

DEBT LEGISLATION IN BENGAL

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KUMAR BIMAL CHANDRA SINHA

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FOREWORD

The problem of agricultural indebtedness is at present being discussed and examined by the public as it never was before, and the autonomous provinces are gaining experience in one of the most complicated tasks that governments have to face in communities predominantly agricultural. Mr. Sinha's book on Debt Legislation in Bengal, therefore, comes at an opportune moment. I feel sure that the book will be carefully read by many of the public interested in the subject and that it will enlighten and guide their judgment.

J. P. NIYOGI.

The University of Calcutta,
The 14th January, 1938.

PREFACE

The present monograph is based on an essay which was awarded the Pramathanath Banerjea Medal by the All-Bengal Students' Economic Society. In writing this monograph the writer has availed himself of original documents, acts repealed as well unrepealed, discussions in the legislatures and several treatises and journal articles on the problem. The major sources of his informations are indicated in Appendix IV.

Special acknowledgments are due to Dr. J. C. Sinha of the Presidency College and to Dr. R. M. Chowdhury of the Department of Economics and Commerce of the University of Calcutta for help and encouragement received, and to Dr. J. P. Niyogi, Minto Professor of Economics, Calcutta University, for favouring the writer with a foreword.

B. C. S.

Paikpara Rajbati,
The 15th January, 1938.

APPENDIX I

(vide p. 16)

FORM I

(See Rules 14, 31 and 32)

A court-fee stamp of As. 12 is to be affixed here unless this Form is used merely for submitting a statement of debt under rule 31 or 32 of the Bengal Agricultural Debtors Rules, 1936.

Application and statement of debt by a debtor under the Bengal Agricultural Debtors Act, 1936.

Proceedings No.....Year.....

To the.....Debt Settlement Board,

.....

.....

I/we the undermentioned applicant/applicants *hereby apply under section 8 of the Bengal Agricultural Debtors Act, 1936, for the settlement of my/our debts, of which a list is given in Schedule A.

*have made an application in Form....., dated....., under sections 8 and 9 of the Bengal Agricultural Debtors Act, 1936, for the settlement of a joint debt of which a statement is given in that application and therefore submit this statement of debt.

Serial No.	Name of each applicant.	Father's or husband's name.	Caste of each applicant.	Residence (mouza, union, thana).
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*Note—Strike out the words which do not apply.

SCHEDULE A

(1) Amounts claimed by creditors to be due (including arrears of rent).

Serial No. of the debt.	Names and ad- dresses of credi- tors.	Names of the debt (with description of any bond or other document.	Khatian and plot Nos. of any land mortgaged.	Date when the debt was incurred.
1	2	3	4	5

Amount of principal.	Rate of interest.	Total amount claimed by the creditor.	Amount (if any) admitted by debtor.
6	7	8	9

(2) Particulars of any joint debtors or sureties.

Reference to serial numbers in column 1.	Names and addresses of sureties or joint debtors.
10	11

(3) Particulars of any suit or proceeding instituted regarding any debt.

Reference to serial numbers in column 1.	Name of the court, etc.	Nature of the suit or proceeding with its number and date and a note as to the stage reached.	Amount (if any) decreed, with details.
12	13	14	15

DIRECTIONS:

1. Each debt is to be shown separately and given a separate serial number in column 1.

2. If there is more than one debt claimed by a creditor, his name should be entered once only against all such debts.

3. Column 4 is to be filled up only if there is a mortgage.

4. If there is a bond, "date when incurred" in column 5 and "principal" in column 6 mean the date and the principal shown in the current bond. If the bond has been renewed, details of the previous bonds should be shown in Schedule B.

5. "Total" in column 8 includes principal and interest and also any costs decreed by a court. If there is a *kistibandi* the sum total payable (and not merely the annual *kist*) should be shown here.

6. Column 14 should show whether it is a "rent suit," "money suit," "mortgage suit," "certificate proceeding," "proceeding for the execution of a decree," etc.

7. In column 14 "stage reached" means "pending for sale," "property attached" and the like.

8. In column 15 "details" means "principal, interest and cost."

Any information for which there is no room in the columns provided should be given in Schedule B with references to the serial and column numbers of this Schedule.

SCHEDULE B

History of the Debts.

