

# The Annual Survey of State Laws in India

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## Introduction and Background

Legislative activity by the state of Punjab is very pertinent to a study of India's federal experience. The state occupies a unique place in India's economy and politics. It is a border state populated by a religious and linguistic minority with a turbulent political history. It has been the ground for the green revolution and the mainstay of the country's food-grain production. The prosperity of the initial decades of the green revolution has given way to a deep agrarian crisis and inadequate industrial development creating a complex socio-economic field. Although it was among the richest states in the country in the early 2000s, today, the state's per capita income has fallen below the national average.<sup>2</sup> It faces a severe natural resource crunch with declining soil fertility and depletion of ground water. The state also labours under enormous and mounting debt, and was one of the most indebted states in the country in 2020.<sup>3</sup>

The state's first four decades since independence were marked by unstable and short-lived state governments and a history of federal tensions with the centre.<sup>4</sup> This was reflected in the imposition of president's rule on eight occasions, ten long years in total. The main points of tension between the state and the centre include the recognition of specific rights for the Sikh community, state formation on linguistic lines, sharing of water resources and provision of subsidies to farmers. Consecutive state governments have failed to address these issues ailing the state. They have held that the state's woes are being aggravated by union policies, an argument also advanced by the current state government.

Present legislative actions respond to these issues of contestation with the centre. Strengthening non-tax revenue receipts through capitalizing on resources, legislating on water resource management, strengthening the business climate of the state, passing various laws to protect the agricultural sector from reforms and expand opportunities within agriculture are some such attempts taken in the year 2020. The Punjab state-centre relationship was also impacted by actions such as the state assembly passing a resolution by voice vote opposing the Citizenship Amendment Act (CAA), demanding repeal

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1. Independent Researcher based in Delhi.

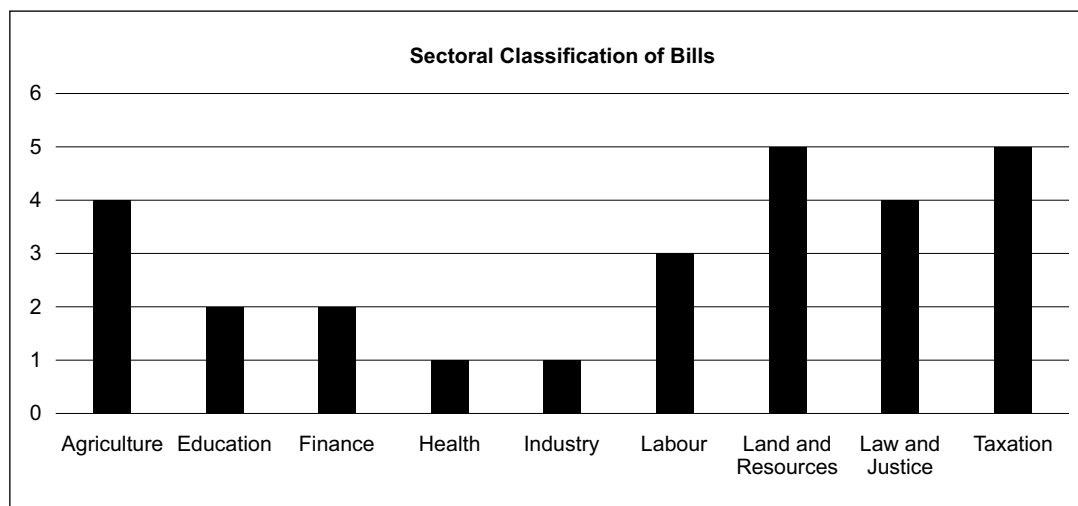
The research assistance of Abhineet Maurya NLU Delhi is gratefully acknowledged.

2. Ruchika M Khanna, "Punjab's per capita income falls to Rs1.15L, lower than national avg" *The Tribune*, Feb. 12, 2021, available at: <https://www.tribuneindia.com/news/punjab/punjabs-per-capita-income-falls-to-rs1-15l-lower-than-national-avg-211096> (last visited on Feb. 5, 2022).
3. Navneet Sharma, "Punjab's debt pile puffs up" *Hindustan Times*, Feb. 28, 2020, available at: <https://www.hindustantimes.com/chandigarh/punjab-s-debt-pile-puffs-up/story-fTmg1eJQ7BHbGpcQeYA6CL.html> (last visited on Feb. 26, 2022).
4. Manraj Grewal Sharma, "Coalitions, agitations, and President's Rule: A short political history of Punjab" *The Indian Express*, Jan. 11, 2022, available at: <https://indianexpress.com/article/india/political-pulse/punjab-assembly-elections-a-short-political-history-of-punjab-7716790/> (last visited on March 5, 2022).

of the Act<sup>5</sup> and engaging in a protracted conflict with the centre regarding the use of direct benefit transfer (DBT) for payment of minimum support price (MSP).<sup>6</sup> Punjab also made a notable mark on the federal landscape by leading various opposition-ruled states to challenge the central farm laws through their legislative powers.

## Quantitative Review

The Punjab legislative assembly passed 27 bills and six ordinances in the year 2020. Among the bills, all but four received the governor’s assent and were enacted as laws. The four which could not be enacted included the three state amendments to the central farm laws, and an amendment to the Code of Civil Procedure also having implications for agricultural policy. In terms of the subjects of the bills tabled, five dealt with land and resources, four each with the fields of agriculture, law and justice and taxation. There were three amendments to labour laws, two Acts related to finance, two addressing education and one each related to health and industry. The state did not show any extraordinary reliance on ordinances to take the executive route to legislative activity. The ordinances passed addressed labour, health and law and justice. All ordinances were eventually passed as bills and enacted as laws.



