MICROFINANCE – IS THERE A SOLUTION? A SURVEY ON THE USE OF MFIS TO ALLEVIATE POVERTY IN INDIA

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ABSTRACT

Microfinance has a long history of success in providing financial access to the world's poor through small loans. It has been lauded as aiding the Millennium Development Goals, reducing poverty, empowering women, and supporting numerous other social benefits. Recently, however, public figures have questioned microfinance. One politician went so far as to say that microfinance is "sucking blood from the poor." However, recent setbacks in microfinance do not indicate that microfinance as an institution is extinct. Despite the recent problems, microfinance still serves a crucial role in international development. This paper explores some of the reasons that microfinance is currently struggling and provides potential suggestions for addressing them.

I. INTRODUCTION

A. Summary of Paper

Microfinance has a long history of providing financial access to the world's poor through small loans. It has shown numerous successes throughout history, most famously through the Grameen Bank. It has been lauded as aiding the Millennium Development Goals, reducing poverty, empowering women, and supporting numerous other social benefits. Recently, however, public figures have begun to question microfinance. In fact, Bangladesh's Prime Minister went so far as to say that microfinance is "sucking blood from the poor."[1] A string of suicides in Andhra Pradesh (AP) was linked to the pressures of repaying microloans, further muddying microfinance's reputation. Microfinance, as it stands, is simply not working.

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1. *Indian Microlenders Facing Crisis, Warns Industry*, FINANCIAL EXPRESS (Dec. 12, 2010) [hereinafter *Indian Microlenders Facing Crisis*], http://www.thefinancialexpress-bd.com/more.php?news_id=119980.

Despite microfinance's recent problems, it serves a crucial role in international development, in providing financial access to the poor, and in alleviating poverty. This paper explores some of the reasons that microfinance is currently struggling, and provides potential suggestions for addressing them. Section I explores the foundations of microfinance, explains why microfinance matters, and addresses programs Grameen Bank utilized to aid development. Section II addresses how microfinance affects international human rights, including many of the concepts scholars deem as successful, in part, due to microfinance. Section III analyzes the current state of microfinance institutions, explaining their prevalence and the recent suicides in AP. Section IV explores some of the difficulties microfinance institutions have had in alleviating poverty and the reasons that scholars say microfinance is floundering. Section V provides recommendations for improving microfinance and how to effectively use it to alleviate poverty and spur development. Finally, Section VI concludes that, though flawed, microfinance can still be effectively used to help reduce poverty and stimulate development.

B. Why Microfinance Matters

Exchanging hair for capital is not a novel concept;[2] however, the rural women building these businesses add a new face to the old idea. Sivamma, a 35-year-old woman from AP, took out her first $45 loan to build a business based on human hair.[3] She hired 250 women to collect human hair from villagers in exchange for items such as toys.[4] Then, "[t]he hair is collected and sold to a leading Indian hair exporter in Madras, from where it eventually finds its way to the United States and other Western countries to be used for wigs and hairpieces."[5] Now, Sivamma enjoys her earnings. She is proud of "the $3,000 home she built from the profits, the $700 motorbike she bought for her husband and her $1,000 savings."[6]

Jane found similar success in microfinance. Jane grew up in a Kenyan slum, dropped out of school after eighth grade, and became a 38-year-old single mother.[7] When her husband took a second wife, Jane was pushed out of the house. She was alone, homeless, broke, and

2. Saritha Rai, *Tiny Loans Have Big Impact on Poor*, N. Y. TIMES (Apr. 12, 2004), http://www.nytimes.com/2004/04/12/business/tiny-loans-have-big-impact-on-poor.html.

3. *Id*.

4. *Id*. ("When the women travel to the nearby villages with the small toys that she buys for them, small children greet them and exchange handfuls of hair for the toys.").

5. *Id*.

6. *Id*.

7. Nicholas D. Kristof, *Sewing Her Way Out of Poverty*, N.Y. TIMES (Sept. 14, 2011), http://www.nytimes.com/2011/09/15/opinion/kristof-sewing-her-way-out-of-poverty.html.

trying to support her small children.[8] In order to survive, Jane sold all that she had left – her body.[9] After five years of prostitution, Jane joined an antipoverty organization utilizing microfinance and microsavings.[10] She left prostitution, learned to sew, and used what she saved plus a small loan to buy a sewing machine. When her sewing business flourished, Jane bought a "small home in a safe suburb" and focused on keeping her children in school.[11] Jane's children are equally a success story: her daughter was the first child in Jane's family to graduate from high school, and her son ranked first in his class.[12] When the New York Times author spoke to Jane's son, he said "that when he gets his first paycheck, he's going to buy something beautiful for his mom – and his eyes glistened as he spoke."[13] Jane literally sewed her way out of poverty. Because of the opportunities provided by microfinance, the image of a woman in an impoverished village having financial access and the opportunity to create a successful business is now commonplace.

C. Definitions

"Microcredit is the extension of small loans and other financial services . . . to the . . . poor."[14] The term is used nearly interchangeably with "microfinance."[15] Microcredit allows the very poor to become entrepreneurs and generate income, thus providing an ongoing source of income for borrowers and their families.[16] The microloans go to those who traditionally could not have access to normal banking because they lack collateral, steady employment, and a credit history.[17] Historically, the rural poor only had access to capital through usurious

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8. *Id.*
9. *Id.*
10. *Id.*
11. *Id.*
12. *Id.* (noting that Jane's son is also "a star soccer player even though he has no soccer shoes.").
13. *Id.*
14. *What is Microcredit*, THE MICROCREDIT SUMMIT CAMPAIGN, http://www.microcreditsummit.org/about/what_is_microcredit/ (last visited Apr. 9, 2012) [hereinafter MICROCREDIT SUMMIT].
15. The Microfinance Alliance defines "microfinance" as "financial services targeting and catering to clients who are excluded from the traditional financial system on account of their lower economic status." B. Seth McNew, *Regulation and Supervision of Microfinance Institutions: A Proposal for a Balanced Approach*, 15 L. & BUS. REV. AMS. 287, 290 (2009) (internal quotation marks omitted).
16. MICROCREDIT SUMMIT, *supra* note 14.
17. *Micro Credit Law & Legal Definition*, USLEGAL, INC., http://definitions.uslegal.com/m/micro-credit/ (last visited Apr. 11, 2012).

moneylenders, the equivalent of modern day loan sharks.[18] Microloans were initially meant to "provide a kinder, cheaper alternative."[19] Modern microfinance institutions (MFIs) do not have a uniform makeup – they can be nonprofit organizations, "credit unions, cooperatives, private commercial banks, and even non-bank financial institutions."[20] Since "microcredit" institutions have grown to include numerous types of financial access,[21] this paper will primarily use the term "MFI" to refer to microfinance and microcredit programs.

As microfinance borrowers are typically impoverished, they cannot offer banking institutions typical types of collateral.[22] Therefore, many MFIs loan money to groups of people in a community, so that borrowers "are jointly responsible if anyone defaults on a loan."[23] This "social collateral" among borrowers pressures them not to default, and has proved to be successful in urging repayment.[24] As the World Bank explained regarding a microfinance project in AP: "[k]ey to the management of risk for banks was the social collateral provided by poor women in self-help groups who guarantee each other's loans."[25] The situations where the social collateral method is used are often called "self-help groups."[26] Unfortunately, while the "social collateral" approach is successful in aiding loan repayment, the shame it causes borrowers is often difficult for them to deal with.[27] "Both proponents and critics acknowledge that the peer-pressure exerted by the group on the borrowers is often shame-based. The combined pressure from peers and loan officers can be intense, and studies have documented some early tragedies, including one woman who killed herself as a result of

18. *See* Eric Bellman & Arlene Chang, *India's Major Crisis in Microlending*, WALL ST. J. (Oct. 28, 2010), http://online.wsj.com/article/SB10001424052702304316404575580663294846100.html.

19. *Id*.

20. McNew, *supra* note 15, at 290-91.

21. Rebecca Farrer, *Exploring the Human Rights Implications of Microfinance Initiatives*, 36 INT'L J. LEGAL INFO. 447, 448 n.1 (2008).

22. *See id*. at 453.

23. *Id*. at 455; *see also* Jameel Jaffer, *Microfinance and the Mechanics of Solidarity Lending: Improving Access to Credit Through Innovations in Contract Structure*, 9 J. TRANSNAT'L L. & POL'Y 183, 198; Yoko Miyashita, *Lessons from Indonesia's Village Banking System*, 10 PAC. RIM. L. & POL'Y 147, 198 (Dec. 2000).

24. *See* Farrer, *supra* note 21, at 455-56.

25. *Widespread Community Impact in Andhra Pradesh*, THE WORLD BANK, http://web.worldbank.org/WBSITE/EXTERNAL/EXTABOUTUS/IDA/0,,contentMDK:22331408~menuPK:3266877~pagePK:51236175~piPK:437394~theSitePK:73154,00.html (last updated Sept. 2009).

