

## CHAPTER I

### INTRODUCTION

The institution of moneylending can be traced to a common and almost unavoidable fact of human life. This fact can be termed as the need or demand for money. The demand is a demand not for the possession of money itself but rather for the goods and services money can buy, and for the satisfaction of the broad range of human needs and desires. In a highly monetized society, moneylenders have emerged as a recognised if not necessary cog in the financial wheel. Their form may differ but the function they perform is always the same. This function can be said to be the satisfying of the need or demand for money.

The advent of moneylending as an institution in Malaysia is traceable to the nineteenth century when there was an influx of an enterprising class of wealthy, thrifty and shrewd moneylenders into the country from India.<sup>1</sup> They belonged mainly to a banking subcaste of the chetty community, who perpetuated the practice of moneylending in Malaya. In present times the institution comprises of the chettiars, sikhs and chinese moneylenders.

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1. "Nattakottai Chettiars in Malaya", (1958) 24 MLJ IXIV.

This paper proposes to study the current moneylending institution from various aspects; its role, functions and merits; its ability to maintain its position in the present economy despite the availability of more sophisticated financiers; its limitations and shortcomings, and in this connection, the remedial measures which may be employed, namely the abolition of moneylenders, or in the alternative, the development of other credit channels. In this respect, the writer has discussed the credit availed by commercial banks and government agencies and has assessed their capacity in absorbing the credit needs of small borrowers. The assessment has been based on the merits and demerits of these institutions.

The bulk of the study however concerns the law relating to moneylenders; the controls and the adequateness and effectiveness thereof. As the study advances upon the premise or assumption that moneylending business is defective<sup>2</sup> the writer has attempted an evaluation<sup>3</sup> of the effectiveness of the Moneylenders' Ordinance, 1951 (of the checks, controls

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<sup>2</sup>The assumption is based on the common and general knowledge of the institution as a whole. The malpractices engaged by moneylenders usually relate to the charging of exorbitant interests and expenses.

<sup>3</sup>Evaluation is attempted through case-law, and where possible, by comparing the actual practice of moneylending business with that envisaged by the Ordinance.