on the ground that the interest charged by the bank is excessive irrespective of any state legislation. Thus the Union has clearly overridden the power of the States through this amendment. Prior to this amendment, the Courts had used such legislations to relieve the debtor of the liability if the loans were unfair. Howver, the interpretation of section 21A by the courts has clearly dismissed the distinction between agricultural credit and commercial credit and thus no one is entitled to any relief from banking debt transactions. .

Hence, it can be seen that there is a clear conflict between the State and the Union when it comes to matters of agricultural debt relief that affect the banking sector. In order to ensure that the States do not lose their power to legislate on debt relief the Courts must (a) give a broad interpretation to the entries under the Lists (b) ensure that while interpreting the entries "each general word should be held to extend to all ancillary and subsidiary matters which can be said to be fairly and reasonably comprehended in them and (c) resort to a harmonious construction in spite of the principles of exclusivity and repugnancy. Meanwhile, in the absence of any relevant Union law specializing in micro finance law and the incompetence of the State to enact laws on loans advanced by banks, the regulatory power of the Reserve Bank of India may be useful to control the rate of interest of loans in banks.

An analysis of state legislations of Bihar, Tamil Nadu and Maharashtra reveals that while some acts are not comprehensive enough in their description, others in spite of being comprehensive have been inefficient at the stage of implementation. A combined model of legislations like Bihar and Kerala can be used to ensure clarity as well as effective implementation. The common practice across the states has been to re-enact the legislations without any significant amendments. It must be acknowledged that such legislations came in to force decades ago and significant changes in the agrarian economy as well as banking sector have taken place since then. A new and better model must be adopted by the States to deal with the problem effectively.

Furthermore, an analysis of the Central scheme launched for debt relief in 2008 reveals that in spite of being a welfare scheme launched for the benefit of the farmers quite a few loopholes remained especially when it came to implementation of the scheme. Such schemes are a good alternative, especially in States where the debt relief legislations are not implemented or are non-existent. However, the implementation of these schemes must be improved if announced in future. It should also be ensured that the central schemes are resorted to only in extreme situations and the power of the states is not diluted through the executive action of the state.