26. *See id*.

27. *See* Farrer, *supra* note 21, at 456; Rashmi Dyal-Chand, *Reflection in a Distant Mirror: Why the West Has Misperceived the Grameen Bank's Vision of Microcredit*, 41 STAN. J. INT'L L. 217, 263 (2005).

this pressure."[28] In the past few years, suicides attributed to the pressure of repaying microloans have increased.[29] The difficulties with this shame-based social collateral system are further addressed in the section on AP.

D. History of Microfinance

The idea of microcredit has a long and tumultuous history. Informal banking institutions have existed for centuries, including such industries as "'susus' of Ghana, 'chit funds' in India, [and] 'tandas' in Mexico."[30] As early as the 18th century, in Europe, charities and credit cooperatives have been extending small loans to budding entrepreneurs.[31] For example, 18th century author Jonathan Swift donated part of his wealth to be lent to poor tradesmen, in small sums, to be repaid weekly and without interest.[32] Similarly, the Irish Reproductive Loan Fund Institution was founded post-famine in 1822 to give loans under ten pounds to people in rural areas for the "relief of the distressed Irish."[33] Group microlending was documented as early as the nineteenth century in Germany.[34] Like the programs that Yunus' infamous Grameen Bank[35] would utilize in the future, the early cooperatives relied upon close groups of people that knew one another well, in communities where individuals were willing to be held liable for the debts of other borrowers in their groups.[36] Starting in the 1970s with the popularization of Grameen Bank, microcredit became an important tool in advancing development.

28. Farrer, *supra* note 21, at 456; *see also* Dyal-Chand, *supra* note 27, at 263 (describing "a defaulting female borrower who was locked by bank workers inside a bank building as punishment . . . because the woman faced shame, social ostracism, and violence, she hanged herself inside the bank building.").

29. *See* Soutik Biswas, *India's Micro-finance Suicide Epidemic*, BBC NEWS (Dec. 16, 2010), http://www.bbc.co.uk/news/world-south-asia-11997571.

30. *The History of Microfinance*, GLOBALENVISION.ORG (Apr. 14, 2006), http://www.globalenvision.org/library/4/1051/.

31. Laura Brandt et al., *Lending Methodoloy Module*, 53 THE RUSSIA MICROFINANCE PROJECT 1, 1, 4 (utilizing their module, invented from structure and content borrowed from chapter 6 of C. WATERFIELD & A. DUVAL, CARE SAVINGS AND CREDIT SOURCEBOOK (1996)).

32. THOMAS SHERIDAN, THE LIFE OF THE REV. DR. JONATHAN SWIFT 234 (2d ed. 1787).

33. Aidan Hollis & Arthur Sweetman, *The Life-cycle of a Microfinance Institution: The Irish Loan Funds*, 46 J. ECON. BEHAV. & ORG. 291, 296 (2001) (internal quotation marks omitted).

34. Edward S. Prescott, *Group Lending and Financial Intermediation: An Example*, 83 ECON. Q. 23, 29 (1997).

35. *See infra* pp. 594-96 and note 37.

36. Prescott, *supra* note 34, at 23.

E. The Evolution of Grameen Bank

In 1974, Muhammad Yunus was a Professor and Head of the Rural Economics Program at the University of Chittagong.[37] He traveled through many rural areas of Bangladesh and was appalled by the poverty that villagers were suffering.[38] As he explains it:

> The starving people did not chant any slogans. They did not demand anything from us well-fed city folk. They simply lay down very quietly on our doorsteps and waited to die. There are many ways for people to die, but somehow dying of starvation is the most unacceptable of all. It happens in slow motion. Second by second, the distance between life and death becomes smaller and smaller, until the two are in such close proximity that one can hardly tell the difference. Like sleep, death by starvation happens so quietly, so inexorably, one does not even sense it happening. And all for lack of a handful of rice at each meal.[39]

Shocked at the poverty and looking for a way to help the starving villagers, Yunus used his background in economics to pioneer modern day microfinance. In 1983, Yunus established Grameen Bank to provide small loans to people for starting or growing their businesses.[40] Grameen began as an organization "with the belief that credit should be accepted as a human right," where a person "who does not possess anything gets the highest priority in getting a loan."[41] With this ideal in mind, the bank had modest beginnings – its first loan was for only twenty-seven dollars to aid forty-two stool makers.[42]

Grameen Bank grew quickly, and Yunus soon realized that he needed to implement programs to aid with "income shocks," specifically, to compensate borrowers for natural disasters.[43] Initially, if a borrower's entire business was ruined from a hurricane or other natural disaster, Grameen had no system to help the borrower rebuild. To resolve this, Yunus started programs where group borrowers gave a set amount of money per month to the group's emergency fund, which could

37. *A Short History of Grameen Bank*, GRAMEEN BANK: BANK FOR THE POOR, http://www.grameeninfo.org/index.php?option=com_content&task=view&id=19&Itemid=114 (last visited Apr. 4, 2012).

38. MUHAMMAD YUNUS, BANKER TO THE POOR: MICRO-LENDING AND THE BATTLE AGAINST WORLD POVERTY vii (PublicAffairs 2007) (1997).

39. *Id*. at vii-viii.

40. *A Short History of Grameen Bank, supra* note 37.

41. *Is Grameen Bank Different from Conventional Banks?*, GRAMEEN BANK: BANK FOR THE POOR (Oct., 2011), http://www.grameen-info.org/index.php?option=com_content&task=view&id=27&Itemid=176.

42. McNew, *supra* note 15, at 293.

43. For example, "[i]n 1987, devastating floods hit Bangladesh and caused" them "serious losses." YUNUS, *supra* note 38, at 218.

be emptied by any group member if a similar "income shock" occurred.[44] After success in battling "income shocks," Yunus began implementing social programs and trainings to help borrowers become more successful.[45] For example, Yunus noticed that villagers had poor health care, so he started a health insurance program.[46] Grameen's programs changed to address the needs of borrowers.

Grameen has shown incredible growth since it was founded. When Grameen started in 1983, it cumulatively loaned $194.95 (in million USD), and by 2009, that number grew to $8741.86 (also in million USD).[47] The number of groups taking out loans in 1983 was 11,667, and by 2009, the groups grew to 1,253,160.[48] The number of villages covered by Grameen grew from 1,249 in 1983 to 83,458 in 2009.[49] Grameen includes more than 5.5 million members, and has distributed more than $5.2 billion in loans.[50] Most shockingly, the profit/loss amount per year went from -0.0059 in 1983 to 5.38 in 2009 (both in million USD).[51] Grameen went from an organization aiding the poor to a company making $5.38 million a year.[52] The Bank reported a 98 percent repayment rate on its loans,[53] attributing and majority of its success to the "group lending" concept it popularized.[54] Yunus and Grameen Bank won the Nobel Peace Prize in 2006 for "pioneering the system."[55]

44. This protection against income shocks would have been useful in the recent ruined crop in Bangladesh – "after the total destruction of their crops," villagers are unable to repay their loans, "[y]et the microfinance organizations continue to collect the installments." James Melik, *Microcredit 'Death Trap' for Bangladesh's Poor*, BBC NEWS, http://www.bbc.co.uk/news/business-11664632 (last updated Nov. 2, 2010).

45. YUNUS, *supra* note 38, at 229.

46. *Id*. at 228-29.

47. *Historical Data Series in USD*, GRAMEEN BANK: BANK FOR THE POOR, http://www.grameeninfo.org/index.php?option=com_content&task=view&id=177&Itemid=144 (last visited Apr. 2, 2012).

48. *Id*.

49. *Id*.

50. Rajdeep Sengupta & Craig P. Aubuchon, *The Microfinance Revolution: An Overview*, 90 FED. RES. BANK OF ST. LOUIS REV. 9, 9 (2008) [hereinafter *The Microfinance Revolution*].

51. *Historical Data Series in USD, supra* note 47.

52. *Id*.

53. Michelle Nichols, *"Banker to the Poor" Gives New York Women a Boost*, GRAMEEN BANK: BANK FOR THE POOR (Apr. 23, 2009), http://www.grameen.com/index.php?option=com_content&task=view&id=589&Itemid=199.

54. *The Microfinance Revolution*, *supra* note 50, at 11.

55. Bellman & Chang, *supra* note 18; *The Nobel Peace Prize 2006*, GRAMEEN BANK: BANK FOR THE POOR (Oct. 13, 2006), http://www.grameen-info.org/index.php?option=com_content&task=view&id=197&Itemid=197.

II. HUMAN RIGHTS IMPLICATIONS OF MICROFINANCE

A. Introduction & Early Popularity

Microfinance was early lauded as the solution to poverty. It "became the darling of the development world, hailed as the long elusive formula to propel even the most destitute into better lives."[56] The concept has become "hotly recognized,"[57] and even earned celebrity support.[58] Unfortunately, microfinance has recently suffered monumental media hits.[59] Still, scholars agree that microfinance has had an enormous impact on human rights, and that it has potential for further changing the international landscape.[60] One commentator suggests that: "[i]f you asked poverty experts to name the single most significant new concept in the field in the last few decades, chances are they would say microcredit."[61] Microfinance has had numerous successes in India and evidence shows that it enables the poor "to better withstand shocks, build assets, and link into the wider economy as fuller economic citizens."[62] However, the crucial question remains: has microcredit helped to alleviate poverty and spur development on a broader scale?

