



**Australian Government**  
**Refugee Review Tribunal**

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# Country Advice

## India

India – IND35920 – Mumbai – Ahmedabad  
– Stock market – Money lenders – Debtors  
– Police – State protection  
18 January 2010

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**1. Please advise whether the Indian stock market crashed in 2005?**

*The Wall Street Journal's* end of year review of markets in 2005 stated that Asian markets made “hefty gains” during the year with India being one of the “region’s big winners”. The Indian market was said to have drawn “torrents of capital from overseas, driving the Sensex index up 42.3%”.<sup>1</sup> The Bombay Stock Exchange website states that the Sensex is India’s key stock market index and comprises an index 30 stocks representing 12 major sectors.<sup>2</sup> This index provides an indicator of the performance of the Indian stock market as a whole. The Sensex grew to reach the 6000 mark in year 2000, and in year 2005 it crossed the 7000 mark in June and the 8000 mark in September.<sup>3 4</sup> The *Press Trust of India* also described the year 2005 in a positive light, citing that the Sensex index “touched new peaks on 59 trading days during 2005 thanks to Foreign Institutional Investors injecting close to USD 11 billion” with analysts adding that “even better times are in store”.<sup>5</sup>

- 2. Please advise whether Indian money lenders/debt collectors are likely to pursue debtors and their families?**
- 3. Are there reports of Indian money lenders/debt collectors resorting to violence including killing those who won’t pay?**

In September 2009 the *Ahmedabad Mirror* reported the story of money lenders who allegedly tried to forcibly remove the kidney of a debtor and threatened to kill him after claiming that he still owed them money, even after the debtor had sold his business to repay the loan:

The plight of Bhadra resident Shakir Mansuri only reaffirms that money lenders in Ahmedabad won’t stop at anything when it comes to debt recovery.

When *Mirror* asked Mansuri [the victim] why it took him almost a month to write to the police commissioner after the incident, and why had he not filed a police complaint, he said, “I feared for my life, and for my family’s life. I did approach the Sarkhej Police, but the money

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<sup>1</sup> Santini, L. 2006, ‘Year-End Review of Markets & Finance 2005 - Surging World Markets Entice U.S. Investors - Asian Markets Overcome Bird Flu and Oil Concerns To Register Strong Gains’, *The Wall Street Journal*, 3 January – Attachment 1

<sup>2</sup> Bombay Stock Exchange Limited 2009, ‘Introduction’, Bombay Stock Exchange Limited website <http://www.bseindia.com/about/introbse.asp> – Accessed 12 January 2009 – Attachment 2

<sup>3</sup> ‘Indian stock market’ 2009, *Stock Market.nu* <http://www.stockmarket.nu/indian.php> - Accessed 12 January 2009 – Attachment 3

<sup>4</sup> Berg, W. 2005, ‘The Indian Stock Market’, *EzineArticles*, 27 December <http://ezinearticles.com/?The-Indian-Stock-Market&id=118673> - Accessed 12 January 2010 – Attachment 4

<sup>5</sup> ‘Bulls to push Sensex to higher peaks, feel analysts’ 2006, *Asia Pulse Pty Limited*, 2 January – Attachment 5

lenders said they will kill my family. They even threatened me inside the Sarkhej police station”

...Mansuri alleged in his note: “I sold off my shop and shut down my garment business to pay off my debts. I also sold off my flat in Juhapura, but Kadri insists I owe him further Rs 1.5 lakh. He has taken all my money, but just refuses to leave me alone”.<sup>6</sup>

*The Times of India* reported in July 2009 that a woman in Ahmedabad had rushed to a police station for protection after a money lender had threatened to kidnap and murder her children if her husband, a Mumbai based diamond trader, did not immediately repay his loan:

Rachna Thakar, 40, was at her wits end on Friday afternoon and rushed to Satellite police station, with her daughter and son seeking protection from a money-lender. The money-lender, she told police, had threatened to kidnap her children and kill them if her husband does not pay up the loan immediately.

Her husband, Hitesh, a Mumbai-based diamond trader, had taken a loan of Rs 2 lakh on June 7 this year. But hefty interest rate of the private financier, Yasin Shah, took the loan amount to Rs 5 lakh within a month. Since Hitesh was in Mumbai, Rachna was regularly getting threat calls from the financier.

...On July 14, Rachna says, Yasin visited her home and demanded Rs 5 lakh. Rachna expressed her inability to get that much money after which Yasin threatened to kill her children. He also regularly called up Hitesh to threaten him, says Rachna.