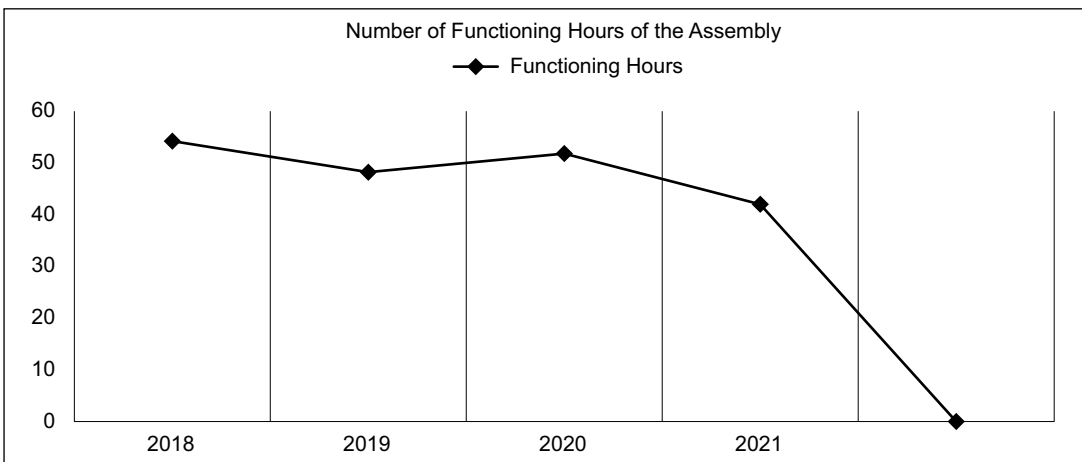
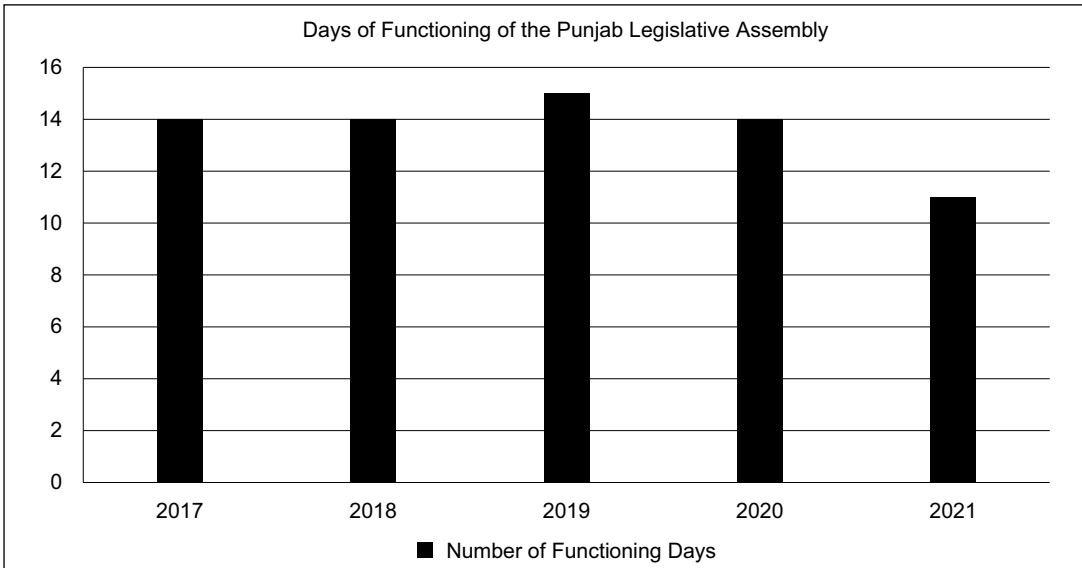
The performance of the Punjab legislative assembly in terms of time spent in legislative activity and time invested in deliberation and debate over legislation has been below average.<sup>7</sup> The Assembly passed all bills on the same day as they were tabled. It sat on 15 days, the same as its average since the present government came into power. This is lower than the average sitting days of 19 major states for

5. PTI, “Punjab Assembly passes resolution against CAA by voice vote” *The Times of India*, Jan. 17, 2020; available at: <https://timesofindia.indiatimes.com/india/punjab-assembly-moves-resolution-against-caa/articleshow/73326176.cms> (last visited on Feb. 25, 2022).

6. This struggle was lost in 2021 after years of negotiation when the centre gave an ultimatum to not procure grains unless the reform was implemented. Kanchan Vasdev, “Punjab gives in, will implement DBT for farmers” *The Indian Express*, April 9, 2021, available at: <https://indianexpress.com/article/india/punjab-gives-in-will-implement-dbt-for-farmers-7265190/> (last visited on Feb. 26, 2022).

7. PRS Legislative Research, “Functioning of the 15th Punjab Assembly (2017-2022)”, available at: <https://prsindia.org/legislatures/states/functioning-of-15th-punjab-assembly-2017-2022> (last visited on Feb. 20, 2022).

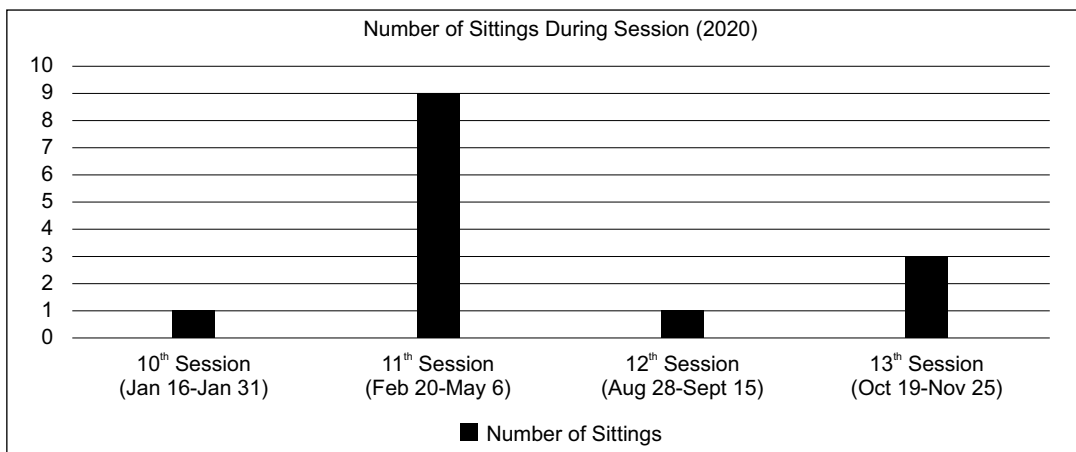
which data are available.<sup>8</sup> Similarly, the total number of hours spent by the Assembly in these sittings has remained consistent with its average of 51.8 hours.<sup>9</sup> Analysis of Assembly sessions shows that a majority of the Assembly’s work was done in the first few months of the pandemic and the lockdown. The eleventh session, during which the Assembly saw the highest number of sittings (nine), was held from February 20, 2020 to May 6, 2020.<sup>10</sup> In the tenth and the eleventh sessions, there was one sitting each, while the thirteenth and the final session of the year had three sittings.