56. Neil MacFarquhar, *Banks Making Big Profits from Tiny Loans*, N.Y. TIMES, Apr. 13, 2010, http://www.nytimes.com/2010/04/14/world/14microfinance.html?pagewanted =all.

57. "Microlending abroad has become a hotly recognized and discussed topic in recent years, mainly through the successes of Nobel Prize laureate Muhammad Yunus and his international Grameen Bank." Olivia L. Walker, *The Future of Microlending in the United States: A Shift from Charity to Profits?*, 6 OHIO ST. ENTREPRENEURIAL BUS. L.J. 383, 384 (2011).

58. "Natalie Portman and Michael Douglas lent their boldface names to the cause." MacFarquhar, *supra* note 56. President Clinton championed microfinance in 1997. Vikas Bajaj, *Microlenders, Honored with Nobel, Are Struggling*, N.Y. TIMES (Jan. 5, 2011), http://www.nytimes.com/2011/01/06/business/global/06micro.html?pagewanted=all.

59. David Bornstein, *Microfinance Under Fire*, N.Y. TIMES OPINIONATOR (Mar. 21, 2011), http://opinionator.blogs.nytimes.com/2011/03/21/microfinance-under-fire/; *see infra* note 107; Biswas, *supra* note 29; Soutik Biswas, *Crisis Hits India's Small Loans Industry*, BBC NEWS, http://www.bbc.co.uk/news/world-south-asia-12035909 (last updated Dec. 21, 2010).

60. "Clearly, microfinance programs have an impact on human rights . . . . Microfinance has great potential to empower people economically and engage women in developing nations in the global economy in ways they have never been involved before." Farrer, *supra* note 21, at 480.

61. Tina Rosenberg, *When Microcredit Won't Do*, N.Y. TIMES OPINIONATOR (Jan. 31, 2011), http://opinionator.blogs.nytimes.com/2011/01/31/when-microcredit-wont-do/.

62. Mark Pickens et al., *Banking the Poor via G2P Payments*, 58 CGAP 1, 1 (2009), http://www.cgap.org/gm/document-1.9.41174/FN58.pdf (citing Fred M. Ssewamala et al., *A Novel Economic Intervention to Reduce HIV Risks Among School-Going AIDS Orphans in Rural Uganda*, 42 J. OF ADOLESCENT HEALTH 102 (2008); MARTHA A. CHEN & DONALD SNODGRASS, MANAGING RESOURCES, ACTIVITIES, AND RISK IN URBAN INDIA: THE IMPACT OF SEWA BANK (2001), pdf.usaid.gov/pdf_docs/PNACN571.pdf; MICHAEL W. SHERRADEN, ASSETS AND THE POOR: A NEW AMERICAN WELFARE POLICY (1991)).

B. Millennium Goals & International Law

At the international level, microfinance supports the international community's development goals and commitments. The 15th Global Microcredit Summit recently stated that microcredit "will ensure the attainment of the Millennium Development Goal (MDGs) target of halving absolute poverty."[63] The United Nations (UN) constructed the MDGs as an international framework for making the "planet more livable for all people."[64] The MDGs call for responsible international action to address such issues as poverty and gender inequity.[65] Importantly, because the MDGs have been endorsed by the UN's member states, they qualify as official commitments; thus, they form part of the international legal framework for human rights protections.[66] The MDGs embody and reinforce rights that many states already committed to protecting.[67] Significantly, several conventions provide a legal foundation obligating states to pursue the MDGs.[68]

Microfinance can be a crucial international tool in supporting the MDGs.[69] One development advocate explains:

> The success of a project can be measured by the changes it makes in the lives of individuals, families, and communities using local knowledge and practice. Key factors contributing to the success of such projects, especially ones designed with women in mind, include savings in time, realistic opportunities for learning, increased income levels, the empowerment of women, and project sustainability. Each of these factors simultaneously contributes to project success and

63. Obinna Chima, *Africa: Experts Harp on Microcredit for Poverty Eradication*, ALLAFRICA.COM (Dec. 26, 2011), http://allafrica.com/stories/201112260222.html.

64. Deborah K. Dunn & Gary Chartier, *Pursuing the Millennium Goals at the Grassroots: Selecting Development Projects Serving Rural Women in Sub-Saharan Africa*, 15 UCLA WOMEN'S L.J. 71, 71 (2006); *see* U.N. Millennium Development Goals, http://www.un.org/millenniumgoals/ (last visited Apr. 17, 2012).

65. Dunn & Chartier, *supra* note 64, at 71-72; *see* U.N. Millennium Development Goals, *supra* note 64.

66. Dunn & Chartier, *supra* note 64, at 71-72 n. 5; *see* U.N. Millennium Development Goals, *supra* note 64.

67. Dunn & Chartier, *supra* note 64, at 71-72.

68. "[S]tates' pre-existing treaty obligations commit them, in many cases, to implementing the MDGs as a matter of international law." Dunn & Chartier, *supra* note 64, at 72-73. ("These include the International Covenant on Economic, Social, and Cultural Rights (ICESCR), the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the Convention on the Elimination of All Forms of Racial Discrimination (CERD), the Convention on the Rights of the Child (CRC), and the International Covenant on Civil and Political Rights (ICCPR).").

69. Farrer, *supra* note 21, at 451 ("The United Nations declared 2005 the International Year of Microcredit.").

embodies human rights protections mandated by the conventions that support the MDGs.[70]

As scholars have shown, and this article enumerates, microfinance can be used to successfully support each of the above factors, thereby greatly supporting the MDGs.

C. Poverty Reduction

Microfinance is widely recognized for its monumental potential as a means of reducing poverty.[71] The World Bank defines "poverty" as living on less than $1.25 per day, and in 2005, approximately 1.5 billion people were living in poverty.[72] In the same report, the World Bank stated that microfinance has helped the world's poor by increasing their incomes using self-employment and empowerment.[73] Grameen Bank embodies these notions in its long-term goals: reducing "poverty, family size, and under and unemployment."[74] In the past, microfinance was so widely-embraced and successful that the United Nations deemed 2005 the "International Year of Microcredit."[75] The UN Secretary General at the time, Kofi Annan, added that microfinance "helps alleviate poverty by generating income, creating jobs, allowing children to go to school, enabling families to obtain health care, and empowering people to make choices that best serve their needs."[76]

D. Social Benefits

Supporters defend microfinance as providing broad social benefits such as improved health, greater gender equality, and increased educational participation.[77] Microfinance proponents argue that the "industry was the first to reach out to those that make less than $1 a day" and was "so successful that it has spawned efforts to bring

70. Dunn & Chartier, *supra* note 64, at 82; Helen Hambly, *Grassroots Indicators for Sustainable Development*, 23 IDRC REP. (1997), http://archive.idrc.ca/books/reports/V231/susdev.html.

71. Farrer, *supra* note 21, at 451.

72. *Id.*

73. *Id.*

74. *Id.*, at 457; Rachel Errett Figura, *An End to Poverty Through Microlending: An Examination of the Need for Credit by Poor, Rural Women and the Success of Microlending Programs*, 8 NEW ENG. INT'L & COMP. L. ANN. 157, 172 (2002).

75. Farrer, *supra* note 21, at 451; Lisa Avery, *Microcredit Extension in the Wake of Conflict: Rebuilding the Lives and Livelihoods of Women and Children Affected by War*, 12 GEO. J. ON POVERTY L. & POL'Y 205, 224 (2005).

76. Farrer, *supra* note 21, at 451; Jay Lee, Note: *Equity and Innovation: Using Traditional Islamic Banking Models to Reinvigorate Microlending in Urban America*, 16 IND. INT'L & COMP. L. REV. 523, 524 (2006).

77. Ashley Hubka & Rida Zaidi, *Impact of Government Regulation on Microfinance: Improving the Investment Climate for Growth and Poverty Reduction* 4, 4-5 (2005) (paper prepared for the World Development Report), http://siteresources.worldbank.org/INTWDR2005/Resources/Hubka_Zaidi_Impact_of_Government_Regulation.pdf.

everything from insurance to cell phones to solar lights to groceries to the poor."[78] Studies have shown that microfinance spurs a vast social impact. For example, "[a] number of studies have concluded that, as a result of the Bank's involvement, borrowers have been more likely than the general population to use birth control, to be more articulate, and at least be aware of the positive effects of the directives."[79] In Brazil, for example, the government's welfare program has linked monetary aid to vaccination and schooling, thus using microfinance to support public health and education.[80] The government provides financial aid to 12 million families "on the condition that their children attend school and are vaccinated."[81] Microfinance has also been lauded as helping with dispute resolution.[82] MFIs have been touted as providing vast social benefits.[83]

E. Enhance Gender Equality and Empower Women

MFIs often focus their efforts on women. Microfinance is of particular import for women[84] because, worldwide, the borrowers are

78. Bellman & Chang, *supra* note 18.

79. Farrer, *supra* note 21, at 458 (citing Dyal-Chanda, *supra* note 27, at 258).

80. *See* Charles Kenny, *Big is Beautiful: Financial Access is Key to Helping the World's Poor – and Tech-Savvy Big Banks, not Microcreditors, are our Best Hope for Providing it,* FOREIGN POLICY, Jan 18, 2011, at 2, http://www.foreignpolicy.com/articles/2011/01/18/big_is_beautiful?page=0,1.