...Recently, after two persons Vasant Gohil and Avnish Patel committed suicide, oppressed and threatened by private financiers, the deputy commissioner of police, zone I, BK Jha had assured people of police cooperation. Jha had also asked victims to come forth to register complaints against illegal, private financiers.<sup>7</sup>

In the neighbouring Gujarati city of Rajkot, *Express India* reports the suicide death of a singer who had allegedly been tortured and threatened by money lenders. The money lenders had demanded that the singer repay them the full loan plus interest within 6 months, after initially agreeing that it could be paid within 16 months:

The preliminary investigation revealed that Panchamiya had been abducted even after he had returned the loan amount of Rs 90,000 to the two money-lenders. They allegedly beat him mercilessly to recover the interest amount.

The police said the two had also threatened to kill Panchamiya’s five-year-old son Chinmay, if he failed to pay the interest by Friday.

... Panchamiya was assaulted with hockey stick and received multiple injuries.

“Panchamiya killed himself a day before the deadline given by the accused,” said the police.<sup>8</sup>

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<sup>6</sup> Qureshi, Z. & Zala, V. 2009, ‘Money Lenders Tried to Remove My Kidney’, *Ahmedabad Mirror*, 4 September <http://www.ahmedabadmirror.com/index.aspx?page=article&sectid=3&contentid=20090904200909040232594065645390a&sectxslt=#ft2> - Accessed 12 January 2010 – Attachment 6

<sup>7</sup> ‘Pvt financier threatens to kill debtor's kids, complaint filed’ 2009, *The Times of India*, 25 July <http://timesofindia.indiatimes.com/city/ahmedabad/Pvt-financier-threatens-to-kill-debtors-kids-complaint-filed/articleshow/4817797.cms> - Accessed 12 January 2010 – Attachment 7

<sup>8</sup> ‘Singer’s death: Cops hunt for moneylenders’ 2008, *Express India*, 29 February <http://www.expressindia.com/latest-news/singers-death-cops-hunt-for-moneylenders/278361/> - Accessed 14 January 2010 – Attachment 8

In Mumbai in September 2009, *Daily News Analysis* reported on the stabbing of a woman by her husband's money lenders.<sup>9</sup> In the same month, in Mumbai's neighbouring city of Pune, *The Times of India* reported the beating of a debtor by two money lenders for failing to pay a debt. The money lenders are said to have intercepted the man as he travelled to another town.<sup>10</sup>

In 1998 the *Indian Express* published an article on the role of money lenders in Bihar state. It quotes debtors who fear reporting malpractice by money lenders:

Asked why he did not lodge a complaint with the police, he was quite candid, "We are poor people. If Khanji [the money lender] goes to jail, his relatives and friends will kill me and collect every paisa of the paincha [loan] from my son. The police can do nothing."<sup>11</sup>

*The Times of India* discusses the 2008 case of a borrower in the state of West Bengal having to 'mortgage' his wife to a money lender. In light of the borrower's planned move to Delhi, the money lender is said to have demanded a mortgage from him until he returned. The borrower's wife was then allegedly held against her will by the money lender for a period of six months during which she was raped, and threatened with death if she tried to escape.<sup>12</sup>

In the northern state of Punjab, Amnesty International discusses cases of alleged assault and attempted kidnapping of bonded labourers – debtors who are forced to work without wages in order to repay landlords who have lent them money.<sup>13</sup>

The Maharashtra State Government (the state in which Mumbai is the capital) website discusses how widespread money lenders are and details some of the malpractices of money lenders in the state:

The demands for advance interest from the clients, and for a present for doing business known as "girah kholai" (purse opening), deceiving the clients into giving thumb impressions on a blank paper with a view to inserting any arbitrary amount at any date if the debtor became irregular in the payment of interest, general manipulation of the account to the disadvantage of the debtor, insertion in written document of sums considerably in excess of money actually lent, and taking of conditional sale deeds in order to provide against possible evasion of payment, these and such other malpractices were extremely harassing to the clients.<sup>14</sup>

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<sup>9</sup> 'Mumbai woman stabbed by husband's money-lenders' 2009, *Daily News Analysis*, 24 September [http://www.dnaindia.com/mumbai/report\\_mumbai-woman-stabbed-by-husband-s-money-lenders\\_1292675](http://www.dnaindia.com/mumbai/report_mumbai-woman-stabbed-by-husband-s-money-lenders_1292675) - Accessed 14 January 2010 – Attachment 9

<sup>10</sup> '2 money lenders held for beating up man' 2009, *The Times of India*, 13 September <http://timesofindia.indiatimes.com/city/pune/2-money-lenders-held-for-beating-up-man/articleshow/5004322.cms> - Accessed 12 January 2010 – Attachment 10

<sup>11</sup> Prasad, M. 1998, 'In Bihar, people go to Kabuliwallahs for loans', *Indian Express*, 26 December <http://www.indianexpress.com/ie/daily/19981226/36050034.html> - Accessed 12 January 2010 – Attachment 11

<sup>12</sup> Mukherjee, S. 2008, 'Wife mortgaged to loan shark', *The Times of India*, 12 June <http://timesofindia.indiatimes.com/articleshow/3121965.cms> - Accessed 12 January 2010 – Attachment 12