<p>Reference to serial numbers in column 1 of Schedule A.</p>	<p>Give below any particulars additional to those given in Schedule A, such as the amounts paid from time to time.</p> <p>If the principal of any of the debts shown in Schedule A includes any arrears of interest which have been added when a bond has been renewed or an additional loan has been taken, the following information (so far as it is known to the debtor) should be given below references in the margin to the serial numbers of the debts in column 1 of Schedule A:—the date when the debt was first incurred, the amount of the original principal, the approximate dates and the conditions on which the bond was renewed or the additional loan taken, the rate of interest stipulated in each bond, the amounts paid from time to time and any other relevant facts.</p>
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SCHEDULE C

Particulars of the immovable property of the debtor and of property transferred during the last two years.

(I) Description of Holding.

Mauza Thana		Jurisdiction List No. District.		Khatian No.	
No. of landlord's Khatian	Name of landlord in brief	Paytable to landlord		Description of the in- terest and names and residences of the co- sharers of the debtor.	Class to which tenant belongs, etc., special conditions and incid- ents.
		Rent	Cess.		
1	2	3	4	5	6

(2) Land let to tenants.

Serial No.	No. of khatian of each subordinate interest.	Total area in each khatian in preceding column.		Payable to this interest		Extent of debtor's share or interest.	Estimated value.	Remarks. (Note particularly if any land is mortgaged and if there has been any land transferred in the last two years).
		Acres	Decimals.	Rent	Cess			
1	2	3	4	5	6	7	8	9

(3) Land in direct possession of the debtor and his co-sharers.

Khatian number (as in heading of part 1 of this Schedule).....

Plot No.	Description of boundaries of the plot if it has no settlement number.	Class of land	Remarks. (Note particularly if the plot is mortgaged and if there has been any land transferred in the last two years).	Total area of plot.		Extent of debtor's share or interest.	Estimated value.
				Acres	Decimals.		
1	2	3	4	5	6	7	8

SCHEDULE D

Particulars of any transfer of Land.

(1) If the holding or any land included in it has been transferred within the last two years, give below the following details:—The plot numbers, nature of the transfer, value for which transferred, date of the transfer, and name and address of the transferee.

(2) Also enter in parts 2 and 3 of Schedule C particulars of any land included in the holding and transferred within the last two years.

SCHEDULE E

Particulars of the movable property of the debtor.

Serial No. 1	Description. 2	Estimated value. 3	Place where it may be found. 4

SCHEDULE F

Details of the supplementary income of the debtor.

Nature of the income (investments, service, etc.) 1	Annual amount earned or received. 2

SCHEDULE G

Particulars of any mortgage, lien or charge on movable property.

SCHEDULE H
Debts due to the debtor.

Serial No. 1	Amount claimed.		Names and residences of persons from whom claimed. 4	Nature of the debt with description of any bond and with khatian and plot Nos. of any land. 5
	Principal. 2	Interest. 3		

I/we declare that all the debts which are due, or which to my/our knowledge any person claims to be due from me/us and all my/our properties have been included in this statement* and that I/we am/are unable to pay the said debts as claimed in full.*

*I/we also declare that my/our primary means of livelihood is agriculture and that I am a *raiyati*/under-*raiyati*/we are *raiyats*/under *raiyats* and I/we cultivate land myself/ourselves by members of my/our family/by hired labourers/by *adhiars*, *bargadars* or *bhagdars*.*

Signatures of the persons submitting
the application or statement of debt or
of their authorised agents.

Date.....

† VERIFICATION.

I also declare that the information given on the first page and in†of this application and statement is true to my knowledge and that the information given in the other parts thereof is inserted upon information received and believed by me to be true.

Declared at.....in my presence.

Signature or thumb impression of an
applicant or authorised agent.

.....

Signature of Chairman/Member of the Board.....

Date.....

Note.—*Strike out portions which do not apply.

Note.—†This verification is not necessary if the Form is used merely for a statement of debt.

Note.—‡Here state the Schedules and the numbers of the columns.

APPENDIX II
(Vide p. 16)
FORM VI
(See Rule 27)

Notice under section 13 (1) of the Bengal Agricultural Debtors Act, 1935.

Proceedings No.....year.....

To....., son of/wife of....., resident
in mauza.....union.....thana.....
district.....

Whereas an application has been submitted for the settlement of the debts of the undermentioned debtor, and whereas the Board is of opinion that is is desirable to attempt to effect a settlement between the said debtor and his creditors, you/all the said creditors are hereby required to submit to this Board a written statement in the prescribed form giving full particulars of all debts owed to you/them by the said debtor within one month of the service of this notice upon you/publication of this notice at the Board's office.

