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Introduction

The role that Micro Finance Institutions (MFIs) play as lending agencies has been an issue of deep concern that AIDWA, as an organization upholding the rights of the underprivileged, working women of this country, has been raising for some years now. This publication seeks to bring together the understanding and work of AIDWA, and the experiences derived from different states in the course of addressing the problems associated with micro finance lending. It is a compilation of articles, surveys and reports with a few case studies which reveal the extent to which this issue affects women across the country, and highlights the importance of constant intervention by organizations like AIDWA to protect the rights of ordinary women.

Taking advantage of the fact that formal banking institutions have failed to meet the credit needs of the poor, and especially women, MFIs lure women with the promise of easy loans. They encourage women to form Groups in order to facilitate the loan recovery process. They charge exorbitant rates of interest, in some places as high as 48-60%. The AIDWA experience shows that there are multiple MFIs lending to the same person. Indeed, it appears that a new breed of moneylenders is in the making as part of the neo-liberal paradigm. Although claims are made that micro level lending is a programme for poverty alleviation and economic empowerment, the modus operandi of the MFIs integrates well with the World Bank promoted strategy that utilizes the NGO sector to penetrate the rural financial market. Whatever little collectivism had been generated by the SHG movement is being systematically destroyed in the process.

Unable to meet the stringent conditions imposed by the MFIs, women are being drawn into debt traps. For example in the state of Andhra Pradesh, 32 MFIs are reported to have given loans worth Rs. 25000 crores to thousands of poor women in the state. Feeling harassed by the forcible demands for loan recovery, more than a hundred people are reported to have committed suicide. In Orissa too, indebtedness of women increased as MFIs penetrated into the impoverished rural areas with their loan schemes. Unethical practices are also being reported from other states across the country.

In this context, AIDWA has intervened to protest against the unethical practices of the MFIs, and demanded their regulation by the state. As a result of the struggle launched in Andhra Pradesh, a law was promulgated by the AP Government in 2010 to curb malpractices; however, it is essentially flawed because it does not cap the interest rates charged by the MFIs.

Subsequently, the Reserve Bank of India has taken some steps towards regulation of MFIs. But it has yet to address the basic discrimination faced by poor women who cannot access loans from banks at low rates of interest, whereas MFIs are afforded a privileged status by counting them as part of the Priority Sector Lending. It should be noted that banks provide agricultural loans, personal consumer and housing loans at much lower rates of interest than what are made available to SHGs. The Left Front State Governments of West Bengal, Tripura and Kerala had introduced schemes that provide loans to Self Help Groups at low rates of interest of 4%. Unfortunately, the current policy initiatives of the UPA government continue to place the women at the mercy of the MFIs.

The Draft Micro Finance Bill proposed recently is no exception. It actually pushes for-profit micro-finance in the name of financial inclusion without any protection for the borrowers. AIDWA is clearly of the opinion that the interests of the poor and the underprivileged must be safeguarded and we believe the current draft Bill fails to do so. Most importantly, much more needs to be done to expand cheap credit facilities through direct banking operations for all rural and urban women, and their SHGs.

We hope that this publication will further the debate on the role of MFIs in India, and cause a critical evaluation of their role. More than that, we hope it will spur activists to mobilize women to draw attention to their credit needs and demand a share of priority sector lending, and against exploitative practices of MFIs.

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Micro Finance – Emerging Concerns and Policy Implications

Maitrayee Gaikwad

World over, India is being lauded a success story, which has withstood the adverse impact of the recent financial crisis unlike most countries that witnessed a near collapse of their financial systems. Among the reasons cited for India's success, are the limited exposure to complex financial products, dominant presence of public sector banks and lack of presence of too-big-to-fail financial institutions in its financial sector. While securitisation, privatisation and consolidation of the banking sector are areas on which India has traded cautiously, thanks largely to the staunch resistance from the Indian left, India has reasons to be worried about its increasingly exclusive and inequitable banking system. The so-called 'reforms' in the domestic banking sector pursued so steadfastly since the early 1990s have transformed the banking system into a purely market-oriented and profit-seeking enterprise that has lost its commitment to the objective of social redistribution.

It is by now well documented in many studies that the decade of the 1990s has been a lost decade in India as far as developmental banking is concerned. There has been (a) large-scale closure of commercial bank branches in rural areas; (b) a widening of interstate inequalities in credit provision, and a fall in the proportion of bank credit directed towards regions, where banking was historically underdeveloped including the north-eastern and eastern regions; (c) a sharp fall in the growth of credit flow to agriculture; (d) increased exclusion of the disadvantaged and dispossessed sections of the population from the formal financial system including small and marginal farmers and Scheduled Castes/Scheduled Tribes and (f) strengthening of the hold of moneylenders on debt portfolios of rural households [see Ramachandran and Swaminathan (2004); Shetty (2006); Chavan (2005; 2007)].

These changes can be associated with a reversal of the policy of social and development banking which was adopted following the bank nationalisation in 1969. The policy reversal could be seen in the form of relaxation in bank branch licensing policy, dilution of priority sector definitions particularly that of agriculture, repeated failure to meet targets for priority sector credit and a convenient outsourcing of the task of meeting these targets by banks as well as a disregard of banks' failure by the Reserve Bank of India (RBI) (Chavan, 2005 and Ramakumar and Chavan, 2008).

It is in the period of financial liberalisation that the concept of micro-finance has been introduced in India as a means of taking banking to the poorer sections of the population with a specific focus on poor women. It has been made an integral part of the "financial inclusion" initiative of the RBI and NABARD in the 2000s. The initiative of financial inclusion in the 2000s has largely been an answer to the growing protests from the Indian left about the weakening rural credit system and a growing exclusion of the poor from the banking system. However, the implications of the term financial inclusion, which is in vogue since the 2000s, is different in spirit from the discussion on inclusive finance during the 1970s and 1980s under the regime of social and development banking. Financial inclusion in the 2000s refers to achieving the "impossible" task of including the poor in the ambit of formal finance *without* disregarding or compromising on commercial and profitability considerations.[1]

World over, micro finance originated as 'micro credit' in terms of providing collateral-free small amounts of loans to groups of women borrowers for production as well as consumption purposes. These loans do not carry any physical collateral but have an element of “social” collateral in the form of peer pressure from other group members to ensure repayment. There is now a diversification from purely micro credit to meeting other micro-financial services, such as micro insurance and micro savings and hence, the term micro finance has been coined to address these varied financial needs of the poorer sections. However, even now, the focus of micro finance is essentially micro credit in India as well as in most other countries.

Micro finance came into existence with the establishment of the Grameen Bank in Bangladesh in the 1983, a non-governmental organisation, which followed the concept of group lending to poor women for the first time. The concept proved out to be successful in terms of a rapid growth in credit disbursement and an excellent repayment rate (exceeding 90 per cent), though there continued to be doubts about the impact of micro-finance on poverty alleviation, and economic and social empowerment of women as well as the economic viability of Micro Finance Institutions (MFIs) like Grameen Bank to survive in the absence of subsidies from donor institutions. Notwithstanding these doubts, micro finance was picked up by the World Bank as a means of taking credit to the poor and it propagated this concept to its member countries with great fervour.

The World Bank’s enthusiasm in propagating micro finance was because it seemed a perfect tool for providing finance to the poor without breaching the basic principles of neoliberalism. This was because (a) micro finance could be routed through non-governmental banking institutions, (b) micro finance ensured high repayment despite high interest costs for the poor borrowers, (c) on account of high repayment and high interest earnings, micro finance appeared to be financially a viable way of lending to the poor. It fitted well into the newly emerging thinking on development finance since the 1980s that was shaped by the idea of “financial repression” and a growing critique of government-sponsored credit-based programmes for poverty alleviation.[2]

Origin and growth of micro finance in India

In India, micro finance began with non-governmental initiatives in the late 1980s when the first Self-Help Group (SHG) was formed by Mysore Resettlement and Development Agency (MYRADA), an NGO. In 1986, MYRADA approached the National Bank for Agriculture and Rural Development (NABARD) for grants to their SHGs. Going by the success of the SHGs funded by NABARD, the RBI brought about three major policy changes to facilitate group lending by banks without enquiring upfront about the purpose of the loan from individuals and without insisting on physical collateral. Based on these policy changes, NABARD launched the Bank-SHG linkage programme (BSLP) in 1992, wherein commercial banks, cooperatives and Regional Rural Banks (RRBs) were asked to provide credit to SHGs either directly or through the intermediation of Self-Help Group Promoting Institutions (SHPIs), which included NGOs as well as government agencies. The SHPIs were involved in forming, nurturing and monitoring of the SHGs.

Over the years, the BSLP has grown by leaps and bounds; in 2009-10, 1.59 million SHGs were given credit under the aegis of this programme. The annual growth in the number of credit-linked SHGs for the last three years, on an average, has been 13.6 per cent under BSLP. Further, the average rate of growth in credit (outstanding) to these SHGs has been in the range of 31.5 per cent.[3]

While BSLP with banks lending to SHGs through the intermediation of SHPIs has grown rapidly since the early 1990s, another variant of this model too has gained preference of banks in the 2000s and has now come to be known as the Bank-MFI Linkage model (BMFL) under which banks lend to MFIs mainly including Non-Banking Financial Companies (NBFCs) that on-lend the funds to SHGs. The most recent variant under this model is MFIs lending not just to SHGs but also to Joint

Liability Groups (JLGs), which is an informal group comprising usually of 4 to 10 women coming together for the purposes of availing the loan either singly or through the group mechanism against mutual guarantee offering a joint undertaking to the lending institution. A large number of the loans taken by JLGs from MFIs are taken singly for consumption purposes.

The growth of micro finance under the BMFL model has been higher than that under BSLP in the recent years. The average growth in the number of credit-linked MFIs under BMFL was 28.7 per cent while the average growth in credit outstanding was of 86.1 per cent in the last three years from 2007-08 to 2009-10.

Notwithstanding the high growth, in terms of scale of credit, BSLP continues to be a more dominant mode of delivery of micro finance as compared to BFML model. At end-March 2010, the total amount of credit outstanding under BSLP was Rs. 28,038 crore as compared to Rs. 10,148 crore under the BFML model.

Two major policy changes that have given further boost to micro finance in India in the 2000s include (a) the launch of the Swarna Jayanti Gram Swarozgar Yojana (SGSY) in 1999 which recognises group lending as a means of poverty alleviation; (b) credit to SHGs and MFIs has been included as part of priority sector credit for banks. The inclusion of credit to MFIs as priority sector has strengthened banks' preference for MFIs over SHGs as this has provided them with a safe and easier mode of credit delivery while meeting the obligations of priority sector and financial inclusion.

The repayment performance under micro finance has been striking. About 67.1 per cent of the banks (including commercial banks, RRBs and cooperatives) reported recovery exceeding 80 per cent in 2009-10 (NABARD, 2010). Further, the non-performing assets ratio to total loans outstanding under micro finance for public sector banks was 2.60 per cent which was only marginally higher than the overall NPA ratio of public sector banks of 2.19 per cent in 2009-10 (NABARD, 2010 and RBI, 2010).

Although the growth and repayment statistics of micro finance appear to be impressive, there are several concerns about the growth and operation of this sector, particularly with regard to BMFL model, that need to be deliberated upon.

Concerns about micro finance in India

1. Scale and Spread of BSLP

a. *Small scale* - Despite its existence since 1992, micro finance continues to be a very small portion of total bank credit in India. To illustrate, the total *cumulative* credit disbursed to SHGs through BSLP right from its inception in 1992 to 2006 formed only 6 per cent of the total agricultural credit disbursed in just *one year* of 2005-06.[4] Further, credit outstanding to SHGs from commercial banks and RRBs, the two major institutions supporting BSLP, constituted barely 0.8 per cent of the total bank credit from these institutions in 2009-10.

b. *Narrow and regionally uneven spread* – The average spread of micro finance, calculated by taking the number of SHGs per 1,000 poor women, has remained rather narrow. In 2004-05, there were only 19 credit-linked SHGs per 1,000 women below the poverty line in India (Table 1).[5] There are two major reasons to believe that the actual spread of micro finance would be even narrower. First, the official poverty line, as argued by many studies, under-estimates the number of poor persons in the country. Secondly, the number of credit-linked SHGs used for this calculation refers to total number of SHGs and not the SHGs comprising poor persons formed under SGSY.