8. *Ibid.*

9. *Ibid.*

10. Punjab Legislative Assembly, “Assembly Sessions and Sittings from Aug. 2, 2019 to March 10, 2021”, available at: <http://www.punjabassembly.nic.in/images/docs/Sitting%20of%20session%20latest%20one.pdf> (last visited on Feb. 20, 2022).



The Punjab legislative assembly also had 16 committees constituted of state MLAs to report to the Assembly on various issues. These included committees on Public Accounts, Agriculture, Panchayati Raj Institutions, Local Bodies and Welfare of Scheduled Castes, Scheduled Tribes, and Backward Class among others.<sup>11</sup>

## Qualitative Analysis

### Addressing the Fiscal Crisis: Finance, Taxation and Resource Management

Punjab has been facing a severe financial crisis which has grown unabated over a decade. It was among the most indebted Indian states in 2020. Projections suggest that the debt will double by 2024-25.<sup>12</sup> Around 24 percent of its revenue goes into interest payments, while it incurs new debts which again go into debt servicing rather than capital investment and income generation.<sup>13</sup> Experts have attributed the crisis to structural problems in the economy, slow industrial development and faulty state government policies. Revenue mobilisation by the government has been poor and the state was able to collect only 13.98 percent of its non-tax revenue and 48 percent of its own tax revenue in 2019.<sup>14</sup> This is one of the gravest issues facing the state. The legislative activity of the state assembly addresses this crisis in its various dimensions.

### Fulfilling Union Recommendations

The Assembly passed the Punjab Fiscal Responsibility and Budget Management (Second Amendment) Act, 2020. The principal Act tries to enforce financial discipline on the government and limit fiscal

11. Punjab Legislative Assembly, Committees, available at: <http://www.punjabassembly.nic.in/index.php/committees> (last visited on March 11, 2022).
12. Vishav Bharti, "Punjab debt to double in five years: CAG", *The Dainik Tribune*, Mar. 05, 2021, available at: <https://www.tribuneindia.com/news/punjab/punjab-debt-to-double-in-five-years-cag-220568> (last visited on March 13, 2021).
13. Navneet Sharma, "Punjab's debt pile puffs up" *The Hindustan Times*, Feb. 28, 2020 available at: <https://www.hindustantimes.com/chandigarh/punjab-s-debt-pile-puffs-up/story-fTmg1eJQ7BHbGpcQeYA6CL.html> (last visited on Feb. 26, 2022).
14. Sanjeev Verma, "Fiscal crisis is multidimensional, but Punjab's policies poor: Study", *The Times of India*, Nov. 1, 2021, available at: <https://timesofindia.indiatimes.com/city/chandigarh/fiscal-crisis-is-multidimensional-but-punjab-s-policies-poor-study/articleshow/87456016.cms> (last visited on Mar. 4, 2021).

deficit to three percent. The amendments give statutory force to guidelines of the Finance Commission on conditions for an additional borrowing space of 1.5 percent in 2020-2021 and three percent in 2021-2022 for state governments. These require the implementation of 'One Nation, One Ration Card' system; 'Ease of Doing Business' reforms; urban-local body/utility reforms and power sector reforms.

States suffered massive loss of revenue in the context of the national lockdown in the wake of the pandemic. At the same time, the centre's refusal to release GST compensation and delays in mandatory tax transfers exacerbated the fiscal strain. The imposition of conditions for increasing states' borrowing limit under such tough conditions has been seen as a serious undermining of the spirit of fiscal federalism.<sup>15</sup> It has been argued that the centre used the fiscal distress of states demanding an increase in the FRMB limit to impose a slew of reforms which had otherwise been meeting resistance at the state level.<sup>16</sup> Punjab is a pertinent example of this situation. Its fiscal crisis makes it extremely dependent on state support and central debt. At the same time power sector reforms accepted by the state under this Act demand an end to power subsidies for farmers, a populist measure on which the state government has been resisting union recommendations for a long time.

### ***Tapping Non-Tax Revenue-Sources***

The government has also passed legislations to increase its non-tax revenue mobilisation. It has shown a drive towards optimization of the use of land and infrastructure in urban and rural areas. Several laws in this direction have been passed by the present government on the recommendations of the Revenue Commission established in the state in 2018.<sup>17</sup> These aim at regularising existing land lease practices and enabling greater generation and collection of tax and non-tax revenues by proper disposal and utilisation of government land. At the same time, they also serve other social welfare objectives such as settling land and property rights for various classes of people and improving civic services.

The Punjab Management and Transfer of Municipal Properties Act, 2020 provides for remunerative transfer of municipal property through open e-auctions for commercial properties and drawing of lots for residences. It allows the state to vest proprietary rights in a tenant or occupant of a municipal property if they have occupied a property for more than 12 years. It guards against malpractices by barring transfers to employees of the municipality and the local government, and elected government representatives. Such property can be used as mortgage for loans from government banks but cannot be sold, sub-let or otherwise transferred except through inheritance for a period of 20 years. The law requires a tenant to pay arrears of pending lease rent to the municipality before gaining proprietary rights. This is designed to help the government recover unpaid non-tax dues which form a significant gap in state revenues. The Act specifies the conditions for such transfers and sets up a tribunal for deciding references in connected matters. The Act has been relied upon by municipal corporations in the state to actively mobilize revenues. For example, the Ludhiana Municipal Corporation resolved to generate Rs. 50 crore from sale, rent/lease of municipal properties, besides the e-auction of commercial

15. M.K. Venu, "GST Stalemate: Modi Must Make the Centre Borrow on Behalf of States", *The Wire*, Oct. 7 2020, available at: <https://thewire.in/economy/gst-council-stalemate-narendra-modi-centre-borrow-states> (last visited on March 8, 2022).