<sup>13</sup> Amnesty International 2000, India: Bonded Labourers in Punjab and their Relatives Members of Volunteers for Social Justice, 10 February, ASA 20/03/00 <http://www.amnesty.org/en/library/asset/asa20/003/2000/en/ed5a42de-df86-11dd-8abb-118b2e919ec0/asa200032000en.html> - Accessed 14 January 2010 – Attachment 13

<sup>14</sup> 'Banking Trade and Commerce - Money Lenders' (undated), Maharashtra Government – Gazetteers Department website [http://www.maharashtra.gov.in/english/gazetteer/KOLABA/bank\\_money\\_lenders.html](http://www.maharashtra.gov.in/english/gazetteer/KOLABA/bank_money_lenders.html) - Accessed 14 January 2010 – Attachment 14

The neighbouring state of Karnataka's *Karnataka Money Lenders Act, 1961* outlines prohibited actions by money lenders for the purposes of recovering a debt. These are referred to as 'molestation' and include anything from using violence to intimidate a debtor, to following a debtor from place to place, to loitering near the debtor's place of residence or work. Being stipulated in the law suggests that these are actions which are likely to have been employed by money lenders.<sup>15</sup>

The Global Development Research Centre provides background information on how money lenders operate.<sup>17</sup>

#### **4. Do Police in Ahmedabad or Mumbai pursue complaints of violence and killing of debtors for non-payment of debts?**

The aforementioned *The Times of India* article outlines the obstacles faced by the victim in obtaining police protection from the money lenders. It also suggests collusion between police and the money lenders:

But, Rachna's plight did not end when she reached the police station. The inspector whom she met first asked her to meet the junior officers and register her complaint, but still her statement wasn't recorded. She was made to sit for three hours and only after a senior IPS officer intervened, the complaint was taken. But, not before Rachna was given a sound scolding by angry junior cops.

...Though, after Friday's experience at Satellite police station, how many like Rachna would repose faith in the police, remains a question mark.

Unholy nexus?

When after much ado the police complaint was finally lodged against Yasin Shah, Rachna claimed that she got yet another threat call. Rachna told officials that Yasin said that nothing would come out of the police complaint and threatened her with dire consequences. He also gave name of the officer who registered her complaint. "It seems somebody from Satellite police station had tipped-off Yasin about the complaint. We will investigate this aspect too," said a Satellite police station official.<sup>7</sup>

The previously mentioned 2008 case in *The Times of India* reported allegations by the victim that despite complaining to the police several times, she was ignored as the police were being bribed by the money lender.<sup>12</sup>

The previously mentioned 1998 *Indian Express* article quotes police officers stating they are unable to act against money lenders who break the law and abuse clients. This is due to a lack of resources and people failing to file complaints:

Usury is a crime in this State. The Bihar Money Lenders' Act, 1952, prohibits the practice and bans "any unauthorised money-lending at an interest exceeding 12 per cent". Inspector D P Singh of Bermo police is aware of this law but says his hands are full. "Today the law and order problem is so taxing that we don't find enough time to pay attention to any social problem like

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<sup>15</sup> 'The Karnataka Money-Lenders Act, 1961' 1961, Kanartaka Government website <http://164.100.80.70/acts/ACTS%20E/106e.pdf> - Accessed 14 January 2010 – Attachment 15

usury,” he says. Chotanagpur I-G J K Sinha says, “We are unable to invoke the Act because nobody files a complaint”.

So, due to police inaction and because the banks don't provide credit to these workers, the Kabuliwallahs have a vice-like grip on them.<sup>11</sup>

However, in the case of a man forced into 30 years of bonded labour to repay the money lender for 40kg of rice, the district's magistrate said “he was looking into the case and, if true, action would be taken”.<sup>16</sup>

### Legal Framework

The previously mentioned Maharashtra State Government website outlines that in an attempt to protect debtors from the malpractices of money lenders, the *Bombay Money-lenders Act of 1946* was passed. According to the Act “molestation of a debtor by the creditor in recovery of loans was treated as offence and was to be penalised”. However most money lenders refrained from obtaining licenses and the law was difficult to enforce with money lenders occupying influential positions in society:

Under the provisions of this Act the State Government is authorised to appoint Registrar General, Registrars and Assistant Registrars of Money-lenders for the purposes of the Act and to define areas of duties. Licensing and maintaining of cash-book and ledger in a prescribed form and manner was made compulsory for the money lenders. The latter were further prohibited from molesting a debtor while recovering loans. Molestation, in fact, was treated as an offence and was to be penalised. Arrest and imprisonment of a debtor who personally cultivates land and whose debts do not exceed Rs. 15,000 were also prohibited.