Table 1: Percentage share in total number of SHGs and number of SHGs per 1000 poor women, region-wise

Region	Percentage share in total SHGs	Number of SHGs per 1000 poor women
Northern region	3.1	17
North-eastern region	2.8	22
Eastern region	21.2	11
Central region	10.3	7
Western region	9.4	11
Southern region	53.2	73
India	**100.0**	**19**

Further, regionally, micro finance has evolved in an extremely uneven manner. The development of micro finance has been largely limited to the southern region, in particular the State of Andhra Pradesh. Of the total number of SHGs that were given credit by banks under BSLP, 53 per cent were located in the southern region in 2009-10 controlling a share of 73 per cent of the total micro finance in the country (Table 1). Of these, Andhra Pradesh had a share of 31 per cent in total number of credit-linked SHGs and 44.6 per cent in total micro finance in 2009-10. The second in line in terms of the percentage shares in SHGs and micro finance was the eastern region, in particular, the States of West Bengal and Orissa. As against this, the presence of micro finance could hardly be seen in the north-eastern and northern regions.

In the southern region, there were, on an average, 73 credit-linked SHGs per 1000 women below the poverty line in 2004-05, which was the highest among all regions. Assuming that an SHG, on an average, comprises 15-20 women, it could be inferred that almost every poor woman in the region was a part of an SHG. In comparison, the spread of SHGs was considerably poor in all other regions of the country.

2. Lending and Recovery practices under micro finance

a. *High lending rates* – Micro finance has been criticised often for charging rates of interest ranging between 24 and 36 per cent, which far exceed the rates charged by banking sector from any of its prime customers (Harper, 1998; Chavan and Ramakumar, 2005). The high rates of interest could be explained on the ground that micro finance essentially worked like a chain with each link in the chain adding its own margin and thus jacking up the final rate of interest to be paid by the borrower.

Under the SBLP, NABARD gives refinance to banks at rates ranging between 7.5 and 8 per cent. Banks then lend the funds to SHGs directly or indirectly through the intermediation of SHPI at rates of 11-13 per cent which is the Prime Lending Rate of banks. SHG is subsequent the link in the micro finance chain, which also takes a margin for itself like banks thus hiking the interest rate further (Table 2). Finally, the rate at which credit is given to SHG members works out to be in the range of 24 to 36 per cent.

Table 2: Interest rate chain under micro finance, as at end-March 2010

Agency	Self-Help Group bank linkage programme (Banks-SHG through SHPIs)	Bank-MFI Linkage model (Bank-MFI-SHG/JLGs)
NABARD refinance to banks	7.5-8.0*	7.5-8.0*
Bank to MFIs	-	11-13.5**
Banks to SHGs	11-13.5**	
MFIs to SHGs/JLGs	-	24-48^
SHG to members	24-36^^	

Note: * *Investment credit refinance rates applicable to commercial banks, cooperatives and RRBs.*

** *BPLR of public sector banks at end-March 2010*

^ *Rates quoted by major MFIs, viz., Spandana, SHARE and SKS Micro Finance.*

^^ *See Chavan and Ramakumar (2005).*

Under the BMFL too, a similar interest rate chain operates with MFIs being an additional link in the chain. The resultant rates of interest charged to SHG/JLG members are thus found to be in the range of 24 to 48 per cent or even higher (Ramakumar, 2010).[6]

Under the BMFL, the explanation for high rates of interest, however, is slightly more complicated. Under BMFL, banks figure as lenders to the MFIs, which include for profit companies (NBFCs)/non-profit companies (Section 25 companies) and for-profit NGOs/charitable or investment trusts. Bank's role is limited only for initiating the credit chain. MFIs on their part may raise funds not just by way of borrowings or grants from banks/donor institutions (locally or globally) but also by way of deposits. Though deposits is a weak source of funds for MFIs as by virtue of official policy, the RBI has over time discouraged deposit taking NBFCs given the implications of such entities for financial regulation and systemic stability.[7] As the NBFCs grow in size, therefore, with grants and debt proving to be a limited source of finance, they are compelled to look for sources of equity. Like in the case of SKS Micro Finance recently, they may choose to approach the capital market for raising resources. However, if these institutions resort to capital markets, they are forced to maintain higher yields, which can ensure better credit rating and higher valuation of their stocks, which can make their stocks attractive for investors (Ramakumar, 2010).[8] Hence, higher interest rates are critical for the resource expansion and growth of MFIs.

There are various grounds on which high rates of interest are *justified* by the proponents of micro finance.

First, in the spirit of financial liberalisation, it has been argued by official regulatory agencies that the rate of interest needs to be market-determined (NABARD, 1997). Essentially, each entity involved in micro finance has the legitimate right to cover its operation costs (essentially transaction costs including mainly costs of monitoring and enforcement of loans) as well as provide for its profit mark up (*ibid.*).

Secondly, it has also been argued that poor are not so much concerned with the *costs* but the *timeliness* of credit (*ibid.*). Earlier, reiterating its stance on freely determined interest rates on micro finance, the Micro Finance Cell of the Reserve Bank had even noted that "Freedom from poverty is not for free...The poor are willing and capable to pay the cost" (RBI, 1999 cited Chavan and Ramakumar, 2005).

Thirdly, it is argued that while interest rates charged by micro finance lending are higher than rates of banks, they are lower than the rates charged by the informal sources, such as moneylenders (Reddy, 2006).

Fourthly, as regards the margin taken by SHGs themselves, it has been argued that these margins cannot to be treated as a cost for the borrower, as funds so raised are ultimately used for the benefit of SHG members during emergencies. They are also used to service bank loans in cases of insufficient recoveries from group members (Tankha, 2002).

These justifications, however, can all be challenged on conceptual and empirical grounds. Conceptually, it is absurd to argue that cost of credit does not matter to the poor. Timeliness is an extremely important consideration for a poor borrower because unlike others, a poor borrower may not have any alternative monetary resource to meet her demand. However, high costs of credit would eat into her saving and future investments. Hence, a poor borrower would in effect be trapped in a low- present and low-future income vicious cycle. Most empirical studies have thus observed that SHG borrowers often take credit from one SHG to service and repay loans taken from another SHGs thus getting mired in debt traps (Chavan and Ramakumar, 2005). Therefore, timeliness and costs are both equally important considerations for a poor borrower and there cannot any trade off between the two.

Empirically, the rates of interest under micro finance are found to be not only significantly higher than the rates at which credit is provided by formal institutions to their prime and high-end borrowers (irrespective of the purpose for which credit is sought), but also fairly comparable with the rates charged by notoriously usurious sources, such as moneylenders (Chavan and Birajdar, 2010). It is this reality that prompted the former Chief Minister of Andhra Pradesh, Y.S. Rajasekhara Reddy to remark that "MFIs were turning out to be worse than moneylenders by charging interest rates in excess of 20 per cent" (Ramakumar, 2010).

Finally, even if the margins taken by SHGs are used for the benefit of the SHG members, there is little economic sense in extracting high margins to the tune of 10-24 per cent by SHGs from its borrowers, thereby increasing the present financial burden on borrowers for meeting future uncertainties.

b. Exploitative repayment practices

Apart from higher interest rates, MFIs and SHGs have also been charged with exploitative practices for ensuring repayment from its borrowers. There are numerous instances from Andhra Pradesh and also Orissa - two States which have seen significant growth of micro finance - of women reporting harassment by collection agents and other members from their own SHGs:

"Collection agents are widely reported to use abusive language against defaulting borrowers. MFIs tend to appoint agents locally to make collections…Some have been reported to ask women to take up prostitution to be able to pay their instalments…This is in contrast to what they say when they come to your doorstep to offer loans. They promise that there will be no harassment" – *An Indian Express report cited in Ramakumar (2010).*

"In Guntur, a farm labourer, Borugadda Sudha, 27, tried to end her life by jumping into a well but she was rescued by villagers. Sudha took Rs 15,000 from an MFI to make both ends meet after her husband Ganapathi Rao, a casual labourer at a foundry, died six months ago. She has a two-month-old baby.

Following non-payment of loan instalments, two women representatives reached her house and allegedly abused and threatened her. They detained her and released her only after her relatives assured them of loan repayment. The police who picked up the representatives did not register a case" - *A Times of India report from Guntur district cited in Ramakumar (2010).*

"Agents of a micro-finance company allegedly abducted a 10-year-old girl to "punish" her mother for failing to repay their weekly loan instalment at Narsipatnam in Andhra Pradesh's Visakhapatnam district" – *A Times of India report from Visakhapatnam district cited in Ramakumar (2010).*

It is important to note that as we move away from BSLP towards the BMFL model, we are moving closer towards a micro finance sector dominated by for-profit MFIs. Like interest rate, better loan repayment too is critical for these MFIs to maintain higher yields, better credit ratings and higher stock valuations.

3. Regulation of the micro finance sector

Micro finance sector as it stands today, comprising MFIs and SHGs, is an unregulated sector. The sector, as a whole, is not publicly regulated with the help of any single uniform statute.

The diverse nature of regulation of the MFI sector comes out from Table 3. From the various institutions mentioned in Table 3, only for-profit NBFCs (3.2) and cooperative banks (1.3) are treated as part of the financial sector and fall under the ambit of prudential regulations of the Reserve Bank. All other forms of MFIs are *not* regulated or supervised from the financial angle. Except submission of annual accounts and a report on their operations to the authorities under the Acts of their registration, these agencies are not under any statutory compulsion to comply with specified norms of operation (NABARD, 2008). Moreover, even as the RBI applies prudential regulations, such as capital adequacy, net owned funds, and concentration/exposure norms to Micro finance-NBFCs, there is no regulatory control, at present, on the interest rates and repayment practices employed by such MFIs.

Table 3 Legal forms of various entities in the micro finance sector

Type of entity	Non-profit	Mutual benefit	For profit
1. Association	1.1 Society under Societies Registration Act 1860	1.2 Cooperative which can be just a savings and credit cooperative or be further licensed as cooperative bank	-
2. Trust under Indian Trusts Act 1920	2.1 Charitable trust	2.2 Mutual benefit trust	2.3 Investment trusts
3. Company under Indian Companies Act, 1956	3.1 Section 25 Company	3.2 Mutual Benefit (Sec 620A Nidhi Company)	3.3 Company which is further either an NBFC or a bank

Source: Adapted from NABARD (2008).

In the past, regulatory authorities have always refrained from advocating any public regulation for the micro finance sector as this sector is basically oriented towards voluntary service (NABARD, 1999). The Task Force set up by NABARD to look into the issues of regulation and supervision of MFIs had noted that "...in view of the changing environment in the financial sector of the country towards decentralisation and privatisation, it [the task force] strongly feels that self-regulation would be a more appropriate mode for the mF sector" (*ibid.*, p. 4). Hence, MFIs have been following a voluntary code of conduct designed by Sa-Dhan, association of community development financial institutions providing broad guidelines on governance, transparency, handling of customer grievances, staff conduct and recovery practices.[9]

Earlier in 1999-2000, the RBI had clearly articulated that interest rate applicable to loans given by banks to micro credit organisations or by the micro credit organisations to SHGs/ member beneficiaries were to be left to their discretion with the exception of an interest rate ceiling (of Benchmark Prime Lending Rate (BPLR) of each bank) on small loans (up to Rs. 2 lakh) given by banks.[10]

Even the lapsed Micro Financial Sector (Development and Regulation) Bill, 2007 and draft of the India Micro Finance Regulation Bill, which is under circulation in 2010, does not seek to control interest rates of MFIs except for "disseminating information relating to fair practices... for ensuring provision of thrift and micro finance services at an affordable rate" (NABARD, 2010; p. 10). Further, the ambit of regulation under these bills does not extend to the whole of the micro finance sector; NBFCs (regulated by RBI) and Section 25 companies are left out of its regulatory purview (NABARD, 2008).