16. Prasanta Sahu, "State govt borrowing limit hiked to 5% of GSDP; mostly linked to reform goals", *The Financial Express*, May 18, 2020, available at: <https://www.financialexpress.com/economy/state-govt-borrowing-limit-hiked-to-5-of-gsdp-mostly-linked-to-reform-goals/1962112/> (last visited on Feb. 28, 2022).

17. Department of Revenue, Rehabilitation and Disaster Management, Government of Punjab, Recommendations of Revenue Commission, available at: <https://revenue.punjab.gov.in/?q=recommendations-revenue-commission> (last visited on March 8, 2022).

properties under the Act in 2021.<sup>18</sup> However, despite all safeguards for transparency incorporated in the Act, charges of corruption have still been leveled at such sales.<sup>19</sup>

The Punjab (Welfare and Settlement of Landless, Marginal and Small Occupant Farmers) Allotment of State Government Land Act, 2020 allots up to five acres of land to landless, marginal and small farmers who have been in cultivating possession of government land for ten years or more at a determined price. The Act also aims to get the government a reasonable price for land owned by it, but not in its possession. It allows differential subsidies according to the social category of the applicant, protecting interests on both sides. This is also expected to settle many pending legislations connected to land in the state.<sup>20</sup>

The Registration (Punjab Amendment) Act 2020 inserts section 19-A(1) into the principal Act. This section prohibits the registration of any instrument relating to transfer of certain categories of immovable property without the sanction of a competent authority. These categories include land belonging to the state, central or local governments, the Bhoodan Yagna Board or the Waqf Board. The prohibition extends to land attached by a competent authority, prohibited for transfer under an Act and *shamatat deh* land unless it has been sold or allocated by the government. The amendment thus seeks to safeguard government property from alienation.

The Punjab Prisons Development Board Act, 2020 seeks to develop the “financial self sufficiency of jails, to strengthen their infrastructure and unlock the commercial potential of jails, enhancement of capacity of factories there and to gain new skills with a view to make them employable on release.”<sup>21</sup> Expanding prison industries will also reduce the financial liability on the government. Prison industries in the state garnered Rs. 1.44 crore in 2018<sup>22</sup> and hold significant scope for further expansion. The law also provides for encouraging correctional interventions and welfare of prisoners and prison staff and vocational or skill training of inmates.

## **Agriculture: A Contested Agenda for Reforms**

### ***Challenging the Central Farm Laws***

Agriculture is of central significance for Punjab’s society, economy and politics. It takes a significant share of credit for both the state’s erstwhile ‘prosperity’ and its present crisis. Three central laws promoting contract farming, allowing agricultural trade outside state agricultural produce markets

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18. Harshraj Singh, “Ludhiana Municipal Corporation House meeting: Most resolutions passed without discussion” *The Tribune*, Dec. 29, 2021, available at: <https://www.tribuneindia.com/news/ludhiana/ludhiana-municipal-corporation-house-meeting-most-resolutions-passed-without-discussion-355812> (last visited on Feb. 27, 2022).

19. Correspondent, “No irregularities in e-auction of commercial site, says Ludhiana Improvement Trust chief” *The Tribune*, Sep. 01, 2021, available at: <https://www.tribuneindia.com/news/ludhiana/no-irregularities-in-e-auction-of-commercial-site-says-ludhiana-improvement-trust-chief-304878> (last visited on Feb. 27, 2022).

20. Directorate of Information and Public Relations, Punjab, India, Seven key Bills Approved by House During Special Sessions of Punjab Vidhan Sabha, available at: <http://www.diprpunjab.gov.in/?q=content/seven-key-bills-approved-house-during-special-session-punjab-vidhan-sabha> (last visited on Feb. 27, 2022).

21. Express News Service, “To fuel revenue growth, Punjab approves 12 IOCL retail outlets on jail land”, *The Indian Express*, April 9, 2021, available at: <https://indianexpress.com/article/cities/chandigarh/to-fuel-revenue-growth-punjab-approves-12-iocl-retail-outlets-on-jail-land-7265152/> (last visited on Feb. 28, 2022).

22. National Crime Records Bureau, “Prison Statistics India, 2019” 2010 (2020) available at: <https://ncrb.gov.in/sites/default/files/PSI-2019-27-08-2020.pdf> (last visited on Feb. 28, 2022).

and restricting state regulation of agricultural production and sale made agricultural policy one of the most hotly debated legislative issues between the centre and states in 2020. The central laws were opposed by massive public mobilisation especially in Punjab. This built popular pressure on the state government to exercise its legislative powers contra the centre. Agriculture and agricultural markets fall under the state list under entries 14, 18 and 28; while production, supply and distribution of goods come under entry 27 of list II read with entry 33 of list III. Article 254(2) of the Constitution allows states to pass legislations negating central Acts on concurrent subjects. Such laws require the assent of the president to come into force. Punjab was the first state to use these provisions to pass amendments negating the central farm laws. This set in motion similar legislative initiatives in other state assemblies. However, none of the state laws amending the central farm laws received the president's assent.<sup>23</sup>

The state amendments primarily counter those provisions of the central laws which were challenged most strongly in the farmer's agitation. This shows responsiveness to public opinion as a major motive force behind the passage of the state farm laws. It also reflects how the division of legislative powers between the centre and the state can provide avenues for public opinion to impact legislative activity in a federal system.

The Essential Commodities (Special Provisions and Punjab Amendment) Bill, 2020 gives the state government concomitant powers for "regulating or prohibiting the production, supply, distribution" of agricultural produce and "imposing stock limits under extraordinary circumstances."<sup>24</sup> A special provision for the state of Punjab maintains the status quo as on June 4, 2020 with respect to the Punjab Agricultural Produce Markets Act, 1961. It suspends all notices issued, and stays all action taken under the central Act. The introduction to the Bill makes a direct criticism of the central Act. It states that "the onus lies upon the state Government to protect consumers." This is a notable assertion of legislative responsibility incumbent on states by virtue of the federal division of legislative powers.