81. *Id.*

82. CS Reddy & Sandeep Manak, *Self-Help Groups: A Keystone of Microfinance in India – Women Empowerment & Social Security*, APMAS: TOWARDS A SUSTAINABLE SELF-HELP MOVEMENT IN INDIA 13 (2005), *available at* http://www.aptsource.in/admin/resources/1273818040_SHGs-keystone-paper.pdf; A project in Andhra Pradesh used SHGs to improve the community through such means as exposing corruption, managing group activities, and fostering community leadership. U.N. Econ. & Social Commission for Asia and the Pac., Bulletin on Asia-Pacific Perspectives: Empowering Women Through Self-Help Microcredit Programmes *vi* (2003/03) [hereinafter Empowering Women Through Self-Help], http://www.unescap.org/pdd/publications/bulletin2002/ch6.pdf.

83. Grameen Bank takes a holistic approach to alleviating poverty through development; Grameen uses a portion of its profit for infrastructure, development, and charity. A portion of the profits go to social benefits, such as "student loans for the client's children, go to a beggar's program for the ultra-poor, and go to dividends to its owners, the poor women who borrow from it." Kenny, *supra* note 80; Philip Willner, *Can the Profit Motive Improve Microfinance?*, ASIA SOCIETY (Oct. 25, 2010), http://asiasociety.org/business-economics/development/can-profit-motive-improve-microfinance (describing the actions of the Grameen bank as a holistic approach to alleviating poverty through development; Grameen uses a portion of its profit for infrastructure, development, and charity. A portion of the profits go to social benefits, such as "student loans for the client's children, go to a beggars program for the ultra-poor, and go to dividends to its owners, the poor women who borrow from it.").

84. *See* Farrer, *supra* note 21, at 450.

predominantly women.[85] In 2010, one study estimates that 82.3 percent of poor clients reached were women.[86] "Women earn only ten percent of the entire world's income despite making up over fifty percent of the world's population, and they own less than 10 percent of the world's property."[87] Despite these abysmal figures, women often hold critical roles as providers. In the developing world, women frequently provide for their families.[88] Because of this, "MFIs have specifically focused on women, and the majority of those receiving microfinance loans are female."[89]

Gender equality and women's empowerment is one of the MDGs.[90] The three indicators to monitor this are: education, employment, and political representation.[91] Overall, it is clear that microfinance can improve gender equality. Access to paid work, even work done in the home, "has the potential to shift the balance of power within the family."[92] For example, "[s]tudies of the impact of microcredit in societies where women have traditionally been excluded from the cash economy have found that women's access to credit led to a number of positive changes in women's own perceptions of themselves, and their role in household decision making."[93] This access also helped to reduce domestic violence and increase women's assets.[94] A study on MFIs in India showed that microfinance improved: political participation and self-confidence in politics, access to government programs, practical skills, and knowledge of the wider society.[95]

Microfinance projects have concluded that women's self-image and self-confidence was enhanced when they received training on women's rights and social and political issues.[96] While financial access is crucial

85. *Id*. at 475; "Grameen Bank estimates that 97% of their borrowers are female but the same difficulties in calculating the number of microfinance loans present in ascertaining specific numbers." *Id*. at 475, n. 137 (citing GRAMEEN BANK, http://www.grameen-info.org).

86. Jan P. Maes & Larry R. Reed, *State of the Microcredit Summit Campaign Report 2012*, MICROCREDIT SUMMIT CAMPAIGN 36 (2012) ("Of the 137.5 million poorest clients reached at the end of 2010, 82.3 percent (113.1 million) are women.").

87. Farrer, *supra* note 21, at 452; Figura, *supra* note 74, at 159.

88. Farrer, *supra* note 21, at 452 ("It is common is several parts of the developing world for women to be responsible for providing food and water for their families.").

89. *Id*.

90. Naila Kabeer, *Gender Equality and Women's Empowerment: A Critical Analysis of the third Millennium Development Goal,* GENDER & DEV. 13, Mar. 2005, at 13, http://pages.uoregon.edu/aweiss/intl421_521/Sweetman%2013-24.pdf.

91. *Id*.

92. *Id*. at 18.

93. *Id*.

94. *Id*.

95. *Id*.

96. Empowering Women Through Self-Help, *supra* note 82.

in providing for families and empowering women,[97] it has also been heralded as an opportunity to "involve women in the global economy."[98] Numerous studies note that women are being empowered through microfinance,[99] and their empowerment is evident in their civic engagement:[100]

> One of the key benefits of SHGs [a type of microfinance institution] is women's empowerment and this can be seen with the number of women involved in public affairs. While the number of women actually involved in politics is still very low, research has indicated that of those women that stand for election, over 70% had won their seat. And, the female contribution to civil issues ranges from issue of ration cards, laying of pucca roads, building of school, ensuring appointments in vacant positions in schools and health centres, recovery of river bank lands from encroachers and laying of drinking water pipes.[101]

Women's empowerment in developing countries also spurs a plethora of social benefits.[102] Empowering women, and providing them with capital to create income-generating businesses, helps to reduce trafficking[103] and to rebuild livelihoods post-war.[104] Women in post-war areas often want to participate in microfinance. "Women and children are particularly affected by war. And yet even in the most dire situations where women are living in extreme conditions in refugee camps, there are still women who seek assistance to start a business."[105] Because of this, "[m]icrocredit programs in war-torn areas have direct application to addressing women's human rights. It is often women who are left to support their households after wars. . . . The more self-reliant a woman can be, the safer she and her children will be."[106] Providing financial assistance for women in war torn areas to

97. Lee, *supra* note 76 (quoting the founder of the Women's World Banking stating, "Credit for women is our right and we must fight for it.").

98. Farrer, *supra* note 21, at 452-53 ("Microfinance has also been advanced as an excellent way to involve women in the global economy, with a particular focus in women in developing countries who have traditionally been limited in their access to and participation in economic markets.").

99. *See* discussion *supra* Part II.C-D; *see* discussion *infra* Part IV.B-C.

100. Reddy & Manak, *supra* note 82, at 12.

101. *Id*.

102. Reddy & Manak, *supra* note 82.

103. Katherine Driscoll, Comment, *Microcredit: Not Yet a Panacea to End Trafficking in Women*, 13 U. PA. J. BUS. L. 275, 297 (2010).

104. Farrer, *supra* note 21, at 479-80; Avery *supra* note 75, at 224.

105. Farrer, *supra* note 21, at 479.

106. *Id*. at 480.

create businesses can spur economic growth, and help to rebuild women's livelihoods.

III. CURRENT STATE OF MFIS

A. Introduction

From the world's excitement over Grameen's success came an abundance of MFIs. "After a decade of extraordinarily rapid growth, there were only about 154 million microfinance clients worldwide at the end of 2008 – around 130 million future customers were born that same year alone."[107] MFIs have spread through Asia, Africa, and South America.[108] Unfortunately, recent scandals in India and Bangladesh[109] contributed to tarnishing the industry's reputation, likely decreasing individual trust and interest in MFIs.[110] Now, it is estimated that 2.5 billion adults have no access to formal financial services.[111] In 2009, microfinance's growth rates slowed for the first time in years[112] and many MFIs suffered stagnant or rising costs – in some cases, they even faced a slow rise in credit risk.[113]

B. Current State of MFIs in India

With an enormous population, and many people living in poverty, India is a crucial part of the microfinance industry.[114] "India continues to be a driving force" among South Asian MFIs.[115] Remarkably, even in the difficult economy, Indian MFIs keep growing.[116] Overall, 30 million

107. Kenny, *supra* note 80.

108. Bellman & Chang, *supra* note 18.

109. Bangladesh ordered Muhammad Yunus to be removed from serving as managing director of Grameen Bank. Bornstein, *supra* note 59.

110. Kenny, *supra* note 80.

111. *Id*.

112. More specifically, "[a]fter years of steady global growth rates of 25 percent, MFIs from every region saw their borrower base expand more slowly in 2008 in all but a handful of markets." *Nigerian MFI Among Top Global 100 MFIs*, MICROFINANCE AFRICA (Sept. 13, 2010), http://microfinanceafrica.net/tag/self-reliance-economic-advancement-programme/ (MIX's 2009 ranking "surveyed 955 institutions from nearly 100 countries.").