Even after the recent crisis in the micro finance sector has unfolded with the reports of suicides of SHG borrowers, regulatory authorities have still not come out with any clear statement about regulation of the micro finance sector. There continues to be a conflict among regulatory authorities about which authority is vested with the power to control the interest rates of MFIs. On its part, the RBI informed the State Governments to invoke State moneylending acts to control interest rates as MFIs are into the moneylending business. However, Union Banking Secretary has indicated that the power to control interest rates of MFIs does not lie with the State Governments.[11] Hence, the ordinance issued by the Andhra Pradesh Government following reports of suicides by SHG borrowers also does not seek to cap the interest rate but only to apply the conventional rule of *dam duppat*.[12] The Ordinance merely states that "No MFI shall recover from the borrower towards interest in respect of any loans advanced by it, whether before or after commencement of this Ordinance, an amount in excess of the principal amount" (p. 4).

Further, as regards the exploitative repayment practices, the RBI had taken strong objection to the coercive acts of collection agents employed by banks in the past, but it is yet to come out with any measure against similar practices employed by MFIs.[13]

4. Size and depth of the micro finance market

While there is data available with the official regulatory agencies about micro finance players, such as MFIs, to the extent these players are linked to banks for credit under the BSLP and BFML model, there is no denying that there are a number of MFIs which are not linked to banks for credit and which raise funds from other sources. There is little clarity with official agencies on the exact number of such players in the micro finance sector and hence, the exact size and depth of the micro finance market. This issue is partly linked to the fact that all players under the micro finance sector do not fall in the ambit of centralised registration and regulation. Hence, data on the operations of the MFIs are not being collected and maintained in any centralised manner.

The latest estimate for 2010 by NABARD places the number of MFIs that are credit-linked to banks at 1,513. This estimate also includes MFIs which have approached banks for repeat loans during the year. Needless to say, this estimate captures only a part of the total MFIs operational in the country at the present juncture.

The number of NBFCs, which are under the regulatory purview of the RBI is 15, which are Non-Deposit Taking Systemically Important (ND-SI) companies having an asset size of Rs. 100 crore and above (including SKS micro finance). However, there is no estimate of the number of non-deposit taking MF-NBFCs having an asset size less than Rs. 100 crore, which remain out of the regulatory purview of the RBI.

5. Financial complexities in the micro finance market

As the micro finance sector moves closer to BFML model, the number of financial complexities is likely to grow. It is hard then to characterise the dealings in this sector as innocuous and benign aimed at poverty alleviation.

First, world over, securitisation has been growing rapidly in the micro finance sector. Securitisation is justified on the grounds that it allows raising resources at low cost for the originator of the securitised transaction with partial or total removal of the asset concerned from the originator's balance sheet, access to the capital markets even for unrated entities and a greater availability of liquid funds (Basu, 2005).

In India, the securitisation market in micro finance, still in its nascent stages, is largely under the control of the MF-NBFCs sector. This market is expected to show rapid growth in the near future as MF-NBFCs would have to take on greater off-balance sheet exposures to raise additional resources as well as to avoid the capital adequacy charge which has now been made more stringent by the RBI.[14] Further, it is also likely to grow given the interest of banks in buying securtised transactions from MFIs for meeting their priority sector lending requirements (Kothari, 2010).

Secondly, there is likely to be a growth of foreign funds into the MFI sector in the years to come. At present, most of the funding in the MFI sector in India is local, unlike in many other developing countries. Presently, about 3 per cent of the total funds flowing into the MFI sector in India is from foreign sources (Gaul, 2010). Moreover, a major part of the foreign investment in the MFI sector is not for-profit or commercial purposes. However, this situation is likely to change with the growing resource requirements of MFIs. Even at present, there are large capital deals taking place between international venture capital funds and large sized MF-NBFCs in India.[15]

In light of the general lessons learnt from the recent crisis, the growing trend of securitisation and entry of foreign funds for commercial purposes merit a close monitoring of MFIs and their operations.

Major policy implications

In light of the concerns related to the micro finance sector discussed in the foregoing paragraphs, following are the major policy implications for the micro finance sector at the present juncture.

a. *Need for standardised and centralised financial regulation and supervision* – There is need for a statute that vests the power of regulation and supervision of the micro finance sector ideally in one entity. The statute should not oriented towards single-mindedly developing this sector, unlike the present bill on micro finance sector under circulation, but should prescribe strict norms for operation with regard to registration, fixing of interest rates (discussed in detail in 'e') and methods of recovery, and penalty for the failure in meeting these norms. The strict guidelines on registration would help in weeding out a lot of unorganised entities as well as, over a period of time, help in creating a firm database on this sector and would help in shaping future policy framework for this sector.

b. *Need to refrain from application of State level usury acts to micro finance* – There is a need refrain from applying State level usury/moneylenders' acts to micro finance as this would not help in containing usury on ground. Moneylenders'/Usury Acts have been in existence for more than a century and as experience has shown, they have utterly failed in reigning in usury in the rural credit markets.

c. *Need to remove priority sector status from banks loans to MFIs* – While making a distinction between SBLP and BFML model, there is a need to take away the priority sector status from banks' loans to MFIs. A similar recommendation has been made by the RBI Working Group on Introduction of Priority Sector Lending Certificates (Chairman: V. K. Sharma – constituted in 2009).

d. *Need to encourage banks to directly lend to SHGs under BSLP*- The BSLP is a unique experiment under micro finance where loans are given by public sector banks to SHGs, nurtured and promoted either by banks or other organisations. Banks should be encouraged to continue with this effort more aggressively and with a more balanced regional approach, and refrain from using middle-agencies such as the MFIs. There is also a need to continue recognising BSLP as part of priority sector loans by banks. This would help in increasing the scale of micro finance through this channel.

e. *Need to prescribe an interest rate ceiling and related subsidy from the Government* – There is a need to prescribe an interest rate ceiling under the law governing micro finance apart from prescribing the *dam duppat* rule. Capping of margins as suggested by C. Rangarajan, may help in bringing down the final rate of interest for the time being. This would provide flexibility to banks and MFIs to increase their rates, as and when, the general interest rate level in the economy increases. However, given the tendency to increase rates when general interest rate level goes up, but not to cut them when the level comes down, margin capping may not be a useful solution to provide the necessary relief to SHG members in the long run.

Hence, keeping in mind the special nature of micro finance, there needs to be an overall interest rate ceiling for micro loans given to SHG members under BSLP. This interest rate ceiling can be subject to periodical review by the regulatory authority viz., NABARD or RBI. A suggested model in this regard – as followed in the Kudumbasree programme in Kerala – is given below:

Agency	Self-Help Group bank linkage programme (Banks-SHG through SHPIs)
NABARD refinance to banks	7.5
Banks to SHGs	11-13.5
SHGs to members	6.0 (suggested ceiling)
Subsidy to SHGs (or their federations)	5.0-7.5

This model would help in ensuring banks to retain their margins in lending to SHGs. The onus lies with the Government to provide subsidy to SHGs in order to bring down the effective rate of interest to final borrowers to 6.0 per cent. The subsidy should be provided to the SHGs (a confederation of SHGs), which can be used towards the betterment, capacity building and emergency needs of SHG members.

As regards the BFML model, the effort should be to phase out MFIs from the micro finance sector. Hence, there should be a differential policy for interest rate ceiling under BSLP and BMFL model. Interest rate ceiling under BMFL model thus needs to be fixed at a higher level than the suggested ceiling under BSLP (6 per cent).

Consequently, there would be a tendency of borrowers to seek credit directly from banks at lower rates instead of approaching the MFIs. This would help in strengthening banks as the single lender in the MFI sector over a period of time with BSLP as the single mode of delivery of micro finance in the country.

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THE MFI BILL 2011
PUSHING 'FOR-PROFIT MICROFINANCE' AS A SUBSTITUTE FOR FORMAL BANKING

Smita Gupta

Approach to Microfinance

The Micro Finance Institutions (Development And Regulation) Bill, 2011 comes in the wake of demands for an effective regulatory and grievance redressal mechanism to curb the high degree of unfairness and exploitation in the harsh and unconscionable terms and practices of microfinance lenders, which have driven several borrowers to suicide. The problems of evergreening of loans (through lending to borrowers to pay off overdue debts to other lenders or disbursement of excessive loans), lack of proper scrutiny before lending, high loan costs and coercive recovery practices had become too overwhelming to ignore. Unfortunately, the high concentration of power in the hands of the lender in traditional contracts has been replicated in the lender-borrower relationship in microfinance contracts, with the clients forced to accept any terms. Therefore, several organizations had demanded the expansion of formal banking in order to check the growing segmentation of the banking sector, and strict regulation of microfinance. The idea was to create a countervailing force to protect the millions of poor and vulnerable clients, largely women, who do not have access to formal banking and lack collateral, and consequently have a high dependence on the usurious traditional and new institutional moneylenders for credit.

This approach was in sharp contrast to the position taken by many neoliberal multilateral agencies and development organizations who saw microfinance as the means of financial inclusion of the poor, which would at the same time add another avenue for mega profits for finance capital while facilitating government's retreat from public banking. The role of state would be limited to opening up the market and providing cheap funds to the private financial entrepreneurs. The Consultative Group to Assist the Poor (CGAP) (housed at the World Bank, Washington DC, with several Multilateral Members like the Asian Development Bank, European Bank for Reconstruction and Development (EBRD), the European Commission (EC)) enunciated this position clearly when they stated that poor people need not just loans but also savings, insurance and money transfer services; that microfinance must pay for itself without subsidies from donors and governments; that the job of government is to enable financial services, not to provide them; that interest rate ceilings hurt poor people by preventing microfinance institutions from covering their costs, which chokes off the supply of credit.

Abandoning Financial Inclusion by Formal Banking

The current Micro Finance Institutions (Development And Regulation) Bill, 2011 endorses the position that microfinance is the most efficient and effective route for financial inclusion, furthering the segmentation in the banking sector and abandoning the task of bringing the masses under the umbrella of formal banking. The characterization of MFIs as "extended arms of the banks" in the **Preamble** is misleading in light of their profit-oriented lending practices. These are the exact opposite of the developmental orientation of nationalized banks which are required to promote opportunity and access with a focus on priority sectors based on the principle of "ability to pay" through affordable credit. An institution based on maximizing profits will tend to lean towards usury and force, and its designation as a substitute for formal banks in the unbanked areas is alarming. Restricting profits by imposing a limit to "margins" as in **Clause 2(e)** wont help since defining it as the "difference between the annual percentage rate collected by the MFI and the cost of funds raised" will simply drive profits underground by converting them into costs, which is a practice perfected by the corporate sector to save on profit tax. This principle of "cost plus pricing" increases inefficiencies in the system since there is no incentive to cut costs. In any case, even if MFIs are to be treated as banks, the correct logical course is to bring them under the banking regulations with the accompanying obligations instead of adopting this backdoor route.

Granting MFIs Immunity Under Usury And Money-Lending Acts

Disturbingly, the **Explanation to Clause 42** declares "that micro finance services extended by any micro finance institution registered with the Reserve Bank shall not be treated as money-lender for the purpose of any State enactments relating to money-lenders and usurious loans." The Former RBI Governor Yaga Venugopal Reddy likened microfinance institutions to sub-prime lenders in the United States. He said that for-profit MFIs should be treated at par with money-lenders and should not be subject to soft regulation as they are a bigger risk to the system than individual lenders. "If it is profit and if there is lending, aggressively, then it's just moneylending," There is also a great deal of leverage and while the moneylender normally lends out his own money, the MFI is actually borrowing money from depositors and using priority sector lending funds for on-lending. Banks like SBI, ICICI, Axis and SIDBI have lent over Rs 20,000 crores to micro lenders.