The Farmers (Empowerment and Protection Agreement of Price Assurance and Farm Services (Special Provisions and Punjab Amendment) Bill, 2020 amends the central Act which proposed a barrier-free intra-state and inter-state trade in agricultural produce, requiring no license and attracting no special tax or levy from states, overriding the state APMC Acts. The Punjab assembly amended the law arguing that the mechanism introduced by it "is vulnerable to encroachment and manipulation by vested corporate interests" and that as 86.2% farmers in the state own less than five acres of land, majority owning less than two acres they suffer an "inherent handicap of bargaining power to negotiate fair-price contracts hence requiring proper protection by the State Government."<sup>25</sup> The Punjab amendment guarantees a MSP for wheat and paddy and provides for farmers to also approach the civil court or avail remedies under other laws in case of breach of contract. It introduces punishment for compelling or exerting pressure on a farmer or agro-producer to enter into a contract or sell below the MSP with imprisonment not less than three years and fine. It saves the provisions of the Punjab Agricultural Produce Markets Act, 1961 and allows the state government to levy a fee on corporate traders and/or electronic trading platforms trading

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23. The relevance of these laws has diminished with the repeal of the central farm laws, but they remain important for understanding the dynamic of state-center legislative powers.

24. The Essential Commodities (Special Provisions and Punjab Amendment) Bill, 2020 (Bill 34 of 2020), available at: [https://prsindia.org/files/bills\\_acts/bills\\_states/punjab/2020/Essential%20Commodities%20PB%20amendment.pdf](https://prsindia.org/files/bills_acts/bills_states/punjab/2020/Essential%20Commodities%20PB%20amendment.pdf) (last visited on April 18, 2022).

25. The Farmers (Empowerment and Protection Agreement of Price Assurance and Farm Services (Special Provisions and Punjab Amendment) Bill, 2020 (Bill 33 of 2020), available at: [https://prsindia.org/files/bills\\_acts/bills\\_states/punjab/2020/Agreement%20on%20Price%20Assurance%20PB%20amendment.pdf](https://prsindia.org/files/bills_acts/bills_states/punjab/2020/Agreement%20on%20Price%20Assurance%20PB%20amendment.pdf) (last visited on April 18, 2022).

in areas outside APMCs. Such a fee is earmarked for the welfare of small and marginal farmers. This Act too suspends all notices and actions under the central laws.

The Farmers' Produce Trade and Commerce (Promotion and Facilitation) (Special Provisions and Punjab Amendment) Bill, 2020 states that the central Act would nullify the existing MSP mechanism and counteracts the same by not permitting sale or purchase of wheat and paddy under MSP. It also provides punishment for compelling farmers to enter into contracts violating MSP. It levies a fee on agricultural trade for the state government.

### ***Utilisation of Government Land***

Besides amendments to the central farm laws, the legislature of Punjab has also been reviewing and extending its legislative framework to address the agricultural crisis in the state. Two of these, the Punjab Land Revenue (Amendment) Act, 2020 and the Code of Civil Procedure (Punjab Amendment) Bill, 2020 have been informed by recommendations of the Revenue Commission and seek to settle land ownership and related disputes.

The Punjab Land Revenue (Amendment) Act, 2020 amends the principal Act to reduce the limitation period for appeals before the collector and the commissioner and set a limit of 60 days for the appellate authority to decide on an appeal. It removes the authority of the collector and commissioner over revising the order of a revenue officer and sets a limitation period of 90 days for the financial commissioner to make such revision. It includes SMS and Whatsapp messages as legitimate ways for serving summons. It makes an attempt at mediation and reconciliation compulsory before initiating partition proceedings. It sets a limitation of 60 days for the preparation of an instrument of partition after passing of an order and provides for it to come into effect in 30 days after being issued.

The Code of Civil Procedure (Punjab Amendment) Bill, 2020 amends the CPC to exempt land up to two and a half acres belonging to a farmer from attachment and sale in an execution of decree. Auctioning of mortgaged agricultural land by cooperative societies had already been abolished in the state in 2017.<sup>26</sup> The protection has now been extended to all sources of credit. The largest section of farmers in the state operates small and marginal landholdings. Consequently, the amendment will protect the entire land holding of a major portion of farmers in the state.<sup>27</sup> This is an important protection in public interest as marginal and small farmers in Punjab bear a per capita debt of Rs. 276,000 and Rs. 557,000 each respectively and face a high risk of losing their land as collateral.<sup>28</sup> The attachment of farmers' lands by banks/money lenders/ arthiyas has been a major issue in the state. Struggles on the issue have taken place in Bhatinda, Mansa, Moga, Sangrur, Faridkot and Patiala in the recent past.<sup>29</sup> The amendment will limit the land available as collateral for debt. This will also be a major "stumbling block" for the implementation of financial contracts with farmers and institutionalisation of contract

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26. Anju Agnihotri Chaba, "Explained: Why kurki ban on farm land is not working in Punjab villages", *The Indian Express*, Aug. 17, 2019, available at: <https://indianexpress.com/article/explained/explained-why-kurki-ban-on-farm-land-is-not-working-in-punjab-villages-5912156/> (last visited on Feb. 26, 2022).

27. R Srinivas, "From competitive to combative federalism", *Business Line*, Oct 28, 2020, available at: <https://www.thehindubusinessline.com/opinion/columns/r-srinivasan/from-competitive-to-combative-federalism/article32965384.ece> (last visited on Feb. 26, 2022).

28. Parikshit Goyal, "Why Punjab stands to lose from farmers' produce trade and commerce ordinance", *Down to Earth*, Jun. 30, 2020, available at: <https://www.downtoearth.org.in/blog/economy/why-punjab-stands-to-lose-from-farmers-produce-trade-and-commerce-ordinance-72040> (last visited on Feb. 26, 2020).