113. Anita Bhoir, *10 Indian MFIs in Global Top 100 Ranking*, LIVEMINT.COM & WALL ST. J. (Dec. 26, 2008), http://www.livemint.com/2008/12/26224810/10-Indian-MFIs-in-global-top-1.html.

114. "[W]ith its giant population and hundreds of millions of people living in poverty," it "is one of the most important markets." Bellman & Chang, *supra* note 18.

115. *Top 100 Microfinance Institutions in the World*, INDIA MICROFINANCE (Aug. 23, 2010), http://indiamicrofinance.com/top-100-mfi-world.html (explaining that an ideal MFI would be "a financially sound institution" that expands "outreach to clients at the lowest possible cost," and does so "in the public arena so that others may learn from the experience." MIX's ranking methodology incorporates "strong growth without compromising credit risk, improving efficiency without compromising portfolio quality, and expanding access while still offering an array of services.").

116. *Id*. at 5.

households have taken micro-credit in India.[117] More than a third of those households live in the region of AP, and the majority of borrowers are women.[118] For-profit companies hold nearly 90 percent of the total outstanding borrowings.[119] In addition, India's microfinance industry has received both internal and international support.[120]

C. Current State of MFIs in Andhra Pradesh

The AP region accounts for nearly half of the loans in India,[121] and only four companies have doled out 80 percent of the region's loans.[122] Self-help groups in the region include over 12 million women, and have distributed more than $2.5 billion in loans.[123] The families that have borrowed "have an average debt of $660, and an average annual income of $1,060. This means that more than 60 percent of their fragile, uncertain income is being spent paying off loans."[124] Interest rates on these loans can vary greatly. Some sources say that annual interest rates are near 24-30 percent.[125] According to others, interest rates begin around 15 percent but can rise to as much as 40-100 percent.[126] Repayment collection varies greatly as well; however, repayments are generally due starting one week after they are taken out.[127] Many borrowers have suffered in attempts to pay back their loans: "[v]illagers are sending their children to work to help them make the repayments," debt collectors are insisting that borrowers "sell their cattle chickens and other household items."[128] Even "[s]elling agricultural land is . . . considered as a last desperate option."[129] As a political leader illustrated, "I have seen them sell their wedding jewelry to pay the installments."[130] Worse yet, the rural villagers have complained "of

117. Biswas, *supra* note 29.

118. *Id*.

119. *Financial Performance of Indian MFIs in 2010 – Sa Dhan Report*, INDIAN MICROFINANCE (Oct. 25, 2010), http://indiamicrofinance.com/financial-performance-of-indian-mfis.html.

120. "Mainstream Indian and international banks have backed the microlending industry in India with more than $4 billion of loans this year, with private-equity funds pouring more than $250 million into the industry in India last year alone." Bellman & Chang, *supra* note 18.

121. Biswas, *supra* note 59 (MFIs have given away over $7bn in loans to borrowers in India, and accounts for "nearly half of the loans.").

122. *Id*.

123. *Id*.

124. Biswas, *supra* note 29.

125. "[A]nnual interest rates vary from 24-30% compared with the 36-120% charged by usurious money lenders." *Id*.

126. Melik, *supra* note 44.

127. *Id*.

128. *Id*.

129. *Id*.

130. Bellman & Chang, *supra* note 18.

harassment from the debt collectors and there have been allegations of physical assaults."[131]

D. Suicide Epidemic in Andhra Pradesh

In the last few months of 2010, more than 80 people in the AP region of India committed suicide after defaulting on micro-loans.[132] This, in turn, "triggered the worst ever crisis in India's booming micro-finance industry."[133]

In another example, a loan taken to save a life ended up taking a life.[134] At only 45 years old, Mylaram Kallava hung "herself from the ceiling of her mud hut in the neighbouring village of Ghanapur after she defaulted on four micro-loans amounting to $840."[135] She had borrowed money to pay for medical expenses for her two daughters: one for appendicitis, and the other for a pregnancy that ended in miscarriage.[136] Mrs. Kallava lived more than 45 miles from the closest government hospitals, so she was forced to go to a private hospital, which was far beyond her budget.[137] With a sick and barely working husband, two months of defaults on her loans, and the recently ended job program in the village, Mrs. Kallava could not ignore the employment shortage in the area.[138] Her co-guarantors, from her local self-help group, went to the house to ask why she was defaulting and Mrs. Kallava was ashamed.[139] The last straw for Mrs. Kallava, perhaps, was the impending visit of the loan recovery agents. They were expected to arrive by the end of the week, but Mrs. Kallava did not wait for the agents.[140] The "very social fabric" that was formed through self-help groups, that of co-guarantors holding one another accountable as guarantors for one another's loans, "has been disrupted with members blaming each other for private loan defaults."[141] In Mrs. Kallava's suicide, her co-guarantors checking in on her could have been a contributing factor – her daughter says that the co-guarantors questioning her mother made her feel ashamed.[142]

As if the suicide epidemic was not tragic enough, some analysts worry that AP's floundering microfinance will infect other regions.[143]

131. Melik, *supra* note 44.
132. Biswas, *supra* note 29.
133. *Id.*
134. *Id.*
135. *Id.*
136. *Id.*
137. Biswas, *supra* note 29.
138. *Id.*
139. *Id.*
140. *Id.*
141. Biswas, *supra* note 59.
142. Biswas, *supra* note 29.
143. Biswas, *supra* note 59.

Vijay Mahajan suspects that "if repayments dry up in Andhra Pradesh, the contagion will spread to other states – and the entire micro-loan industry will be in peril."[144] He thinks the repayment problems could spread so far as to destroy microfinance in India, saying "[t]he biggest tragedy will be that the 30 million poor households, who got access to bank credit for the first time through micro-finance companies, will have to go back to moneylenders."[145] As the Wall Street Journal concurs: "what happens [in AP] is frequently a bellwether for microlending in India, and programs around the world."[146] Mahajan further extrapolates that the industry "could fold up in Andhra Pradesh and you could see a domino effect across the country."[147] This would likely drive people "back to the humiliation of moneylenders," who exploit borrowers with "interest rates as high as 100 per cent."[148]

IV. DIFFICULTIES IN MICROFINANCE

A. *Introduction*

Despite all of microfinance's success stories, some are skeptical about whether microfinance has helped to alleviate poverty.[149] There are many reasons for this doubt, as there are substantial problems with microfinance as it stands. Some say that the industry has not helped eradicate poverty because it has not touched enough people.[150] Bangladesh's Prime Minister said that microfinance is "sucking blood from the poor."[151] Others argue that a focus on profit has caused companies to ignore such development indicators as education.[152] Yet other camps explain that politicians have stunted the proliferation of microfinance.[153] According to one organization, the primary challenge for MFIs is: "[d]ecreasing costs to clients through streamlined operations, low credit risk and, eventually, lower profit margins."[154] This daunting issue is compounded by the economic climate of the past few years, rising problems with loan repayment, and the costs of diverting further resources to loan collection.[155] Some scholars blame

144. *Id*.
145. *Id*.
146. Bellman & Chang, *supra* note 18.
147. *Indian Microlenders Facing Crisis, supra* note 1.
148. *Id*.
149. Bellman & Chang, *supra* note 18.
150. Willner, *supra* note 83.
151. *Indian Microlenders Facing Crisis, supra* note 1.
152. *See* Willner, *supra* note 83.
153. *See id*.
154. MICROFINANCE INFORMATION EXCHANGE, 2009 MIX GLOBAL 100: RANKING OF MICROFINANCE INSTITUTIONS, INC. 3 (Jan. 2010), *available at* http://www.themix.org/sites/default/files/2009%20MIX%20Global%20100%20Composite.pdf.
155. *Id*. at 3-4.

greed, even comparing India's situation with that of the recent mortgage meltdown in the United States.[156]

As one economic analyst says, "[e]verybody is at fault here."[157] He clarifies:

> The banks are at fault for failing to provide inclusive finance. State government has failed to create dynamic economies that reduce poverty fast and make people credit-worthy. Self-help groups started well, yet failed to meet credit needs and are suffering loan defaults. Micro-finance companies provided enough finance, but it became too much! They engaged in gross over lending in a sad rush for profits.[158]

While experts disagree as to a single cause of the problems with microfinance, it is clear that the flaws of microfinance are complex.