Superseding Regulatory Powers of State Governments

This supersedes the regulatory powers of state governments over money-lending by microfinance institutions by centralizing all powers in the RBI. This is meant perhaps to dissuade other state governments from treading the Andhra Pradesh path and promulgating their own legislations. This is against the Constitution of India, since State Governments derive regulatory powers from the Subjects in List - II of the Seventh Schedule, which form the exclusive domain of the State Governments.

Item 30 is "Money-lending and money-lenders" and twenty two states have enacted comprehensive legislations with stringent provisions for regulation of money lending. The Usurious Loans Act, 1918 which is also applicable to money lending, was enacted primarily to prevent Civil Courts from enforcing merciless and unconscionable loans with interest at usurious rates. Where the Court finds that the interest is excessive and the transaction is unfair, it may reduce the amount payable to a more reasonable level. Smart money-lenders may then seek protection by declaring themselves MFIs, since the definition is fairly inclusive. Therefore, by granting immunity to MFIs from the definition of usury and money-lending, the Bill will protect unscrupulous MFIs and moneylenders instead of client protection!

Definition of Microfinance and Institutions: Eyeing Cheap Funds and Super-profits

The definition of microfinance in the Bill opens up the possibility of MFIs offering saving products to their clients, thereby giving them open access to cheap funds while exposing poor depositors to safety and liquidity risks. The collection of thrift is in the definition of microfinance in **Clause 2(1)(g)(ii)** and **Clause 2(1)(p)** defines "thrift" as any money collected other than in the form of current account or demand deposits from their clients. Will these deposits be term or recurring deposits? Will there be flexibility in the frequency of withdrawals? Clearly, such thrift is not covered by the Deposit Insurance and Credit Guarantee Corporation Act and by the statutory cash reserve/liquidity requirements, as applicable to banks. The unbanked poor are also opened up to the risks of private insurance and pension funds. Worst, for-profit MFIs are allowed to operate in this essentially a pro-poor developmental activity since "micro finance institution" is defined in **Clause 2(f)** as an entity (irrespective of its organizational form), which provides micro finance services but does not include banks and cooperative societies.

Why should development funds be extended to for-profit MFIs active in the share market? As it is, state owned banks continue to lend to these predatory MFIs for on-lending and priority sector lending funds have been extended to them at subsidized rates by using loopholes in norms. Why should the state exchequer extend further funds through the Microfinance Development Fund proposed in **Clause 30(1)** by way of Government grants, sums raised by the RBI from donors, Governments, institutions, and the public, and the current balance in the Micro Finance Development and Equity Fund. In fact all priority sector lending, Government and development funds should go directly through nationalized banks to SHGs or exceptionally through non-profit MFIs.

Financial Inclusion Supersedes Client Protection

The Bill rationalizes itself as a statute to increase "financial inclusion" of the "poor" through the "development of micro finance institutions" by providing a formal statutory framework. Surprisingly, the Preamble makes no mention of client protection or grievance redressal, the raison d'etre for the Bill! The Microfinance Development Council in **Clause 3**, and the State Advisory Councils in **Clause 8(3)** are primarily set up for the promotion and development of microfinance, with client protection and grievance redressal an afterthought sitting rather uncomfortably on this basic edifice. This becomes clear from the fact that these bodies have no powers to receive complaints and recommend any action.

As the sole regulator, the RBI has been vested with enormous absolute and discretionary powers without any specific and clear responsibilities to ensure client protection. Thus in **Clause 12(1)** RBI ***"may"*** satisfy itself of the vague condition that the "general character and management of the applicant shall not be prejudicial to the interest of the clients" while granting registration to an MFI. Once again, **Clause 23** which deals specifically with the functions and powers of the RBI gives primacy to "promoting financial inclusion" calling it a ***"duty"***.

Subservient to this, the RBI "***may*** provide for" measures for "sector related benchmarks and performance standards". In clause after clause, the RBI is empowered but not required to define or protect client interests, including crucial aspects such as purpose, margin caps, periodicity of repayment, processing fees, interest, life insurance premium, client protection code, grievance redressal mechanism, prudential norms, disclosure of assignments or securitisation, raising of preference share capital or other capital, etc.

RBI's enforcement powers, including the powers to "cease and desist" (**Clause 13**), to "cancel registration" (**Clause 14**), to order "special audit" (**Clause 20**), of "Inspection" (**Clause 26**), to "wind up" (**Clause 28**), to impose "penalties" (**Clauses 32, 33, 34, 36**) are based on the MFI's failure satisfy the Reserve Bank that it has complied with directions and conditions on the basis of inspection of annual accounts or any returns by the RBI or RBI-appointed auditor. The State Governments, the central and state level councils and the clients have no role in defining client interest, nor can they complain or monitor the enforcement of client protection.

No Relief Against High Interest and Avarice

This undermines the very justification for the Bill since it does nothing concrete to check the high interest and avaricious lending practices. According to the information supplied by the MFIs themselves to the AP Government at the time of registration, the effective rate of annualised interest was as high as 60.5 per cent (Basix) with India's only listed and largest commercial MFI putting it at 31 per cent (SKS Microfinance Ltd). This is unreasonable, but if ADB is correct, it is an underestimate. ADB reports that "the nominal interest rates charged by most MFIs in the region range from 30% to 70% a year...The effective interest rates are even higher because of commissions and fees charged by MFIs. Other factors-such as the compulsory deposits for obtaining a loan, frequency of repayments, and the systems adopted to collect repayments-also raise the effective interest rates." The suicides were an outcome of the usurious interest, multiple loans at ratcheting costs, and harassment by MFIs. As a strong votary of deregulated interest rates, expectedly the UPA Government's Bill does not put a cap on interest rates charged by the MFIs, and the RBI too has not imposed this despite being empowered to do so. This renders the entire statute useless from the point of view of the millions of small and poor clients. The Bill should cap interest rates at 6-8 per cent.

No Mechanism for Grievance Redressal

The Bill does not have a Grievance Redressal Mechanism. In keeping with the overall vague tenor of the Bill, **Clause 31** states that the Reserve Bank **may**, **if deemed necessary**, appoint as many Micro Finance Ombudsmen as it may deem fit Even as clients and state governments are rendered powerless, the MFIs receive a great deal of protection and repeated opportunities of being heard. Bar of civil jurisdiction under **Clause 35** for an offence for which any penalty has been imposed by the Reserve Bank is unfair since the powerful MFIs may get away with the ridiculously low penalties under **Clauses 32-34** for serious violations and remain protected from Courts.

Clause 37(1) in fact takes away from any person other than the RBI, or a person authorized by it, the right to approach Courts. The Explanation in **Clause 30** further erodes powers of state governments when it states that offences shall be deemed to have been committed at the place of registration of principal operations of the MFI. The simplest way to escape a State Government would be to register in some other state. Shockingly, the Bill in **Clause 41** gives the Central Government the power to exempt some MFIs from "any or all of the provisions of this Act"! Weak and arbitrary as they are, even these provisions will not apply to the specified class or classes of MFIs, who will be allowed unfettered operations.

Faulty Institutional Mechanism

The Micro Finance Development Council and the State Advisory Councils are deficient in terms of their selection, composition, powers and functions. The Micro Finance Development Council is hand-picked by the Central Government with 7 official members and 6 non-official Members, all from banking and finance. The State Advisory Councils are once again appointed by the Central Government and the states are allowed two nominees including chairperson, and the other three are bankers. The most objectionable feature is the representation given to the microfinance sector in the State Advisory Councils. In both the state and central committee, there is no representation to affected persons, clients or their organizations. Such as they are, these institutions are merely talking shops without even recommendatory powers incapable of independent functioning.

How does the RBI intend to discharge its many functions, given that it has proved ineffective in utilizing the authority which it already has to regulate NBFCs? The proposal in **Clause 24(2)(h)** to fall back once again on the already discredited Self-Regulatory Organisations fails to give confidence. To expect multitudes of poor clients to travel to Ombudsmen located in State capitals or in neighbouring states as envisaged is impracticable.

Conclusion

This Bill is based on the principle that 'Banks are for people with money, not for people without. For those without, there is microfinance!' It abandons at the outset any possibility or need for expansion of formal banking and in the guise of "financial inclusion" it legitimizes all kinds of financial intermediaries who are looking to take advantage of the circumstances that unfetter for-profit banking. The definition of microfinance is overarching and inclusive, and instead of restricting microfinance activities and direct access to government and Priority Sector Lending (PSL) funds to the members of SHGs and non-profit organizations, the Bill is headed towards the rather perverse outcome of deregulating banking for the poor even as it claims to regulate microfinance. Even as it pushes the development and growth of non-formal private microfinance, its attitude to client protection and regulation is a half-hearted afterthought. This suggests that the Bill is pushing for-profit microfinance as a substitute for formal banking, and client protection is the facade.

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Micro Finance Institutions:
The Local Face of Finance Capital in Delhi

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Recently a team from the Delhi Janwadi Mahila Samiti carried out a small survey of the operations of micro finance institutions (MFIs) in the lower middle and working class neighbourhoods of Mangolpuri and Sultanpuri in North West Delhi. This survey is a part of a larger initiative being undertaken by the AIDWA in its ongoing campaign against the unfair practices of these institutions. The survey found that all most all the clients of these institutions are women, most of whom are either self employed (with small and minute enterprises) or domestic workers. Many of them are helping their husbands in small businesses like selling and sharpening of knives or vegetable vending. Their average income varies from Rs 2000 to Rs 5000. Their family incomes are erratic and unable to fulfil their needs. In this situation the women of these areas are often forced to take consumptive and other loans in order to meet their requirements. Today both these neighbourhoods are the hubs of the field operations of MFIs that give multiple loans to women and use local social relationships to extend their operations.

Govt. Indifference and Expanding Urban Operations of MFIs

The penetration of micro finance institutions (MFIs) into the lower middle and working class neighbourhoods of Delhi began in the second half of the last decade. The expansion of these can be seen by their growth in the last three years. For example Ujjivan Financial Services started its operations in

2008 and grew by ten times by the time of its last returns in March 2011. In the area of our survey itself the company reported about 3000 members in Mangolpuri and 2000 members in Sultanpuri in March 2011, one year after it started its operations. In other areas like Narela and Jahangirpuri it showed a membership of 3000 and 4000 respectively by March 2011. This is only one the six big companies operating in the area visited by the surveyors. The others are SKS Microfinance, Share Micro Finance, Janalakshmi Financial Services, Basix (in partnership with Smriddhi) and Bandana, for whose operations the exact figures are unavailable at present.