29. *Supra* note 26.

farming as anticipated by the central farm laws. To this extent it has provided an alternative legislative route to counter the central farm laws.

### ***Extending the Legislative Framework for Agriculture***

The Punjab Tissue Culture Based Seed Potato Act, 2020 provides for the setting up of a Tissue Culture Based Seed Potato Committee. It sets standards for certification of potato seeds and puts in place methods of ensuring accountability of seed origin and quality. Punishment for violation of the Act ranges from fine, imprisonment to cancellation of license and blacklisting of the defaulter. Punjab has become one of the first states to approve rules for tissue culture-based certification. The law aims to develop the state as an export hub of seed potatoes in the country. It seeks to find new avenues for the development of farming incomes in Punjab. It will also promote diversification of cropping pattern which is a crucial concern for agriculture in the state.

## **Labour and Industry**

### ***Labour***

The Punjab assembly amended three major labour laws in 2020. Several other states in the country also introduced very similar amendments. It has been suggested that these state amendments could likely be in pursuance of Union recommendations.<sup>30</sup> It can be argued that unlike the reforms in agriculture, reforms in labour laws reveal a greater convergence of approach between the Union and the Punjab state government.

The amendments significantly narrow the area of operation of the laws by excluding smaller industries from their ambit. In the Contract Labour (Regulation and Abolition) (Punjab Amendment) Act, 2020, the threshold for application of the principal Act has been increased from 20 to 50 workers. In the Factories (Punjab Amendment) Act, 2020 the definition of factory has changed to only include those power-based units which employ 20 or more workers as opposed to the earlier benchmark of employing ten or more workers. For non-power-based units, the employment threshold has been increased from 20 workers to 40 workers. The Industrial Disputes (Punjab Amendment) Act, 2020 changes the general criterion for applicability of the principal Act from 100 workers to 300 workers. It gives the state government the discretion to relax this criterion for an establishment holding less than 300 but more than 100 workers for the maintenance of industrial peace or prevention of victimisation of workers. Such changes have significant implications for a state like Punjab which has more than two lakh small scale enterprises, with an average workforce of 7.4 workers per unit. Compared to this, the state only has 504 large industrial units.<sup>31</sup> The shift in criterion of application will therefore take most of the state's industrial sector outside the purview of labour laws.

The Factories (Punjab Amendment) Act, 2020 also increases the cap on overtime from 75 hours to 115 hours. This follows an earlier notification by the state, permitting a 12-hour working day with

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30. Somesh Jha, "Centre passes the baton on to States for initiating labour law reforms", *The Business Standard*, May 20, 2020, available at: [https://www.business-standard.com/article/economy-policy/centre-passes-the-baton-on-to-states-for-initiating-labour-law-reforms-120052001439\\_1.html](https://www.business-standard.com/article/economy-policy/centre-passes-the-baton-on-to-states-for-initiating-labour-law-reforms-120052001439_1.html) (last visited on Feb. 28, 2022).

31. Economic and Statistical Organisation, "2019-2020 Economic Survey" 84 (Government of Punjab, 2020) available at: <https://esopb.gov.in/static/PDF/EconomicSurvey-2019-20.pdf> (last visited on Feb. 28, 2022).

payment of overtime wages for three months in light of the pandemic.<sup>32</sup> The amendment allows for compounding of offences punishable only with fine and committed for the first time, further reducing the liability of the employer.

The Industrial Disputes (Punjab Amendment) Act, 2020 makes it mandatory for an industrial dispute arising out of discharge, dismissal, retrenchment or any other mode of termination of services of an individual workman to be first raised in a conciliation proceeding within three years from the date of such termination. Such cases were earlier automatically treated equivalent to the reference of an industrial dispute. The amendment therefore further restricts workers' access to judicial proceedings. It also omits the provision of payment of three months wages in lieu of notice for retrenchment. Instead, it provides for payment of three months of average pay during retrenchment and closing down of an establishment in addition to the given compensation.

### ***Ease of Doing Business***

The stagnation of agricultural incomes has made industrial development a crucial concern for Punjab. The state claims to have implemented all 187 of 187 Ease of Doing Business (EDB) reforms<sup>33</sup> applicable to it. Despite these changes, the state still stood at 19 in the EDB ranking<sup>34</sup> released in 2020.

The Punjab Right to Business Act, 2020 allows new MSMEs to be set up without any prior clearance based on self-certification. The law provides for the establishment of a District Bureau of Enterprise in each district to facilitate and promote MSMEs and redress their grievances. It relaxes the requirement of approvals under various state Acts by introducing the Certificate of In Principle Approvals on the basis of a Declaration of Intent by an enterprise. This certificate shall be granted to an MSME within three to fifteen days of application. This certificate remains valid for three years and six months, during which regular approvals can be obtained. The inspection of newly registered MSMEs have been restricted under the Act, instead protection is given to enterprises from being inspected or compelled to submit documents. 1.40 lakh MSMEs were enrolled in the state from July 2020 to July 2021.<sup>35</sup>

The assembly also passed the Punjab State Vigilance Commission Act, 2020 with the objective of improving transparency in governance. The Act establishes the Punjab State Vigilance Commission to inquire into allegations brought under the Prevention of Corruption Act, 1988. Public servants of the state government, state corporations established under any state Act, government companies, public sector undertakings, commissions, tribunals and universities can be scrutinized under the Act. The commission shall control and direct the vigilance and police establishment in cases under the Prevention of Corruption Act, 1988 or against above-mentioned public servants. Punjab is counted among the most corrupt states in the country. With such a reputation, a legal mechanism for zero bureaucratic and political corruption is an important measure to encourage investment in the state.

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32. Department of Labour, Government of Punjab, Notification, April 20, 2020, *available at*: [https://prsindia.org/files/bills\\_acts/bills\\_states/punjab/2020/Changes%20in%20work%20hours%20-%20Punjab.pdf](https://prsindia.org/files/bills_acts/bills_states/punjab/2020/Changes%20in%20work%20hours%20-%20Punjab.pdf) (last visited on Feb. 26, 2022).