B. Loans for Non Income-Producing Items & "Income Shocks"

MFIs now give microloans for items that are not income-producing, and often fail to plan for income shocks. When microloans were first popularized in the Grameen era, they were "given out to help small traders sell vegetables or buy livestock, or for basic farming needs."[159] They were given for specific income-producing items, as capital to start businesses or to help budding entrepreneurs increase their trade.[160] In recent years, however, the loans have changed: "[i]n recent years those farming commercial crops (cotton, groundnut, vegetables) or larger livestock (high-yielding buffaloes and cows) received micro-credit."[161] Loans have also been given to "build homes, repay old debts, buy consumer durables like TV sets and pay for family marriages."[162] While loans were previously given for "productive purposes," the bulk of current micro-loans are given for "consumption-related expenses."[163]

Since MFIs are now lending for larger, higher-yielding endeavors, modern borrowers need to be more adept at handling the assets they buy with the microloan.[164] For example, if a borrower buys larger

156. Unfortunately, "the difference in India is that the borrowers are even poorer, with zero social security." "India's micro-finance crisis mirrors the 2008 subprime mortgage meltdown in the US, where finance companies threw cheap and easy loans at homebuyers until prices crashed and borrowers were unable to sell their homes or pay their debts." Biswas, *supra* note 59.

157. *Id.*

158. *Id.*

159. *Id.*

160. *See id.*

161. *Id.*

162. *Id.*

163. *Id.*

164. *Id.*

livestock like buffalo, the animal requires "sophisticated veterinary care and insurance."[165] Additionally, rural farmers are often unprepared to handle the "income shocks" from a difficult crop season or a change in the market leading to lowered prices.[166] While Grameen utilized an emergency fund program to prepare borrowers for natural disasters, many current programs do not provide similar opportunities. MFIs are not preparing borrowers for income shocks, nor ensuring that the borrowers they loan to are investing in income-producing items.

C. Lack of Capacity

Many people suggest that microfinance has not adequately helped alleviate poverty because it has not affected enough people and does not have strong enough financial backing. The founder of SKS Microfinance, India's largest microfinance institution, argues that the microfinance industry has made a fatal mistake because it "hasn't scaled large numbers."[167] He extrapolates that while three billion people survive on less than two dollars a day, "only twenty percent of the [world's] poor households" have reaped the benefits of microfinance.[168] He explains that this failure to affect as many people as possible is because non-profit banking institutions do not have access to enough capital.[169]

D. Greed & Measuring Success by Profit

Yunus chastised, "[w]e created microcredit to fight the loan sharks; we didn't create microcredit to encourage new loan sharks . . . Microcredit should be seen as an opportunity to help people get out of poverty in a business way, but not as an opportunity to make money out of poor people."[170] Many agree that greed led to microfinance's current struggle.[171] For-profit companies are making huge profits – "way above those of most banks, public and private."[172] Experts are concerned that the profit-motive encourages the poor "to take on more debt than they can bear."[173] Likewise, some suggest that for-profit microfinance

165. *Id.*
166. *Id.*
167. Willner, *supra* note 83.
168. *Id.*
169. *Id.*
170. MacFarquhar, *supra* note 56.
171. "At the root of it, many say, is the increasing greed of the private microfinance industry in India." Biswas, *supra* note 59. Some camps say that MFI interest rates are often as high as money-lenders, which defeats "the supposed purpose of micro-credit, with all its talk about improving the lives of the poor." Biswas, *supra* note 29.
172. Biswas, *supra* note 59. SKS Microfinance, for example, "raised more than $350m on the stock market [in August 2010]." Between 2007-2008, "private equity players pumped $100m into India's private micro-credit companies." *Id.*
173. Bellman & Chang, *supra* note 18.

institutions have erred by measuring success in profit, thereby disregarding the purpose of microfinance institutions.[174] The president of the Grameen Foundation worries that for-profit companies use profit as their "main metric of success."[175] Judging success based on profit means that these companies often ignore crucial development indicators,[176] and ignore such common-sense necessities such as measuring a borrower's capacity to repay.

Many organizations simply do not ensure that borrowers will have the eventual capacity to repay their debts – "[c]ritics say avarice and rash business practices have led to India's micro-credit meltdown."[177] While banks are often cautious and check that the loans will be used for buying productive assets, private MFIs have "exploited the existing self-help group network and snared their members with easier and faster loans."[178] In AP, companies "lend up to $450 to a borrower with few questions asked about what she or he proposes to do with the loan and without sufficiently examining their capacity to repay."[179] Some analysts say that for-profit MFIs, "[l]ike other high-profit industries" needed "to aim for high growth" and therefore lent recklessly.[180] Many of the companies lend repeatedly to the same borrowers, who then cannot repay.[181] As Vijay Mahan, chairman of a network of private MFIs, explains: "[m]ultiple lending, over-indebtedness, coercive recovery practices and unseemly enrichment by promoters and senior executives [of microcredit companies] has led to this situation."[182] He blames "reckless lending and feckless borrowing by micro-credit companies and villagers respectively."[183]

E. Banks Stopped Lending to MFIs

Due to bad lending practices in some regions, such as in AP, banks stopped lending to MFIs, in fear that they will not recover $4 billion in loans.[184] As one SKS Microfinance recovery agent declares, "it's not business as usual."[185] SKS used to have crowded weekly meetings

174. Willner, *supra* note 83.
175. *Id*.
176. *See id*.
177. Biswas, *supra* note 59.
178. *Id*. Quoting Reddy Subramanyam, Andhra Pradesh's most senior rural development official.
179. *Id*.
180. *Id*.
181. *See id*.
182. Biswas, *supra* note 29.
183. Biswas, *supra* note 59.
184. Biswas, *supra* note 29.
185. Vishwanath Pilla, *Six Months on, Loan Defaults Mount*, LIVEMINT.COM & WALL ST. J. (Apr. 25, 2011), http://www.livemint.com/2011/04/25223809/Six-months-on-loan-defaults-m.html.

giving out new loans; now, few customers attend.[186] The company still goes out to meet with clients on a regular basis and attempts to persuade borrowers to repay their loans.[187] Unfortunately, only a few members are repaying, and "most of them refuse even to talk to us and attend our calls."[188] In one particular group, the SKS agent arrived and the self-help group wanted to repay its loans. However, the women explained that the group had been forbidden to repay by a local politician and their husbands.[189] The area's political leader arrived and "told the SKS agents not to harass his neighbors."[190] Recovery in AP has been called "dismal"[191] and is around 10-20 percent.[192] Because of AP's "mass default" in loan repayment, commercial banks and investors are nervous about loaning, which is hurting the overall operations of MFIs.[193]

F. Political Rhetoric Has Exacerbated Problems

Political rhetoric has aggravated problems with microfinance in AP. Politicians opposed to microfinance "have already and could again stall loans to the poor, reversing the progress microfinance institutions have made in India."[194] In AP, repayment has dropped drastically because politicians have asked borrowers to stop repaying.[195] People in the government "would say the micro-finance meltdown serves as a lesson for an industry distorted by 'perverse' profit making and villagers who have borrowed imprudently."[196] Urged by government officials and campaigning politicians, thousands of borrowers have stopped repaying, even when they have the money.[197] Politicians "have blamed dozens of suicides on microlenders" and have urged "borrowers not to pay back what they owe."[198] For example, former Chief Minister N. Chandrababu Naidu instructed borrowers not to repay their loans – he "asked women to stop repaying loans until the government formed a

186. *Id.*
187. *Id.*
188. *Id.*
189. Bellman & Chang, *supra* note 18.
190. *Id.*
191. Pilla, *supra* note 185.
192. *Id.*
193. When MFIs borrow from banks, and are then unable to repay the banks, the MFIs become the defaulters, and banks become more reluctant to lend to them. *Indian Microlenders Facing Crisis*, *supra* note 1.
194. Willner, *supra* note 83.
195. Biswas, *supra* note 59.
196. *Id.*
197. Bellman & Chang, *supra* note 18.
198. *Id.*

regulator agency to oversee MFIs and interest rates were lowered from as high as 30 percent."[199]

V. RECOMMENDATIONS FOR EFFECTIVE USE OF MICROFINANCE

A. Introduction

Clearly, there are numerous problems with microfinance as it currently stands. However, as Sivamma and Jane demonstrate, microfinance has drastically changed women's lives.[200] Microfinance has had huge successes – it simply needs a change from the current system. The proffered solutions for strengthening microfinance are as diverse the plethora of reasons microfinance has been flailing. The debate on what solutions would help strengthen microfinance is controversial, with strong advocates on every side. The causes are multi-faceted and diverse; therefore, they require more than one simple solution.

B. Act as a "For-profit" to Aid More Borrowers

Some groups suggest privatizing microfinance.[201] This controversial question of solutions was recently epitomized when the founder of SKS Microfinance[202] and the president of Grameen Foundation debated what role profit should have in microfinance.[203] After the debate, the audience was polled on whether SKS's switch to for-profit represents the "ideal model" for microfinance.[204] Not surprisingly, "the room was split, with many in the audience remaining undecided."[205] The debate between for-profit and non-profit MFIs is ongoing.[206] The private MFIs appear "to be an oligopoly with a handful of companies dominating the market."[207] However, some people believe that stronger for-profit microfinance institutions could spread the benefits of microfinance to more people, therefore alleviating more poverty.[208] The founder of India's largest microfinance institution,

199. Pilla, *supra* note 185.

200. Kristof, *supra* note 7; Rai, *supra* note 2.

201. *See, e.g.,* Willner, *supra* note 83; Walker, *supra* note 57, at 393 ("In order to move forward, microfinance must transform into an industry.").