The growth of MFI credit operations in the last five years has been facilitated by the failure of the Central and State government's model of micro finance to solve the problems of the urban poor. From the mid-1990s the National Bank for Rural Development (NABARD) had pioneered the self-help group bank linkage programme in the rural areas. By March 2010 about 6.7 lakh bank linked groups had been formed and only about 83000 existed in the urban areas. In Delhi the total number of bank linked groups was about 2047. The urban self employment under which the Delhi government promoted self help groups of poor women had only managed to form 43 self help groups and thereby benefit 481 women from 1997-2010. Most of the other bank linked groups were formed by NGOs whose estimated number operating in the city was about 400-500, and who provided loans at interest rates of 25-28 per cent. **This evidence shows that the government's strategy of financial inclusion has had limited or virtually no impact in urban areas.**

The Class Factor in Borrowing from MFIs

The MFIs in the area are characterised by the fact that they only give loans to women, and usually refuse loans to any other male member of the family. The loans are given in the name of supporting self employment, but are almost never used in income generation activities. As one woman in K bloc of Mangolpuri said, "we have to say that we are going to take money for self employment and work otherwise we will not get any loans. But the truth is that most women in this area that we know use this loan for their other needs like health, marriage or any other requirement in the family." They do this because loans from other informal sources were taken at a higher interest rate than those from micro finance institutions. As another woman from L Block stated, "sometimes we take loans from local people (shop keepers etc) of Rs. 300 hundred for ten days and pay an interest of Rs. 100 over this amount". **Thus poor women with unstable livelihoods and low incomes only go to MFIs because they have no other option.**

But there were exceptions to such cases, from a slightly higher income group. Of all the women interviewed in the area, only three or four of them were actually taking loans to invest in their small businesses. However such women came from a relatively higher income group, one of whom runs a training centre for tailoring and earns about Rs. 10,000 per month on her own. She also has some properties to her name. Another woman runs a garment business and gets piece rated work done from other women. **Thus the family income and class is an important deciding factor in deciding how much a woman benefits from her loan. Clearly those who earn good money and have running businesses find borrowing from MFIs viable.**

The Costs of Borrowing

Most of the loans are given to women in groups of five or ten known as joint liability groups (JLG). The system of lending starts with small loans and interest rates ranging from 23 to 28%. For example the first loan given by Ujjivan is of Rs. 10000 and has an interest rate of 26%. If the woman repays this loan successfully than she is given another loan for Rs. 15,000 and a third loan for Rs. 21,000. The interest rates for the second and third loan may reduce depending on the record of repayment of the borrower, but they are never less than 23

%. Similarly SKS Micro finance lends at the rate of 26%, and Bandana lends at the rate of 21-24% or more depending on the nature and extent of loan taken. Interest rates were less than 23% in only two cases where women had been borrowing continuously and larger amounts for their businesses. These businesses employing other women were given loans of 18-20% in the fourth year of their borrowing. **Hence, those who demonstrated a stable livelihood were paying lesser interest than the poorer women who had low incomes, once again demonstrating the socially unjust methods of this system.**

But a deeper study of the interest shows, that the interest rates mentioned by the agent on the woman's loan card are far less than the actual cost being incurred by the borrower. It is these additional costs that are the real source of the profits of the MFIs. Every woman paid a one-time cost of Rs. 150-200 at the time of borrowing the loan. As one woman told us, part of this money goes to the agent who mobilises the borrowers. Apart from this SKS India takes Rs. 20 per month for insurance where as other companies took Rs. 200 per year as insurance. This money has never been recovered by any borrower even when they encountered an accident. Domestic workers from Sultanpuri stated that they were refused loans when they asked for their insurance money to be returned. Women can also take 'emergency' loans from the company at a monthly interest rate of 10 per cent.

Repayment Woes and Fraudulent Agents

But in addition to this, it is the punishing repayment schedule, the 'agent' system that is the main source of exploitation of the women. Most loans are for durations of ten to eleven months with weekly repayment schedules. Payments are usually made to the agents of the company. In many cases these agents are young boys who are employed for this purpose. Neighbourhood women with good capacity to mobilise borrowers are also made agents and given commissions. The agents are meant to take weekly instalments and deposit them in the company's office where they are entered into the computer against the name of the borrower. In this system, the women sometimes end up paying one instalment twice. Like one woman from Sultanpuri explained "we were regularly paying our instalments to the agent of the SKS company. But when went to close the loan in the SKS office, the person there insisted that some instalments had not been paid." This means that many a times the women are forced to pay their instalments for a second time. In another case the agent from Basix - Smriddhi insisted that the women had not paid up their full instalment and cut Rs. 800 extra from her security deposit of Rs. 1400 before closing the loans. There are also rare cases where agents attempted to run away with the money of the women. As another woman from Sultanpuri narrated, two boys of SKS ran away with Rs. 32000 of thirty women. Since these agents were known through local contacts, the women got together and have so far recovered Rs. 10000 from the agent. They have also resolved to continue the fight to get back the rest of the money.

When asked about how they manage to pay weekly instalments they state that they often have to take loans to pay instalments. In one case a woman from Mangolpuri had kept her fridge, two cylinders and all other household goods as collateral with a local neighbour in order to borrow money to pay her dues. Her house was almost empty. Sometimes these companies also force the women to deposit some of their home electronic appliances or valuables as deposits if they or their joint liability groups are unable to repay the instalment. In another instance a woman from Sultanpuri reported that agents from Basix - Smriddhi had threatened to get goons to her house if she did not pay her instalment in time. She had to borrow money from her neighbours and make the payment. **This pressure of timely repayment has reinforced rather than broken the vicious debt-trap in which the women find themselves. It has also created a cycle of continuous indebtedness**.

Breaking the Unity of Working Class Women

Social networking and pressure are the main strategies used by the MFIs to contact new borrowers and also use social pressure to recover money. Most of the women come in contact with MFIs through people who they have known in some social context or the other. They also form JLGs with other women who are either their relatives or neighbours. One crucial difference between these JLGs and other self help groups is that the groups formed by the MFIs do not require any savings by the women. Rather these groups act as guarantors for individual loans granted to women. This means that all women in a particular group certify that they will repay each others loans if any woman is not able to pay her instalment. Such an obligation puts the every day relationships of women under tremendous pressure. When a woman fails to pay her instalment she gets into conflict with other women and is sometimes forced to withdraw from her daily social interactions. Thus one woman narrated how she is now confined to her house and has stopped meeting her friends because she will be hounded by women to pay up her dues.

Hence we see that the experience of JLGs poses a challenge for the democratic women's movement. The earlier experience of self help groups formed and run by the democratic women's movements in other states was that they fostered a unity amongst women and prepared them for further struggles. In contrast the JLGs sow the seeds of conflict rather than unity amongst women. They also have the potential to force them into a debt trap and attempt to make them permanently dependent on MFIs: the new money lenders of the neo-liberal era. In this context pressure needs to be put on government to extend its SHG-bank linkage programme to urban areas. This will help women to access cheap credit, marketing and training facilities so that they can pursue sustainable alternatives for income generation. The women's movement also needs to strategise how the formation of self help groups can further the campaign against the coercive and unfair practices of the MFIs and further the struggle for a more socially just credit system.

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The Need to Expand Bank Linkage Programs for Self Help Groups :
Report of an AIDWA Survey in Odisha

The Janwadi Mahila Samiti, Orissa did a survey of 90 self help groups in 7 districts covering 14 blocks and 3 municipalities in Orissa to understand the way they functioned and what types of institutional linkages were developed by them. The districts covered were Bhadrak, Cuttack, Khurda, Balasore, Sundargarh, Nayagarh and Ganjam. The main aim of the survey was to understand the nature of lending practices and see to what extent the bank linkage programme had spread in these areas and to what extent these areas were dependent on MFIs and other sources of credit. It also attempted to analyse the impact of the bank linkage programme and its relationship with the growth of the operations of the microfinance institutions in the region. The survey shows that the presence of the bank linkage programme has provided crucial support for the organisation of women and their participation in social issues.

Profile of the SHGs Surveyed

The region-wise distribution of the SHGs and the number of years that they have been functioning shows that most of the SHGs surveyed were in Bhadrak and Cuttack districts, and more than 50% were formed 3-5 years ago. In overall terms, around 21% of the SHGs were at a nascent stage of 0-3 years and 15% of the SHGs had been functioning for more than 10 years. Of these only one SHG from Cuttack had been functioning for 12 years. Around half the SHGs had been formed in the last 5 years.

The social composition of the SHGs was studied in terms of the number of BPL families in each group. The results show that about 70% of the members in 45% of the groups live below the poverty line. In Bhadrak, for example, more than two thirds of the members in more than 50% of the groups are living below the poverty line. There are only five groups spread over three districts of Cuttack, Balasore and Khurda whose members are above the poverty line, or who do not have any BPL members. ***Hence we can conclude that the main social basis of these groups comes from BPL families.***

Access to Banks

One of the main issues focused upon in the survey was the links that SHGs had with banks. This was gauged through collection of data on two basic aspects. The first was whether the SHGs had accounts in banks, and the second concerned the SHG access to bank credit. While the second aspect will be considered in the analysis of the patterns of loans taken, the results of the ability of SHGs to link up with banks by opening accounts are presented here. Out of 90 SHGs, 83 had opened bank accounts whereas 7 had no bank accounts. All the 7 were in Bhadrak district. Of the 83 who had accounts, 28 SHGs (less than 40%) reported that they had good relations with the banks and were getting help from them. Some mentioned that the help that they received from loans was in terms of the either personal or linkage loans. Most of those reporting good relations with banks were concentrated in Cuttack and Balasore districts. An equal number of respondents stated that they in fact received no help from the banks. SHGs in Bhadrak and Sundargarh were especially unhappy with banks as not even one of the 34 SHGs said that they had received help from banks. This weak linkage between SHGs and banks is a cause for worry as it shows that bank linkages had not made a substantial impact on the lives of many SHG members.

Access to Credit

The survey tried to access the conditions and nature of loans taken by the SHGs. The patterns of loans taken by SHGs are: from bank-22, from MFI-28, from bank and MFI both-4 other sources-4, not taken any loan-38, no response-2.

- It shows that about 42% of the SHGs are not linked to any loans, i.e., they have no access to credit even if they have bank accounts. It may be noted that while 3 SHGs are composed of largely non-BPL families, the rest have their social basis largely within the BPL families, thus showing the *lack of access to credit for SHGs who are formed by poor women.* This is especially true of Bhadrak district where 70% of the SHGs have not taken any loans.
- 30% of the SHGs had taken loans from MFIs while the proportion of those taking loans from banks was 25%. A comparison between the loans given by these two agencies shows that growth of MFIs is the highest where women have no access to bank linked loans. In Cuttack and Balasore where most of the loan-taking SHGs are linked to banks, the penetration of MFIs seems to be much less. ***This only strengthens the argument that the MFIs are filling the void created by the lack of expansion of the Bank Linkage Programme.***
- There is very little information about multiple loans. Though field level investigations suggest that most SHGs take more than one loan, often to repay a previous loan, the data as collected here does not suggest that. There is only information about 6 multiple loans. In four cases, these loans have been taken from banks and MFIs. In two cases they have been taken from MFIs and the District Federation of SHGs.

Conditions and Use of Bank Loans

- In 22 cases, the quantum of bank-linked loans varied from Rs.10,000 to Rs.1,60,000. 4 SHGs had taken bank loans of Rs.1,00,000 and above. Most of the bank loans were taken for one year and instalments were paid on a monthly basis. Three loans were taken for agricultural purposes in Bhadrak, and most of the loans from Gramaya and Cooperatives were taken in Balasore and Ganjam.

- While SBI and UCO Banks give loans at a annual interest rate of 12%, other banks such as Cooperative and Gramaya banks give loans at 13%. There are also two cases in Cuttack where loans are given at 6-7% for business purposes.

- Though most people reported that they are taking loans for business, discussions with women suggest that most bank-linked loans are used for inter-loaning amongst the groups. This inter-loaning is done at the rate of approximately 3%. ***There is a strong possibility that this inter-loan is used to pay off the instalments of loans from other agencies such as MFIs. The data in this case is suspect as women do not seem to have given the correct information about all loans.***

- There are 6 cases where deduction of deposits is shown against bank loans. However it is not clear whether this is a particular form of a corrupt practice, or whether they form a part of the deductions made at the time of the loan closure.

Conditions and Use of MFI Loans

- In stark contrast to bank loans, MFI loans are much larger in their scale. Only four SHGs taking loan have a loan amount of less than Rs.10000. 10 SHGs have taken loans ranging from Rs.15000 to Rs.50000 and loans between Rs.50000 and Rs. 1 lakh have been taken by 4 SHGs. 10 SHGs have taken loans between Rs.1 lakh to Rs.3.5 Lakh. Hence we see that most of the SHGs borrowing from the MFIs are taking substantial loans.

- The time period of loan may vary from 1.5 years to 11 months and except in six cases the instalments to be paid are weekly. Weekly instalment is largely a practice of the SKS company.