...The traditional tendency of the villagers is not to move up with the times and not to adapt themselves to the new methods of credit institutions. As the villagers are backward and illiterate they go to village Sahukars [money lenders] for their monetary needs. The village Sahukars are highly influential and, therefore, sometimes it is found very difficult to bring them to book when they do not obtain licences under the Bombay Money-lenders Act, 1946. Most of such business is transacted orally and as such it is difficult to set the law against them. Every effort is made to inquire thoroughly into the complaints of illicit money-lending and to see that the various provisions of the Bombay Money-lenders Act, 1946, are properly administered in the district in the best interest of the backward, and needy debtors.<sup>14</sup>

At a national level, the aforementioned Global Development Research Centre report states that while various attempts have been made by the Reserve Bank of India (RBI) to regulate the functioning of money lenders, the RBI's recommendations were not accepted by money lenders' associations. It states that while money lenders come under the control of the Money Lenders Act, promulgated by each of the different states, compliance with the Act is rare:

The Act essentially sets out the appointment of a Registrar-General of Money-Lenders who maintains a Register of Money-lenders in their jurisdiction. The Registrar provides for a license to money lenders to carry out their business, regulates the terms and conditions under which a loan is provided to borrowers, and arbitrates in disputes between money-lenders and borrowers in cases of default or other aspects. Compliance with the Act is rare however, and majority of the money-lenders do not obtain such a license to operate.<sup>17</sup>

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<sup>16</sup> Nahar, S. 2007 'Indian in 30-year 'bonded labour'', *BBC News*, 27 March – Attachment 16

<sup>17</sup> Srinivas, H. (undated), 'The Business of Lending: A Typology of Money Lenders', Global Development Research Centre website, <http://www.gdrc.org/icm/suppliers/ml.html> – Accessed 14 January 2010 – Attachment 17

In the state of Kerala in 2007, the High Court “held that the provisions under the Kerala Money Lenders Act were applicable to the non-banking financial institutions in the State”. Similar to the *Bombay Money-lenders Act of 1946*, the Kerala Act was aimed at protecting borrowers. The court decision was in spite of a petition by money lenders claiming that the Act was not applicable to them.<sup>18</sup>

## List of Sources Consulted

### Internet Sources:

#### **Search Engines**

Google search engine <http://www.google.com/>

Google Scholar search Engine <http://scholar.google.com/schhp?hl=en&tab=ws>

Google News <http://news.google.com/nwshp?hl=en&tab=wn>

Copernic <http://www.copernic.com/>

Wikipedia <http://en.wikipedia.org>

#### **Government**

US Department of State <http://www.state.gov>

UK Home Office <http://www.homeoffice.gov.uk>

Immigration and Refugee Board of Canada website [http://www.cisr-irb.gc.ca/en/index\\_e.htm](http://www.cisr-irb.gc.ca/en/index_e.htm)

Maharashtra Government <http://www.maharashtra.gov.in/>

Kanartaka Government <http://164.100.80.70/>

#### **United Nations sites**

UNHCR website <http://www.unhcr.org/cgi-bin/texis/vtx/home>

UNHCR Refworld website <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain>

UNHCHR <http://www2.ohchr.org/>

#### **Non-Government Organisations**

International Crisis Group <http://www.crisisgroup.org>

Freedom House <http://www.freedomhouse.org/>

#### **Topic Specific**

Bombay Stock Exchange Limited <http://www.bseindia.com/>

#### **Region Specific sites**

*The Hindu* <http://www.hindu.com/>

*The Times of India* <http://timesofindia.indiatimes.com/>

*Web India 123* [www.webindia123.com/](http://www.webindia123.com/)

*Frontline* <http://www.hinduonnet.com/fline/>

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Thokalath <http://www.thokalath.com/news/>

*Stock Market.nu* <http://www.stockmarket.nu/>

*EzineArticles* <http://ezinearticles.com/>

*Ahmedabad Mirror* <http://www.ahmedabadmirror.com/>

*Express India* <http://www.expressindia.com/>

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<sup>18</sup> ‘Money Lenders Act applicable to non-banking financial institutions’ 2007, *The Hindu*, 15 February <http://www.thehindu.com/2007/02/15/stories/2007021504130500.htm> - Accessed 12 January 2010 – Attachment

*Indian Express* <http://www.indianexpress.com/>

**International News**

*BBC* <http://news.bbc.co.uk/>

### List of Attachments

1. Santini, L. 2006, 'Year-End Review of Markets & Finance 2005 – Surging World Markets Entice U.S. Investors – Asian Markets Overcome Bird Flu and Oil Concerns To Register Strong Gains', *The Wall Street Journal*, 3 January.
2. Bombay Stock Exchange Limited 2009, 'Introduction', Bombay Stock Exchange Limited website <http://www.bseindia.com/about/introbse.asp> – Accessed 12 January 2009.
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