202. SKS Microfinance is one of "two major microlending organizations [that] have transitioned from traditional non-profits to for-profit corporations being traded on the public market." Walker, *supra* note 57, at 384-85; Bruce Einhorn, *A Microfinance IPO in India*, BLOOMBERG BUSINESSWEEK (May 6, 2010), http://www.businessweek.com/magazine/content/10_20/b4178016201790.htm.

203. Willner, *supra* note 83.

204. *Id*.

205. *Id*.

206. *See* Biswas, *supra* note 59. This battle is particularly important in India, where "some 50 of the country's 1,000-odd micro-finance institutions are privately owned." *Id*.

207. *Id*.

208. Willner, *supra* note 83.

Vikram Akula, explains that when non-profit banking institutions become for-profit businesses, then they can have access to more capital.[209] His company, SKS Microfinance, switched from non-profit to for-profit in the past few years.[210] As he explains, "In twelve years, we've reached 7.5 million clients," and most of them came since the change to a for-profit company.[211] Grameen Bank, on the other hand, "today reaches 8 million clients, but it took the Grameen Bank thirty-five years to do that."[212] The proponents of for-profit microfinance institutions also suggest that the profit motive gives them more opportunities for innovation.[213] For example, "SKS has adopted a couple of innovative models that create mutually beneficial effects, such as using advertising revenue from the pamphlets SKS distributes to its customers in order to reduce interest rates."[214]

C. Create Buoyant Markets

One of the difficulties in microfinance is that borrowers need access to "buoyant markets,"[215] those with "plenty of trading activity," and where "prices are rising, rather than falling."[216] If a borrower is given a small sum of money to start a business but has no buyers to sell his products to, then the borrower's business is bound to fail.[217] Therefore, academics and entrepreneurs alike have been taking novel approaches to creating markets for borrowers.[218] The entrepreneurial proponents of this ideology support "capitalism as a force that can benefit the poor."[219] For example, William Bissell, the "ethnicool entrepreneur,"[220]

209. *Id.*
210. *Id.*
211. *Id.*
212. *Id.*
213. *Id.*
214. *Id.*
215. Biswas, *supra* note 59; Farrer, *supra* note 21 ("Another way to support women who have started businesses is by helping them gain greater access to global markets.").
216. *Definition of Buoyant Market,* QFINANCE, http://www.qfinance.com/dictionary/buoyant-market (last visited May 4, 2012).
217. As Professor Lee explains in the context of microtrade, "[a]ll trade, including microtrade, can take place only when there is a demand for goods to be supplied in trade." Yong-Shik Lee, *Theoretical Basis and Regulatory Framework for Microtrade: Combining Volunteerism with International Trade Towards Poverty Elimination*, THE LAW & DEV. INST. (Oct. 2010), http://www.lawanddevelopment.net/yslee_microtrade_october2010.pdf [hereinafter *Framework for Microtrade*].
218. Naazneen Karmali, *Fabindia,* FORBES (Feb. 16, 2009), http://www.forbes.com/global/2009/0216/024a.html; Terry M. Dworkin & Cindy A. Schipani, *Linking Gender Equity to Peaceful Societies*, 44 AM. BUS. L.J. 391, 406 n.78 (2007) (citing Keiko Morris, *Macy's Sells Rwandan "Peace Baskets,"* KNIGHT RIDER TRIB. BUS. NEWS (Mar. 15, 2006), at 1); *Framework for Microtrade*, *supra* note 217, at 8 n.33.
219. Karmali, *supra* note 218.

runs a business and provides trade support in India, with the mission of "[c]reating a link between those far-flung craftspeople and urban markets."[221] Bissell manages Fabindia, a self-proclaimed "profitable business which conducts itself responsibly in the social context."[222] Bissell thought that he could help India's poor by expanding the domestic retail market rather than by focusing on exports.[223] The company sells over 90 percent of its goods in India, but also has stores abroad in such places as Rome, Italy; Guangzhou, China; and Dubai, UAE.[224] Bissell's method of using for-profit companies to increase access to trade could be controversial, but in this instance, it can add revenue to an India-based company, provide work, and create more buoyant markets for India's craftsmen.[225]

Numerous other organizations, both for-profit[226] and non-profit,[227] have provided borrowers with access to markets.[228] Through the concept of "microtrade,"[229] academia has taken a similar approach[230] to

220. Seema Chowdhry, *William N. Bissell: The Ethnicool Entrepreneur*, LIVEMINT.COM & WALL ST. J. (Mar. 1, 2008), http://www.livemint.com/2008/03/01004930/William-N-Bissell--The-ethni.html.

221. Karmali, *supra* note 218.

222. Chowdhry, *supra* note 220.

223. *Id*.

224. *Id*.

225. Bissell's "successive sales targets" from 2002-2007 were reached, and his 2007 goal is "attaining revenues of $192 million a year." Karmali, *supra* note 218.

226. Farrer, *supra* note 21, at 485 (Macy's sells products that are handmade by Rwandan women. "For the Rwandan artisans and entrepreneurs, access to Macy's customer base greatly expands the market for their products . . . .") (citing Dworkin & Schipani, *supra* note 218, at 391 n.78 *and* Keiko Morris, *Macy's Sells Rwandan "Peace Baskets,"* KNIGHT RIDER TRIB. BUS. NEWS, Mar. 15, 2006, at 1); *About Us*, GLOBAL GIRLFRIEND, http://www.globalgirlfriend.com/store/ggf/support/aboutus?1 (Global Girlfriend is a "fair-trade boutique [that] offers a line of trend-setting, women-made, fair-trade products including stylish apparel, accessories and gifts with one purpose – helping women in need help themselves").

227. *See, e.g.,* KIVA, http://www.kiva.org/ (last visited May 4, 2012).

228. Additionally, social enterprise approaches show enormous potential for providing greater access to markets. "Social enterprise describes any non-profit, for-profit or hybrid corporate form that utilizes market-based strategies to advance a social mission." Farrer, *supra* note 21, at 487; *see* SOCIAL ENTERPRISE ALLIANCE, http://www.se-alliance.org/ (last visited May 2, 2012).

229. "The theory of microtrade was first developed in 2008 by Professor Y.S. Lee with support from the University of Hong Kong Faculty of Law." *Origins of Microtrade Theory*, THE LAW & DEV. INST., http://www.lawanddevelopment.net/microtrade.php (last visited May 3, 2012).

230. "Elements of microtrade have also been discussed and put into practice by others. For example, some non-profit organizations, such as Oxfam, have been selling products from developing countries at their stores in developed countries." *Id*. "A score of individual stores in developed countries, such as those of Oxfam, sell hand-made goods from developing countries and return profits to the developing country producers. The microtrade scheme proposes to organize and systemize these efforts on a global scale with

helping borrowers reach buoyant markets. Professor Lee defines "microtrade" as "international trade of small quantities of locally-produced products (LPPs) produced on a small scale."[231] Essentially, microtrade would provide an online database where merchants, many borrowing from MFIs, could sell their products to buoyant markets. It would enable the residents of least-developed countries (LDCs) to export their local products to more affluent markets in developed countries.[232] This theory would provide a market to borrowers in developing countries, while offering other logistical support.[233] A microtrade organization would coordinate the "managing the online database for microtrade, monitoring microtrade activities, and assisting parties to microtrade by creating a favorable regulatory and economic environment for microtrade in cooperation with sovereign states, relevant international organizations such as the WTO, NGOs, and private corporations."[234] This logistical support would make access to buoyant markets much more feasible for borrowers in developing countries.[235]

D. Increase Group Borrowing

Grameen Bank attributed much of its repayment success to group lending,[236] proving through its success that MFIs should implement "social capital" more frequently.[237] Group lending is easy to execute; borrowers simply form groups and then co-borrow.[238] If an individual in the group defaults on a loan, the rest of the group is held liable and is unable to receive future credit.[239] This takes the credit risk from the bank and gives it to the borrowers, who can then hold co-borrowers accountable.[240] History proves that "by utilizing this unique group lending approach in conjunction with a formalized regulatory and supervisory framework . . . the creation of self sufficient, sustainable,

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the assistance of an open online database and financial devices such as microfinance. . . ." *Framework for Microtrade*, *supra* note 217, at n.33.

231. *Framework for Microtrade*, *supra* note 217.

232. *See Id*. at n.33.

233. As Professor Lee explains, "[m]any of the problems facing microtrade such as lack of market information and difficulties with shipping and transportation may indeed be found in trade from developing countries in general." *Id*. at n.34.

234. *Id*. at 15.

235. Microtrade utilizes microfinance and could help to alleviate numerous difficulties associated with microfinance. While further analysis of microtrade is outside of the scope of this paper, more information is available. *See Framework for Microtrade*, *supra* note 217.

236. *The Microfinance Revolution*, *supra* note 50.