- The official interest rate of the MFI is very misleading. The respondents mention a flat rate of interest between 14-18%. In cases where a monthly rate of interest is applicable, it works out to about 22-24%. But in almost all cases, women are paying more than the actual rate of interest.
- The above point becomes clear if we look at the situation related to deposits. In almost all cases, the MFIs deduct a deposit amounting to 10% of the loan amount. However the women hardly get these deposits back. Either these deposits are adjusted against the next loan, or they are simply not returned. Hence the deposit amount should also be added to the interest to arrive at the actual rate of interest. Take for instance the case of the SHG Asha Deep in Khurda, whose members took a loan of Rs.3 lakhs at a flat rate of interest of 18%. By this standard, they should be paying an interest amount of Rs.54000. However they also paid a deposit of Rs.30000. If we add this amount to the interest, then they were paying an interest amount of Rs.84000, or an actual interest rate of 28% which is more than double the rate of interest on loans given by banks. In this way, the women are misled into thinking that they are paying a reasonable rate of interest for their loans.

The analysis here confirms that there is an urgent need for expanding the bank linkage programme.

Assistance from Government

Only 24 out of 88 SHGs reported receiving any assistance from government agencies. Of these, 16 were linked to the ICDS program and had got a grant ranging between Rs 5000 and Rs 25000. However what is more striking that *almost none of the groups receiving aid from the government are bank linked, and almost all of them are getting credit from MFIs. This shows that the government is not able to aid the groups promoted by it, and these groups are left at the mercy of the MFIs.*

Social and Economic Impact of Formation of SHGs

Women were asked whether they benefited socially and economically from borrowing and SHG formation. Social benefits were seen in terms of how easily these women got together to participate in anti-dowry and other social issues. Two broad conclusions could be reached from the data:

1. Only 16 groups out of 90 said that they had benefited economically from their activities. Of these, most were linked to banks. 10 of the 22 groups getting loans from banks said that they had been able to further their livelihood because of the loan. In contrast, only 6 of those linked to MFIs had the same opinion. Further 10 of those who had benefited had no or very few BPL members. ***Hence it can be concluded that poorer women have little scope from benefiting from such loans unless they are assisted with training, marketing and technical support and subsidy for their livelihood security.***

2. 34 of the 90 groups said that they had been participating in anti-dowry struggles, anti-superstition and anti-liquor movements, or were active on issues of village improvement in their *Palli* (Gram) sabhas. It is interesting to note that in all cases except one, these groups had either taken no loans, or they were bank-linked groups. At the same time only one of the 24 groups linked to the Federation is active on the social front. ***It can therefore be concluded that groups taking loans from MFIs are not motivated to participate in social issues. On the contrary 18 of the 22 bank-linked groups were active in social issues, thereby showing that bank linkage may certainly not harm the unity amongst women.***

This small survey therefore confirms an overall need for expanding the bank linkage programme for SHGs in order to limit and counter the growth of MFIs.

CASE STUDIES

- **Adari Devi of Kaithapalli, Biribadi block, Chilika, District Khurda** had taken a loan of Rs. 5000 from the MFI 'Asmita'. She was a part of an 80 member group. The repayment was Rs. 110 per week for a total period of 52 weeks. She cleared this loan amount on time. She then took a second loan of Rs 8000 which had an repayment installment of Rs. 160 per week for 52 weeks, which she also repaid. She then got a little more adventurous and gradually increased the loan amount, first to Rs. 16000 and then Rs. 20000. The loan repayment slowly became a burden. She took loan from the village chit fund to repay the MFI loan. Over a period of 5-6 years, she had a loan burden of Rs 2.5 lakhs. She was forced to take a loan of Rs 16000 from the moneylender, but was able to pay back only Rs. 7000. When he demanded the balance amount, Adari was helpless and not in a position to return the amount. The moneylender locked up her house and prevented her from entering it till she repaid the loan. The Police refused to register a case. It was only eight months later after AIDWA's intervention that she could open her house and return to it; till that time, Adari had been living out in the open on the roads with her teenaged children.

  Adari's case reveals the debt trap and the quicksand in which vulnerable and poor women get sucked into as a result of MFI loans. The promise of credit is very attractive, but quickly turns poisonous once the repayment defaults. Women like Adari are unaware of the possibilities of such a debt trap and how it can ruin one's life.

  In the same village, women like **Jharana Swain, Laxmi Swain, Kuni Swain** have all left their houses in the village to escape from a situation where they are unable to repay MFI loans. They now live a life of migrants and are working in Bhubaneswar.

- **Sanjukta Mohanty of Ward 37, Cuttack Municipal Corporation** had taken an MFI loan of Rs 12,000.00 from the MFI named 'SKS'. Her repayment schedule was Rs 276 per week for 50 weeks. After 20 weeks, Sanjukta was not able to pay further instalments as her husband had deserted her. Subsequently, her group members helped to repay on her behalf for 3 more weeks. One week later Sanjukta went missing from her house. The house was auctioned 3 months later and the MFI took the money. Till date Sanjukta is missing.

  Sanjukta got support from the women of her group for 3 weeks and no more. As there is no flexibility in the repayment schedule of the MFI loan, women who are in dire straits find the situation very pressing. They have no other alternative but to flee. The poverty in urban areas pushes women into the trap of MFIs, which are initially very attractive, but unbearable later.

- On the other hand, the **SHG Maa Tarini of Chauliaganj in the same Cuttack Municipal Corporation** is an example of good enterprise shown by women. The SHG has 70 members, who contribute Rs 30 to Rs 100 per month to the group kitty. The group has not taken any bank loans rather the group itself is working as a bank, giving out loans at 3% pm interest and giving interest at the rate of 2% pm to those who keep deposits with them. The group is providing loans to almost all the members. The women have perfected the art of interest calculation and book keeping. The group has shown exemplary perseverance and transparency in maintaining the accounts and providing micro-credit to its own members.

- The rigid norms of the bank which has hampered the growth of women SHGs is reflected in the case of **Siba Shakti group at Chalanti, GP Rajpur in Jaleswar Block of Baleswar**. The group had taken a loan from UBI (a nationalized bank) of an amount of Rs. 375000. The total subsidy amount has not been released. There is also a discrepancy since the amount released from the block and the bank does not appear to match. The SHG is suffering due to the lack of clarity and the gap in information and the rigid norms.

❖ In **Nayagarh** district, we can see the experience of women who do not want to be taken for a ride by the unscrupulous MFIs and their agents. An 11 member group named **Laxmi Prasad of Barabati village of Nayagarh** block had taken a loan from L & T Finance for Rs 110000 at the rate of 24% pa interest. One of the group members Puspalata Naik could not repay the monthly instalment of Rs 1000 after 4 months. The MFI agents threatened her and her child. The group women were up in arms, and all of them stopped their monthly installment in protest. The MFI agents are not able to venture into their area. Infact in that locality, all the groups have stopped repayment to the MFIs. The unscrupulous methods adopted by MFIs have to be checked and voices of dissent must be given a chance to expressed. The Nayagarh women have shown immense courage and point to the fact that the women cannot be taken for granted.

❖ Another case reveals how the SHG Federation also suffers from many inherent problems and lack of a regulatory framework. The **Jaybir Hanuman WSHG at Huma in Ganjam district** is a member of the District Federation MASS. The membership of MASS is Rs 60 per month. In 2004, the SHG had taken a loan of RS 30,000 from MASS, which has been duly repaid. Later, a request for another loan from MASS was denied to the SHG, after which it stopped paying the membership fees. Much later in 2010, MASS agreed to give another loan, but the SHG was asked to pay the membership dues for a period of 5 years along with interest so that the loan could be released. Till date there has not been any release of any loan from MASS and the Jaybir group is still waiting for it. It seems that the Federation also and works without any guidelines or regulatory mechanism in an arbitrary manner. There is no grievance redressal mechanism.

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How MFIs Operate in Andhra Pradesh

A Survey of Affected Households by AIDWA, Andhra Pradesh

We present here the results of a survey of 668 persons who had taken MFI loans. The survey was conducted by the AIDWA Vishakhapatnam unit in the wake of information that 15 people had been forced to leave their neighbourhood, even as there were reports of 4 deaths induced by the harassment meted out by the MFIs. Neighbourly relations were being destroyed due to the tensions created by the MFIs. AIDWA units rendered assistance to the families to lodge FIRs and also held a dharna at the RBI office and also at every district centre. A memorandum was submitted to the Chief Minister of Andhra Pradesh. The AP AIDWA unit demanded that interest rates of MFIs should not exceed the rates charged by banks, instalments should be on a monthly basis, there should be no harassment of people at their homes, all members of the group should not be harassed if an individual has defaulted, and MFIs should pay an ex-gratia amount to the family of those who had died as a result of their harassment.

Subsequently, an ordinance passed by the AP government made registration of all MFIs compulsory, and forbade the MFIs to go to the homes of their clients for loan recovery. However, the control on the rates of interest was in the form of a condition that the interest amount should not exceed the total principal amount borrowed by the individual. While many people were against the extortionist practices of the MFIs, a small proportion who had taken the loans for production purposes felt that there was no alternative to these institutions in the absence of any other alternative sources.

The Survey Details

No of wards and persons surveyed:

Zone	No of Wards	No of Persons
Jagdamba zone	8	62
Maddilapalam	9	120
Akayapallam zone:	2	20
Kancharapalam	5	100
Gopalapatnam	4	51
Malkapuram	2	51
Gajuwaka	9	10
Steel	4	75
TOTAL	**43**	**389**

No of SHGs surveyed : 223
No of members in a MFI group: 5-10

Most people surveyed were **living in their own house** but some of them were in rented accommodation. Their **occupations included c**oolie/cook/painter/hawker/driver/auto driver/vegetable vending/fruit seller/dhobi/electrical work/private job/shopkeepers, etc. People were **approached by** neighbours to join the MFI groups.

The MFIs giving loans in this area included Spandana, Asmita, Swayam, Krishi, Sharda, Paykarapeta Mars, Sher, Pragati, and Suvarna Gold.

Members were trained for around 1 week for between 1-3 hours. The topics of emphasis were:

- Every week, a part of the loan must be returned
- Those who cannot repay must be helped to do so
- All must repay
- Those who are unable must be made to pay
- Punctuality
- Discipline
- Unity

No of persons taking one or more loans from multiple MFIs

From 1 MFI	109
From 2 MFIs	151
From 3 MFIs	100
From 4 MFIs	69
From 5 MFIs	02

Quantum of loan taken from the MFI

Quantum of loan (Rs)	No of persons
<Rs 5000	11
<Rs 10000	95
<Rs 15000	28
<Rs 20000	106
<Rs 25000	14
<Rs 30000	26
<Rs 40000	41
<Rs 50000	15
>Rs 50000	11

The purpose of the loan were a recorded as follows:

General store/vegetable vendor/domestic needs/school fees/repayment of other loans/ marriage loan/milkman/fast food centre/saree business/catering/tailoring/puberty function/purchase of household items/doctor fees

No of persons who have taken a loan from Other Sources:

Quantum of loan (Rs)	No of persons
<Rs 5000	90
<Rs 10000	20
<Rs 15000	15
<Rs 20000	20
<Rs 50000	1
>Rs 50000	5

Rates of Interest and Weekly Instalment for loans from other sources:

Loan Amount (Rs)	Bank Interest (Rs)	Insurance Charges (Rs)	Others	Weekly Instalment (Rs)
5000	125	100	-	135
10000	250	100	-	225
15000	430	100	-	337-350/337.50
20000	460	100	-	450
25000	680	100		562-550/562.50

No of persons who have taken a loan from DWCRA:

Quantum of loan (Rs)	No of persons
<Rs 5000	255
<Rs 10000	20
<Rs 15000	14
<Rs 20000	7
<Rs 25000	6

Total Loan taken by the Household:

Quantum of loan (Rs)	No of households
<Rs 10000	78
<Rs 20000	78
<Rs 30000	54
<Rs 40000	41
<Rs 50000	61
<Rs 60000	2
<Rs 100000	22

No. of persons who defaulted and left the area/ran away:

Kancharapalam: 4
Gopalapatnam zone: 6
Gajuraka division: 5

No. of persons who sold or mortgaged their utensils/gold to pay the instalment?