33. Navneet Sharma, "Uneasy over low rank in 'ease of doing business', Punjab writes to Centre", *The Hindustan Times*, Sep. 21, 2020, *available at*: <https://www.hindustantimes.com/cities/uneasy-over-low-rank-in-ease-of-doing-business-punjab-writes-to-centre/story-5jJKuSSfvr3dfKpb0bVIGI.html> (last visited on Feb. 28, 2022).

34. Reserve Bank of India, "Handbook of Statistics on Indian States" 307 (2021).

35. Sanjeev Verma, "1.40 lakh MSMEs enrolled in Punjab, 1.47 lakh in Haryana since July 2020: Center", *The Times of India*, July 23, 2021, *available at*: <https://timesofindia.indiatimes.com/city/chandigarh/1-40-lakh-msmes-enrolled-in-punjab-1-47-lakh-in-haryana-since-july-2020-centre/articleshow/84670547.cms> (last visited on Feb. 28, 2022).

## Legislating on Social Welfare: Land Rights, Health and Education

### *Land Rights*

Settlement of land rights has been a major thrust of the state government's welfare measures. The Punjab Slum Dwellers (Proprietary Rights) Act, 2020 entitles every slum dweller occupying land in various slum areas of the state to be given proprietary right to land up to 30–60 sq mt depending on the location of the slum. The Act provides for free of cost allotment for EWS occupants and differential amounts depending on the social category of the occupants. The allotted land will be inheritable and usable for mortgage, though not transferrable through sub-lease, sale and gift for 30 years. It requires proprietary rights to be issued jointly in the name of both spouses which is an important measure for extending property rights to women. Civic amenities for slums, rehabilitation of slum dwellers where sites of slum settlements are deemed untenable, in-situ redevelopment of slum areas, and provision of transit space for displaced slum dwellers have also been provided for. The Slum Area Redevelopment and Rehabilitation Committee is the authority designated for determination of connected matters. The implementation of the Act has been supported by administrative initiatives such as the 'BASERA – the chief minister's slum development programme.'

The Punjab Bhoneddar, Butemar, Dohlidar, Insar Miadi, Mukarraridar, Mundhimar, Panahi Qadeem, Saunjidar, or Taraddadkar (Vesting of Proprietary Rights) Act, 2020 gives proprietary rights to individuals recorded as Bhoneddar, Butemar, Dohlidar, Insar Miadi, Mukarraridar, Mundhimar, Panahi Qadeem, Saunjidar, or Taraddadkar in revenue records. Beneficiaries or their predecessors are required to have been in occupation of agrarian land (excluding panchayat or shamalat land) for over 20 years to be covered under this Act. Occupants can apply for investiture of proprietary rights before the collector. The rationale behind the law is to address land rights of communities left out of earlier reforms. Punjab had previously granted land rights to tenant cultivators under the Punjab Occupancy Tenants (Vesting of Proprietary Rights) Act, 1952 and the PEPSU Occupancy Tenants (Vesting of Proprietary Rights) Act 1954. The Act provides for the previous owner to get compensation for the land given to the tenant by filing an application within two years of such transfer of rights. 11,231 beneficiaries occupying 4000 acres of land have been identified under the Act.<sup>36</sup>

### *Education*

The Punjab Private Health Sciences Educational Institutions (Regulation of Admission, Fixation of Fee and Making of Reservation) Amendment Act 2020 amends the principal Act of 2006 to broaden the definition of a "private health sciences institution" to include universities. The Act gives overriding effect to clauses of the principal Act which empower the state government to determine fees and reservations in all such institutions. With this amendment private medical universities too will be bound by the state sanctioned fee structure and reservation requirement. The amendment was brought in response to a ruling by the high court where private health sciences universities were excluded from the purview of state regulation under the principal Act.<sup>37</sup>

36. PTI "Punjab govt gives land rights to slum dwellers, small land tillers" *Devdiscourse*, Oct. 14, 2020, available at: <https://www.devdiscourse.com/article/science-environment/1261382-punjab-govt-gives-land-rights-to-slum-dwellers-small-land-tillers> (last visited on Feb. 27, 2022).

37. Express News Service, "Punjab tweaks law to regulate fee at private health science universities", *The Indian Express*, Oct. 25, 2019, available at: <https://indianexpress.com/article/cities/chandigarh/punjab-tweaks-law-to-regulate-fee-at-private-health-science-universities-6087124/> (last visited on Feb. 24, 2022).

The effectiveness and intent of the Act as a social welfare measure is questionable given that Punjab is one of the most expensive states for gaining medical education in the country.<sup>38</sup> It has seen a 479 percent hike in fees charged by state-run colleges since the principal Act to regulate private health sciences institutions was enacted. In fact, the fee for MBBS courses in state run colleges increased by 78 percent in the same month as the notification of the ordinance introducing the present amendment. High fees act as a detriment for making medical science institutions accessible for students from marginalised backgrounds partly defeating the purpose of enforcing reservations. Lastly, Punjab faces 20 percent vacancies on posts of medical officers and has a physician density lower than the country's average at 0.83 doctors per 1000 people which also points to the lack of accessible medical education in the state.

The legislature also established a new state university of law through the Sri Guru Teg Bahadur State University of Law, Punjab Act, 2020. The institution shall be head quartered in Tarn-Taran and will be the thirteenth state university in Punjab.

## **Health**

The Punjab Clinical Establishments (Registration and Regulation) Act, 2020 brings private health care under state regulation. The Act establishes a Punjab State Council for clinical establishments to register medical establishments with 50 or more beds. The Act plugs an important regulatory void in the state where no mechanism for prescribing minimum standards for clinical establishments has existed so far. It also requires private clinical establishments to support the state during times of natural disasters and pandemics. It was first introduced in Punjab as an ordinance to enlist the private health sector in the state's fight against the pandemic. The Act was met with widespread protests by doctors.<sup>39</sup> This led to the government excluding health facilities owned by individual doctors from the Act's purview. It was also assured that the Council will be headed by an expert professional and not by a bureaucrat to allay the private sector's misgivings about undue state intervention.