The Board will scrutinise such statement at their meeting on the.....
day of.....at.....o'clock, when you/the creditors
should be present.

Signed.....

Seal of the Board.

Chairman.

Dated.....

Note.—Under section 13 (2) of the Act a Board so empowered may declare that the amount of any debt of which a statement is not submitted in compliance with this notice shall be deemed to be the amount given in the statement of the debtor or not to be payable if it is not in the debtor's statement.

Name and description of the debtor.

Name.	Name of father or husband.	Name of mauza, union, thana where resident.

APPENDIX III

List of relevant Acts and Regulations.

Rule for debt Adjustment—1772.
Bengal Regulation of 1793.
Bengal Regulation VII of 1803.
Bengal Regulation VIII of 1805.
Bengal Regulation XVII of 1806.
Madras Regulation XXXIV of 1802.
Bombay Regulation V of 1802.
Interest Act of 1839.
Act XXVIII of 1855 (Usury Laws Repeal Act).
Indian Contract (Amendment) Act of 1879.
Agriculturists' Loan Act (Act XXII) of 1884.
Usurious Loans Act of 1918.
Usurious Loans (Amendment) Act of 1926.
Punjab Regulation of Accounts Act of 1930.
Punjab Land Alienation Act of 1900.
U. P. Agriculturists' Relief Act of 1934.
Debt Conciliation Act of Central Provinces.
Bengal Moneylender's Act of 1933.
Bengal Agricultural Debtors Act 1936.
Bengal Tenancy Act.
Public Demands Recovery Act.
Negotiable Instruments Act.
The English Money Lenders Acts of 1900, 1911, 1927.
The English Agriculturists' Relief Act, 1928.

APPENDIX IV

BIBLIOGRAPHY

A. Books and Articles.

- S. C. ROY: *Agricultural Indebtedness in India.*
RADHAKAMAL MUKHERJI: *Land Problems of India.*
SACHIN SEN: *Studies in the Land Economics of Bengal.*
SACHIN SEN: *Tenure of Agricultural Land.*
S. C. MITTER: *A Recovery Plan for Bengal.*
M. L. DARLING: *Punjab Peasant in Prosperity and Debt.*
M. L. DARLING: *Wisdom and Waste in the Punjab Village.*
K. N. BHAUMIK: *Agricultural Debtors Act.*
K. N. BHAUMIK: *Law of Interest.*
B. B. MITRA: *The Land and Water Laws of Bengal and Bihar.*
H. P. GUPTA: *The U. P. Debt Acts.*
D. F. MULLA: *Principles of Hindu Law.*
STONE AND MESTON: *Law Relating to Moneylenders.*
HOUGH: *The Co-operative Movement in India.*
N. BAROU: *Co-operative Banking.*
STRICKLAND: *Studies in European Co-operation.*
ALEXANDER BOYAZUGLU: *Agricultural Credit.*
Economic Journal, 1932—SOLLOHUBS' article on *Agricultural Debts in Roumania.*
Economist, June 4, 1932, p. 1241—*Debt Settlement in Roumania.*
Department of Overseas Trade, 1931, pp. 36-39—*Economic Condition in Roumania.*
Department of Overseas Trade, 1932, p. 39—*Financial and Economic Condition in Roumania.*
Economist, September 23, 1933, p. 571—*Article on the Peasant Debt Problem in Jugoslavia.*
Economist, November 11, 1933, p. 907—*Hungarian Agricultural Relief.*
Economic Record (Australia), November, 1931, pp. 297-303. December, 1932, pp. 272-278.

B. Reports and Official Publications

- The Famine Commission Report.
The Royal Commission on Agriculture—Report.
The Bengal Banking Enquiry Committee—Report and Evidence.
The Central Banking Enquiry Committee—Report.
The Royal Commission on Labour—Report.
Report of the Agricultural Credit Department of the Reserve Bank of India, 1936.
Report of the Banking Union at Kodinar by the Reserve Bank of India (Bulletin No. 1 of the Agricultural Credit Department).
Redemption of the Agricultural Indebtedness in the Bhabanagar State—published by the Bhabanagar State.
Proceedings of the Bengal Legislative Council, Vol. 46, No. 2.
Calcutta Gazette, Jan. 24, 1935; Feb. 9, 1935; August 2, 1935; Dec. 2, 1937.