Mandilapalam zone: 50
Kancharapalam: 1
Gopalapatnam zone: many

No. of persons who committed suicide during this period due to non-payment of instalments

Kancharapalam: 4

No. of persons who faced harassment and problems due to their inability to repay the loan Gopalapatnam zone: many
Mandilapalam zone: 20

Types of problems faced:

Verbal abuse by neighbours/High interest loans from others/Mortaging assets

No.of persons who paid a fine

Mandilapalam zone: 10
Gopalapatnam zone: 30
Malkapuram zone: 60
Steel division: 30

Type of harassment face from the MFIs:

The agent does not leave the house till the payment is received/Members face punishment/ Even if one member defaults the entire group is punished (made to stand up)

Opinion voiced about the MFIs

- There are difficulties but at the same time, the MFIs make available a home-based loan service

- DWCRA is a government program, but they do not give loans for housing and do not permit the member to utilize her own savings, so MFIs are preferable
- Banks do not give loans while MFIs do so readily
- MFIs give easy loans without collateral even if the rate of interest is high
- There is no limit to the loans given by MFIs

Major problems faced while repaying the loan

- Both the husband and wife must work and earn in order to repay the loanor to work
- Sometimes, they have to take another loan to clear the previous instalment
- Weekly repayments causes tension

Major demands around which people are ready to mobilize:

- Soft and easy loans from Government
- Loans for DWCRA groups at 4% interest per annum

General Observations /Suggestions arising from this survey:

- The general economic condition of the people has deteriorated. In the absence of other options, they take loans from MFIs
- Repayments instalments should be on a monthly basis
- Neo-liberal policies have badly affected unorganized sector
- Incomes are not enough so loans are taken for consumption purposes
- No institution gives loans to women so they approach MFIs
- DWCRA groups should give loans at 4%
- MFIs should be government based
- Regulation of MFIs and capping of interest rates
- Harassment by MFIs should be stopped immediately

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Women In the clutches of MFIs

A Brief AIDWA Report of the Karnataka Experience

There are some MFI agencies who are working in different names but under one management in Karnataka. Spandana, Spurthi Innovative Financial Services Ltd, Grameena Kuta, Divisional Rural Financial Services Pvt Ltd, etc are some of them. Some NGOs like SKS Centre, Grameena Okkuta, Janalakshmi, Ujjivini etc. are working as MFIs. They attract SHGs by giving them easy loans. They approach the door steps of the beneficiaries to disburse loans. Interest is charged on weekly basis. Women run after MFIs because they are in distress; but finally they get caught in a debt trap and can never come out of it Once they begin to repay the loans, they realise that this is an endless journey. The interest rate is so high that they are left with nothing and driven to commit suicide. Repayment has become the nightmare for the women. They spend sleepless nights and suffer from depression. Sometimes they are seen running from pillar to post looking for a way to repay the instalment due the next morning.

In one incident, two 2 women who had borrowed Rs 12000 at a rate of interest of 21% could not repay it and had migrated to some other place to avoid harassment from the agencies. As a result other members of the group were forced to pay a penalty of Rs. 40000 on their behalf.

In another incident Rani, a 30 year old woman had 6 instalments outstanding. After facing public harassment, she committed suicide by consuming poison.

In one incident in Ramanagar, a woman hid inside a clothes basket in order to avoid the agent who had come for recovery, and died due to suffocation.

In another incident, a woman was forced to resort to prostitution to earn money to pay the loan instalment. The local beedi workers union intervened in the matter and saved the woman from the clutches of the lenders, but eventually the family left the area.

Some Observations:

The NGOs who are working as agents in some areas like the rural belt of Bangalore form groups of 15 women: and then sub-divide them into 3 groups. The women are instructed to assemble every week on a particular day at a particular time. If anyone fails to attend, she is not eligible for loans and has to pay a penalty. After two weeks members are eligible for loans. Rs 10000 is initially given with an average of 50-52 EMIs. The ration card, Voter ID, electricity bill, etc. are taken as security. After obtaining any one of these identity cards, the husband's signature is obtained and the loan disbursed. If one member fails to repay, the rest of the group is held responsible. If anyone fails to attend the meeting, all the members are told to go to her house and collect the instalment. Failing to repay the instalment attracts abuse and sometimes even physical attacks.

Many groups do not know the details of the lending agencies.

- There are 7 types of loans. The interest rate is higher for an emergency loan.
- Many times to repay one loan, women become members of another group and take a fresh loan from there.
- Many of them sell whatever little jewellery they possess in order to pay the interest; however the principal amount remains unpaid.
- There are instances where foodgrain stored for use during the year has been sold to facilitate repayment. Some even pledge ration cards.
- Many families are leaving the villages in fear of harassment.

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We are reprinting here a copy of the PIL filed by the Tamil Nadu unit of AIDWA in the Madras High Court and admitted on 26th August 2011 seeking a redressal mechanism for those women who have been affected by the unfair and illegal trade practices of the MFIs in the state of Tamil Nadu.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

MADURAI BENCH

(Special Original Jurisdiction)

W.P. (M.D.) No. 9230 of 2011

U.VASUKI
D/o.R.Umanath
State General Secretary,
All India Democratic Women's Association
27-F, Sarvodhaya Main Street, Mahaboob Palayam, Madurai-16

PETITIONER

Versus

1. **The State of Tamilnadu**,
   Represented by the Chief Secretary,
   Secretariat, Chennai.
2. **Home Department of Tamilnadu,**
   Represented by its Home Secretary,
   Secretariat, Chennai -600 009.
3. **Reserve Bank of India**,
   Represented by its Regional Director,
   Fort Glacis, Rajaji Salai, Chennai.
4. **Department of Rural Development**,
   Represented by its Secretary,
   Secretariat, Chennai -600 009.
5. **The Director General of Police,**
   O/o. Director General of Police,
   Mylapore, Chennai.
6. **Director,**
   Tamil Nadu Corporation for Development of Women,
   Head office at No.100, Annasalai, Guindy, Chennai-32.

RESPONDENTS

AFFIDAVIT FILED BY THE PETITIONER

I, U.Vasuki D/o. R.Umanath, State General Secretary, All India Democratic Women's Association (AIDWA), aged about 54 years, having office at 27-F, Sarvodhaya Main Street, Mahaboob Palayam, Madurai-625 016, do hereby solemnly affirm and sincerely beg to State on Oath as follows:

1. I am the petitioner herein and the State General Secretary of the All India Democratic Women's Association, (Hereinafter called AIDWA) Tamil Nadu Unit. I have knowledge about the subject matter of this writ petition.

2. I submit that this petition endears the attention of this Hon'ble Court to the plight and predicament of women of Self Help Groups (hereinafter called SHG) all over the state who were all caught in a death/debt - trap of the Shylockian profiteering companies under the collective banner of Micro Finance Institutions (hereinafter called the MFI). The usurious rate of interest charged by the MFI from the SHG and the strong arm tactics for recovery, etc have led to recent spate of suicides of women in various part of Tamilnadu. The malady that has infected our neighbouring State of Andhra Pradesh is infiltrating into our State also. While Government of Andhra Pradesh has taken steps to check the menace after our efforts by bringing an ordinance, the 1st respondent is yet to do so.

3. I humbly submit that the lives of many women who are part of Self Help Groups in Tamilnadu are in constant danger due to the harassment meted out to them by those illegal money lenders. We reliably learnt that more than 10 women had committed suicide due to the harassment in Vellore Area and some women in Gudiyatham had attempted suicide. We also received fax messages from a few victim women to save their lives immediately. Therefore we have filed this writ petition in this Vacation sitting of this Hon'ble High Court seeking immediate

intervention. Therefore I seek the immediate intervention of this Hon'ble Court to curb the menace in some way by an appropriate direction or order or a writ in the nature of mandamus.

4. I humbly submit that since the affected women are many in number and their cause is common and further all hail from weaker section of the community with a rural background without proper education and living below the poverty line, the petitioner rushes to their rescue on its own and also on the requests of the affected women. The petitioner organization which fights for women's rights therefore filed this writ petition as a 'Pro bono publico'.

5. I submit that AIDWA is a nation-wide organization committed to the cause of equality of women and their emancipation. AIDWA was founded in 1981 and as such enrolled more than a crore women all over India. In Tamilnadu, our organization with a membership about 650000 is one of the biggest constituents of the women's movement. The Freedom fighter K.P.Janakiammal, Veteran leader Pappa Umanath, Rajya Sabha member Brinda Karat are some of the icons and patrons of the AIDWA.

6. I submit that AIDWA campaigns against social evils like female foeticide, infanticide, child abuse, sexual harassments, dowry etc., It also helps women victims of violence to get Justice through hundreds of Legal Aid & Counseling Centres floated in almost all Districts and it has an impressive track record of initiating legal action in Courts to champion the cause of economically and socially weaker sections and for those who do not have adequate means of access to the judicial system. The nefarious acts of self styled god man 'Premananda' were exposed only by AIDWA. Further AIDWA took sustained constructive efforts in prosecuting the accused, protecting and rehabilitating the victim girls in the case of 'Premananda'.

7. I submit that AIDWA was one among the major organizations which fought for bringing in the amendments in rape law in the wake of Mathura's case in 1980s. Also AIDWA played the lead role through their sustained campaign for bringing in legislation on "Protection of women from Domestic violence Act 2005." In Chennai, our organization has been nominated by the State Government as a Service provider, under the above said Act. We made effective interventions in incidents of violence in almost all the districts. Due to our untiring efforts, many victims could see the light of justice. Our struggles have been the backbone of various GOs issued by the state to control violence against women.

8. We have been consistently fighting for better delivery system without corruption in the schemes meant for women like old age pension, widow pension, assistance to pregnant women etc. We have done surveys on issues faced by single women, Muslim women, the prevalence of untouchability, situation in govt hospitals and ration shops and taken up the grievances for redressal. We are represented in the police advisory committee - Chennai, monitoring committee of PCPNDT act-Chennai, complaints committees in various offices to check sexual harassment at work place as per *Vishakha* guidelines. We have a media monitoring committee to analyse women's portrayal in media. We have made presentations in seminars on portrayal of women in Tamil film songs, depiction of working women in Tamil cinema, women's image in text books etc. Our representatives have participated in a number of talk shows in various television programmes against gender discrimination.

9. I humbly submit that our organisation has taken the issues and problems faced by rural women and formulated demands and fought for their realisation. We also have been closely watching the trends and recent development in the field of SHGs. In order to understand the subject

matter in the writ petition, the history and the concept of SHGs are essential. The evolution of micro finance had begun long back. It gained momentum when the Nobel laureate Prof. Mohammed Yunus established the Grameen Bank in Bangladesh in 1976 which disbursed several small loans to poor and assisted the poor entrepreneurs with affordable cost of credit to improve their small scale business units.

10. I humbly submit that the original concept of micro finance was aimed on a three pronged strategy namely (i) Social mobilization of poor (ii) Skill development (iii) Capital formation. In all these efforts, focus was on women as key targeted group. According to original conception, the potential beneficiaries were asked to form a small group consisting of 10-20 members, which will be called an SHG. They have to mobilize their initial thrifts first. In due course, the groups, after reaching certain levels of savings will be linked to banks through loans for income generation. They will be given training for skill development namely in the area of building up self confidence, decision making, leadership, gender and other social issues. Millions of people were mobilised in these structures across the country with more than 6 million Self Help Groups (each group consists 10-20 members) with 54.47 billion worth deposits as on 2009 March. In Tamil Nadu efforts were taken to form the SHGs for micro-finance by NGOs and also by the 1st respondent through the 6th respondent. Almost 75% of groups are governed by the 6th respondent.

11. I humbly submit that the bank loans disbursed to the SHGs can be done in two ways. One is formal source, namely through public sector commercial banks, rural banks, co-operatives and private sector banks. Another is informal source namely through money lenders, NGOs, etc. There is a monitoring/controlling mechanism for the former but not for the latter.