The Act is an interesting example of the possibilities and limitations of the Indian federal system. Public health and hospitals constitute entry 6 in list II of the seventh schedule. While it is clear that public health concerns vary widely according to region, it has often been found that states do not have the capacity to address serious health crises on their own. This has created a lacuna that becomes starkest in conditions such as the COVID-19 pandemic. The gap is remedied to an extent by articles 249, 250 and article 252 (1) of the Constitution. The Clinical Establishments (Registration & Regulation) Act, 2010 was enacted under article 252(1) when Arunachal Pradesh, Sikkim, Himachal Pradesh and Mizoram agreed to a central law for government regulation of the private healthcare sector.<sup>40</sup> Yet, only 17 states and UTs have adopted the law so far and implementation remains nil even within these states.<sup>41</sup> Despite

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38. Vivek Gupta, "Expensive Medical Education is Leaving Punjab Short of Doctors", *The India Spend*, Aug. 19, 2020, available at: <https://www.indiaspend.com/expensive-medical-education-is-leaving-punjab-short-of-doctors/> (last visited on Feb. 25, 2022).

39. Ravinder Vasudeva, "Punjab: 50-bedded hospitals owned by docs out of Clinical Establishments Act", *The Hindustan Times*, July 12, 2020, available at: <https://www.hindustantimes.com/cities/punjab-50-bedded-hospitals-owned-by-docs-out-of-clinical-establishments-act/story-rETK0javZ8kFTjFiMZvjvN.html> (last visited on Feb. 28, 2022).

40. Ministry of Health and Family Welfare, "Frequently Asked Questions", available at: <http://clinicalestablishments.gov.in/WriteReadData/847.pdf> (last visited on Feb. 27, 2022).

41. Express News Service "Supreme Court notice to govt on plea for affordable healthcare for all", *The Indian Express*, July 28, 2021, available at: <https://indianexpress.com/article/india/supreme-court-notice-to-govt-on-plea-for-affordable-healthcare-for-all-7425673/> (last visited on March 10, 2022).

the extreme pressures put on the health infrastructure of the country during the pandemic, Punjab was one of the few states which used the law to tap into the resources of the private health sector.

The state also passed the Punjab Good Conduct Prisoners (Temporary Release) Amendment Act, 2020 to allow temporary release of prisoners beyond the maximum period of 16 weeks a year under conditions of emergencies, natural disasters and epidemics to manage prison population during the pandemic.

## **Managing Water Resources: The backend of the river water sharing dispute**

Dealing with water resource-scarcity is necessary for sustaining the state's agricultural production. The state has had a long-standing contestation with neighbouring states over sharing river water. This has been a point of disaffection between the state and centre since the trifurcation of the state in 1966.<sup>42</sup> The tension has been exacerbated by the depleting level of ground water and the need for alternative sources of irrigation in the state. The state has been demanding riparian rights over its river waters from the center. The first tenure of Amrinder Singh terminated the water sharing pact with neighbouring states.<sup>43</sup> In his recent stint the CM stated that the state does not have water to share and the government shall work to protect the water rights of the state and the livelihoods of its farmers and farm labourers. The subject is important with regard to state-centre relations as exemplifying the difficulties of sharing a vital resource between states. It also underlines the pitfalls of adopting a developmental policy such as the green revolution which entailed very specific resource costs for states like Punjab.

The Punjab Water Resources (Management and Regulation) Act, 2020 establishes the Punjab Water Regulation and Development Authority, the Punjab State Council for Water Management and Development and the Punjab Water Regulation and Development Authority Fund for the regulation, management, conservation and the judicious, equitable and sustainable utilisation of water bodies in the state. It directs the government to prepare an integrated state-water plan. It restricts and monitors the extraction and renewal of ground water as three fourth of the area under cultivation in the state is dependent on sub soil water.<sup>44</sup> The Act stipulates a punishment for any individual or company violating its provisions. Its implementation has been supplemented by administrative projects such as "Pani Bachao, Paisa Kamao" to incentivise water conservation.

## **Conclusion**

Taking a comprehensive view of the state's legislative activity reveals the various push and pull factors determining the exercise of state legislative powers. State-centre relations is one of these factors. They can have a particularly important role in a state like Punjab with its deep integration yet many contestations with the union. The Punjab assembly has been responsive to public opinion. It has also exhibited a commendable degree of innovativeness in adapting its objective of strengthening revenue generation

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42. Pritam Singh, *Federalism, Nationalism and Development: India and the Punjab Economy*, 33 (Routledge Contemporary South Asia Series, Routledge Oxon, 2008).

43. PTI, "Amarinder Singh: The man who put Congress back on saddle in Punjab", *The Business Standard*, Sep. 18, 2021, available at: [https://www.business-standard.com/article/politics/amarinder-singh-the-man-who-put-congress-back-on-saddle-in-punjab-121091800738\\_1.html](https://www.business-standard.com/article/politics/amarinder-singh-the-man-who-put-congress-back-on-saddle-in-punjab-121091800738_1.html) (last visited on Feb. 25, 2022).

44. Gurpreet Singh Nibber, "Punjab water regulatory body to oversee installation of new tubewells", *Hindustan Times*, July 13, 2020, available at: <https://www.hindustantimes.com/chandigarh/punjab-water-regulatory-body-to-oversee-installation-of-new-tubewells/story-0yeWlMx5eLOyuDlAlpR3GL.html> (last visited on Feb. 26, 2022).

to parallel goals of social welfare and management of resources. The positive role of special bodies such as the Revenue Commission coupled with a willingness of the Assembly to accept its recommendations appear to have been instrumental to this end. Punjab has been significantly dependent on the centre and at the same time has sought to assert the legislative autonomy provided to it by the Constitution. This experience reflects how state legislative powers can be a strong vehicle to represent, and to some extent safeguard, the interests of a state constituency where they diverge from the articulation of the union. However, as emerging from the qualitative analysis, less socially powerful sections of the population such as workers of MSMEs are not seen to exert a similar pull on the state's legislative prerogative and could be easily divested of labour law protections. On the other hand, conflicts of interest between the state and the centre appear at its sharpest when dealing with policies affecting locally powerful sections such as the farming population in Punjab.