12. I humbly submit that the SHG – Bank Linkage model is ideal for poor women because of its unique characteristics of not a high rate of interest especially on a diminishing scale, individual liability, flexible repayment mode. Therefore the role of Banks is pivotal in the proper functioning of the SHGs.

13. I humbly submit that the Banks which originally played a primary role in the successful functioning of SHG by their active participation slowly withered their interest to serve the poor as they deem it not cost worthy. They slowly started disbursing the loans through legally formed institutions in the form of NGOs instead lending directly to the SHGs. In this model, the banks got the same benefits, but at a lower operational cost and with a minimal risk. The Banks instead of giving loans to 500 SHGs of Rs.2 lakhs each, the banks could give 10 crores to just one NGO. The NGOs in turn will lend to SHGs and thus making their profit in the buffer they create in the interest chargeable from the SHGs. Many of these NGOs are registered under the Societies Registration Act as they are only meant to carry out social welfare activities. Therefore the NGOs will not come under the control of 5th respondent unlike banks.

14. I humbly submit that as years rolled on, a new manifestation in the field of micro finance to SHGs came into being. A new breed of money lenders in the name of MFIs started storming the market namely the SHGs. The "not for profit business model" all along adopted was sidelined and in response to the growing demand of micro-finance, most of the NGOs have started private companies which become a non-banking financial company (NBFC). They mobilized capital from market sources through equity and other market oriented instruments and lent the same to SHGs with assured interest rates varied from minimum of 30% to maximum of 60%. As days pass by these MFIs came out with IPO model and made huge profit. Shockingly

some MFI which came out with IPO started selling its stake in Wall Street.

15. I humbly submit that these MFIs charge exorbitant rate of interest and also indulge in harassment and strong arm tactics for recovery. They will provide loans at the door steps. Initially they will coax women to borrow from them by assuring them with lower rates of interest without any security. Later they will get their ration cards, NREGA cards, etc. as securities. Later they indulge in forceful collections. The staffs will come to the home and humiliate the person and/ or her family by abusing them in an obscene language. Difficulties arose when these new avatars of MFI pauperised the poor with the sole intention of enriching their kitty and thus the original concept of micro finance waxed and waned. The lack of any legal mechanism fuelled their avaricious appetite to suck the hard earned wages of the poverty stricken class. These poor women were not able to meet the stringent conditions imposed by the MFIs, and the caustic remarks made by the collection agents on their characters. When their honour was at stake, they were driven to nadir of desperation and deem it better to terminate their life or running away from their village leaving their family in lurch.

16. I humbly submit that the heart of this financial social disaster is the central state of AP where the past 5 years have seen the aggressive selling of loans to illiterate villagers followed by equally aggressive debt collection. When certain MFIs in Guntur and Krishna Districts have coerced the women to repay loans by resorting to very cruel methods, they started committing suicide. Statistics reveal that over the past few months, around 30 people have been forced to take their lives as they were unable to meet the demands of MFIs. Multiple lending, over indebtedness, coercive recovery practices and unseemly enrichment by promoters led to the situation. I humbly

submit that our organisation at the National level passed a resolution calling for the immediate intervention of the Central Government. A delegation of our office bearers met the Regional Director of RBI on 22.10.2010 and discussed the issue. They also submitted a memorandum to the Honourable Finance Minister Shri Pranab Mukherji. We also placed our suggestions on the recommendations of the Malegam Committee constituted by the Central Government in this regard.

17. I humbly submit that after the protest raised by the democratic forces including our organisation, the Government of Andhra Pradesh brought an ordinance to control MFIs and prevent exploitation of SHG women. Due to the impact of the ordinance, those MFIs who are unable to do their money lending business in Andhra infiltrated into Tamilnadu and engaged in their illegal activities. When our organisation heard about the suicide of one Ms.Lakshmi, mother of 7 children in Vellore due to the coercive recovery adopted by some MFIs, our representatives immediately visited the area and collected information. We found that the particular MFI even tried to hush up the matter by forcing Lakshmi's daughter to say some other reason for the death. Another SHG member by name Sumathi self immolated herself due to the harassment. The MFIs went to the extent of using the deceased's insurance amount to cover the defaults she allegedly made if she commits suicide. In one case, the wife was taken as a hostage by a MFI and her husband attempted suicide because of this. Overall some 5 deaths happened in Vellore because of the harassment of MFIs and some 10 women attempted suicide. One Ms.Jeyalakshmi even consumed poison in front of the Sattuvacheri Police Station as the police have not taken any action against her complaints on MFIs. The police in some cases even refused to issue receipts and copy of the FIR to the complainants.

18. I submit that we conducted demonstrations to draw the attention of the 1st respondent. We also came to know on our enquiry and also from the news papers that many more women are put to harassment by MFIs in other parts of our State also. I received specific complaints from SHGs of Musiri Taluk, Kulithalai Taluk of Tiruchirappalli District who are being harassed and abused by some MFIs. I sent a memorandum to the 4th respondent dated 13.1.2011. We conducted a public hearing on 26.2.2011 in which hundreds of affected women participated and shared their woes with tears. We found that the MFI agents will come for collection since early morning. They won't allow women to do any other work till they make their repayment. If any one of the members fails to pay, all other women will be confined in the meeting place. In some cases, the MFIs promised group leaders incentives like gold coins if they ensure 100% loan recovery. This leads to the group leaders taking up the role of MFI agents.

19. I humbly submit that we heard from the affected women that the MFIs insist on weekly repayment. It is relevant to point this out here because the velocity of money plays a major role in generating profits. This also increases the borrowers' risk of vulnerability to local power groups. A borrower may not get the weekly wages for some reason or she may not get any job due to rain. Therefore she may not be in a position to pay the instalment. MFIs reported to have stated "Panthai kattu or Paduthukkattu." Sometimes when women beg them saying, "they have nothing to sell, MFI agents will retort, "why, you have your body." They will tell husbands, "Do business in buying and selling women." At one stage, the borrower will indulge in multiple borrowing – from other MFIs to settle the debt of existing MFI. Sometimes, the same MFI float another company which will provide loans on usurious rate of interest viz., the interest that are classified as exorbitant in Act 38/2003. These MFIs for their own benefit convert the SHGs as JLGs (Joint Liability Groups). Thereby all

members of the SHG are jointly liable even if one commits default. Therefore the very fundamental concept of collectivism, howsoever marginal that has been generated by the SHGs in all these years are systematically destroyed in this process.

20. I therefore submit that the acronym MFIs is turning into Muscle Flexing Institutions and the same functions just to rob the peace and prosperity of the poor. Under such circumstances, we sent a memorandum to the 4th respondent to immediately intervene and save the women from the clutches of the MFIs. We have not received any reply but a project officer of the 6th respondent visited our office and collected some information. But we could not see any visible action in rescuing the affected women from the end of the respondents. Therefore we file this writ petition to drive the respondents to initiate immediate action with a foresight and in order to avoid a catastrophe in the life's of women in our State on the following amongst other grounds.

GROUNDS

a. The unfair trade practices of the MFIs which led to the suicides of innocent hapless women is a definite breach of their constitutionally guaranteed right under Art.21.

b. Abusing women in filthy language that too in a public place is an affront to their right to live with dignity.

c. The strong arm tactics of MFIs for recovery of loan amount namely unlawful confinement, abuse, abduction, kidnapping, etc. of the members of SHG or their family members is an unpardonable offence against the whole society.

d. Section 35A of the Banking Regulations Act, 1949 empowers the 3rd Respondent to enquire into the nature of these issues and give suitable directions in this regard to prevent the illegalities committed in banking transactions. But the 3rd respondent has failed to take cognizance into the present crisis.

e. The rate of interest charged by the MFIs is hit by the provisions of The T.N. Prohibition of Charging Exorbitant Interest Act 2003, (Hereinafter called the Act 38/2003). Thereby the business module practised by the MFIs is prima facie illegal. In spite of innumerable complaints from the affected women, the respondents are turning a Nelson's eye.

f. The guidelines/ fair practices code established by the 5th respondent is being flouted by the MFIs and the same is also echoed by the RBI in their own circular and yet no effective mechanism is formed to regulate the same.

g. The major objective of nationalization of Banks after Independence, was to improve the flow of institutional credit into the rural household. This concept of forming SHG and empowering them economically through bank loans is the endeavour of the State to put into practice the vision formulated in Art. 39 of Part IV Constitution of India. But the illegal activities of the MFIs negate such vision.

h. The 5th respondent with an avowed object earmarked 40% of advances by commercial banks for the priority sectors. The MFIs who got loans from Banks under the category of priority sector lending at a lower rate of interest charge exorbitant rate of interest while lending it to poor women who should be the real beneficiaries of priority sector lending.

i. The State which should strengthen the Bank-SHG linkage and also ensure proper implementation of poverty alleviation programmes among the poor and vulnerable has become a silent spectator of the exploitation of SHG women at the hands of the profit making MFIs.

j. For the emancipation of women in every field, economic independence is of paramount importance. The formation of SHG which is claimed to be a step towards achieving the same has made the women completely dependent on the unscrupulous money lenders. The respondents who owe a public duty to set it right has not acted as expected by the statutory provisions.

k. Article.14 of the **Convention on the Elimination of All Forms Of Discrimination Against Women** adopted by the UN General Assembly declares "State Parties shall take into account the particular problems faced by rural women and the significant roles which rural women play in the economic survival of their families, including their work in the non-monetized sectors of the economy, and shall take all appropriate measures to ensure the application of the provisions of the present Convention to women in rural areas.

It further states "States Parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women, that they participate in and benefit from rural development and, in particular, shall ensure to such women the right:
e. To organize self-help groups and co-operatives in order to obtain equal access to economic opportunities through employment or self employment;
g. To have access to agricultural credit and loans, marketing facilities, appropriate technology and equal treatment in land and agrarian reform as well as in land resettlement schemes;

India who is a signatory to CEDAW has a moral as well as constitutional obligation under Article.51(c) is expected to implement the same when especially the present crisis created by the MFIs cripples the women in general and rural women in particular.

21. I humbly submit that the very purpose of formation of SHG namely relieving the women from the clutches of traditional usurious money lenders has been defeated and in contrast SHGs have become a potential market for profit making MFIs. The Micro Finance Institutions Regulation Bill is still under the initial stage. Therefore there is an absence of Legislation in this area which further strengthens the illegal activities of those MFIs. The phlegmatic attitude of the respondents costs the lives of poor women. They fail to realise that every minute of their inaction will terminate their lives.

22. I submit that I had no personal interest in the case. I'm filing this writ petition in my individual capacity since the organization in which I am working namely 'All India Democratic Women's Association (AIDWA) is not registered under Society Registration Act. It has more than one crore women member. Since it's not practical and humanly possible to comply with the conditions of registration, the leaders had not chosen to register the organization. Since I am informed that an unregistered organization cannot file a public interest litigation, I am filing this writ petition in my individual capacity but in consultation with my organization. The cost is also met by my organization. I undertake to pay the costs if any, if the writ petition is found to be intended for personal or oblique motive. At no point of time, the public interest litigations filed by me were dismissed with exemplary cost as motivated or vexatious.I submit that to my knowledge, Public Interest Litigation (PIL) arising on the same issue has not been filed anywhere. I involved myself personally in the subject matter of this writ petition and I interviewed the victim women in person and I got other materials from my

organization and I can swear to the genuineness of the same.

It's therefore prayed that this Honourable Court may be pleased to issue a direction or an order or a writ in the nature of Mandamus directing the 3rd respondent to take immediate appropriate action as per Section 35A of the Banking Regulations Act, 1949, investigate into the unfair and illegal practices of the MFIs in Tamilnadu and evolve a redressal mechanism in order to enable the affected women members of SHGs all over the State to get Justice, and pass any other appropriate orders as this Honourable Court may deem fit and proper and thus render Justice.

Solemnly affirmed and signed that the contents of this affidavit were read out and explained in Tamil/ English in my Presence and understand the same and made his/ her/ their signature in the presence of me at Chennai on the day of 26th August, 2011.

Before me/ Advocate

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