237. McNew, *supra* note 15, at 294; *see generally* Reddy & Manak, *supra* note 82; *see The Microfinance Revolution*, *supra* note 50, at 12.

238. *See The Microfinance Revolution, supra* note 50, at 12.

239. *Id*.

240. *Id*.

MFIs is completely within the realm of possibility."[241] Many scholars propose that instituting more self-help groups (SHGs)[242] and group borrowing would improve the microfinance system.[243]

The Maharashtra Rural Credit Project (MRCP), for example, found that its most successful work was in SHGs because it made credit delivery to the rural poor more sustainable and empowered women, by allowing for more women to borrow.[244] Creating SHGs among village neighbors and friends based on affinity and trust gave borrowers the opportunity to practice group money management.[245] SHGs "provided a channel for pooling tiny savings which would otherwise have not even been noticed or used less productively."[246] The organization concluded that their most successful work in microfinance was that of developing SHGs and strengthening their links to banks because this made rural credit delivery a sustainable endeavor and allowed for more empowerment of women.[247] A project in AP had similarly successful results utilizing social capital.[248] Like MRCP, the AP project concluded that SHGs were crucial in creating a sustainable method for microcredit and in promoting women's empowerment.[249]

241. McNew, *supra* note 15, at 294.

242. SHGs are "small groups of rural and urban people banding together to form a savings and credit organization," a practice that "is well established in India." Reddy & Manak, *supra* note 82, at 6.

243. *See* Shana Hofstetter, Note, *The Interaction of Customary Law and Microfinance: Women's Entry into the World Economy*, 14 WM. & MARY J. OF WOMEN & L. 337, 348-51 (2008); *see also* Farrer, *supra* note 21, at 474 (noting that "Hofstetter sees the Grameen Bank as utilizing women's customary group norms in the use of social capital in a positive way. She notes that the peer group approach utilizes women's traditional emphasis on social networks; noting that women in Kenya responded to the group pressure aspect of social collateral more than men did; and that a study in Zimbabwe showed that women were more willing to sanction other members, and that female sanctions in groups were more effective than male sanctions in groups."); Reddy & Manak, *supra* note 82, at 6 (according to one research group utilizing SHGs provides stronger political and advocacy capabilities, more shared knowledge and experiences, and access to greater capital).

244. Raghav Gaiha, *Microcredit and the Rural Poor: A Review of the Maharashtra Rural Credit Project*, 3 J. MICROFINANCE 125, 129-30 (2001).

245. Kurien Thomas, *Andhra Pradesh Community Self Help Model* 1 (Ctr. for Good Governance, Working Paper, 2003), http://www.cgg.gov.in/pdfs/WP-77-92.pdf.

246. Project Completion Review Rep. of India Maharashtra Rural Credit Project (IFAD Loan 325-IN), Asia & the Pac. Div. Programme Mgmt. Dep't, 9 U.N. Report No. 1395-IN (May 2003).

247. *Id*. at 28.

248. IFAD also loaned money to help improve microfinance and development in the Andhra Pradesh region. The Andhra Pradesh Participatory Tribal Development Project took place from 1994-2002, costing a total of USD $50.3 million, and was co-financed by the Government of Andhra Pradesh. Int'l Fund for Agric. Dev. (IFAD), External Review of the Results and Impact of IFAD Operations: Country Note on India 1, U.N. Doc. 271387 (July 10, 2002) (by Govind Kelkar & Lothar Caviezel).

249. SHGs have several positive benefits: cost effective credit delivery system, collective learning, democratic culture, imbibe norms of behavior, stable base for dialogue,

E. Change the MFI Model

Experts suggest that MFIs have no choice but to "review and recast their business model" in AP.[250] This does not apply solely to AP; the MFI model must be updated in other places where microfinance is flailing.[251] Specifically, they need to "work more on product diversification," and in the future, "micro-lenders will have to adopt a different model."[252] Some MFIs have already begun this process.[253] One option for changing the model is to incorporate "microsavings."[254] Some scholars suggest that microsavings are "just as important to the sustainability of MFIs" as microloans.[255] Microsavings are defined as small accounts for deposits "to lower income families or individuals as an incentive to store funds for future use."[256] While the concept often takes the backseat to microloans and many MFIs do not currently incorporate microsavings services, experts project that "if given the opportunity, microfinance clients would utilize these services."[257] Experts purport that "mobilizing these small savings funds may be the key to creating self-sufficient, sustainable MFIs that can function without the help of NGOs or foreign donors."[258]

F. Restructure Loan Repayment

One suggestion than many seem to agree on, and MFIs suggest, is that restructuring the loan repayments could improve the relationship between borrowers and the industry. Vijay Mahajan, head of a group of for-profit MFIs, recommends loan restructuring – "he recommends that loans of 20 percent of the worst-affected borrowers be restructured and the payment periods stretched."[259] Other MFIs have embraced this concept as well.[260] "The biggest lenders who account for the majority of

management capacity, economic empowerment, and increased awareness levels about the society and community. Thomas, *supra* note 245, at 13-14.

250. Pilla, *supra* note 185.

251. *Id.*

252. *Id.*

253. "Spandana, for instance has already started giving loans with gold as collateral." Similarly, SKS is "exploring possibilities of offering customized alternative products" to their target population – they are starting pilot programs "in housing finance and gold finance." *Id.*

254. McNew, *supra* note 15, at 291.

255. *Id.*

256. *Id.*

257. McNew, *supra* note 15, at 291-92; *see* Consultative Group to Assist the Poor (CGAP), *Savings Mobilization Strategies: Lessons from Four Experiences*, CGAP Focus No. 13 (Aug. 1998) [hereinafter CGAP], http://www.cgap.org/docs/FocusNote_13.pdf.

258. McNew, *supra* note 15, at 291; *see* CGAP, *supra* note 257.

259. Biswas, *supra* note 59.

260. For example, Grameen Bank restructured its loan-repayment program in 2002. The new program "allows the borrower to slow down loan payments during difficult times so that instead of being 'in default' of payments, the borrower can opt to pay a higher

borrowing say they will cap their rates at around 24 percent and form a fund to help troubled borrowers reschedule their loan payments."[261] Restructuring loan repayments could also be government-mandated; if the government regulated loan repayment, MFIs would likely work towards compliance.[262]

G. Utilize Technology for Social & Educational Benefits

Numerous projects have shown that utilizing technology can provide greater financial access to people in developing countries,[263] and it can also provide numerous other educational and social benefits for borrowers. For example, Grameen Bank[264] created a nonprofit Internet provider to "make the Internet available to educational and research institutions."[265] Through this program, borrowers had the opportunity to benefit from the latest innovations in their fields, without unnecessarily wasting time and money trying earlier products and methods in their businesses.[266] The idea allowed for "rapid social change" in rural areas because it linked isolated women, that otherwise would have had difficulty sharing ideas.[267] Additionally, it prevents villagers from wasting effort "getting messages to dispersed family members" because they could communicate through the Internet.[268] Lastly, it helped to quickly address "income shocks," like natural disasters, because it allowed for villagers to deal quickly with emergencies.[269]

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interest rate for a short period of time, in order to stay in the program and still meet her obligations. This allows the Bank to ease the pressure it exerts on the borrower." Farrer, *supra* note 21, at 456; *see* MUHAMMAD YUNUS, CREATING A WORLD WITHOUT POVERTY: SOCIAL BUSINESS AND THE FUTURE OF CAPITALISM 60-66 (2007).

261. Bellman & Chang, *supra* note 18.

262. MFIs "say they are ready to comply with more government restrictions as long as they are given time to meet new requirements." Bellman & Chang, *supra* note 18.

263. Greater access is achieved due to expanding markets through e-commerce, promotion of self-employment, and by bringing education, knowledge and skill training to the poor. YUNUS, *supra* note 260, at 189-90.

264. Grameen's founder, Yunus, agrees that technology is crucial, but he is wary of who may control it. "Technology is an essential prerequisite for raising productivity, but it must be directed so that the increased production does not simply end up in the hands of the wealthy." YUNUS, *supra* note 38, at 221.

265. *Id.* at 227.

266. *Id.*

267. *Id.* at 227-28.

268. *Id.*

269. *Id.*

H. Utilize Technology & Government to Increase Financial Access

Financial access is crucial for borrowers; however, they often have difficulty accessing their banks.[270] Banking technology that allows "banking without the need for a bank branch" could solve this dilemma.[271] Numerous companies now use cell phones to provide banking services.[272] To provide greater financial access, Kenya's M-Pesa used cell phones for banking and "has turned 16,900 phone vendors into banking agents."[273] Even though Kenya is "a country with fewer than 1,500 physical bank branches," M-Pesa now has 11.9 million customers, which comprises around 54 percent of Kenya's adult population.[274] Using phone vendors as banking agents greatly decreases costs,[275] so banks "can operate in locales with far fewer users."[276] This idea of utilizing mobile communication for banking is picking up international steam.[277] In 2008, "[t]here were 4 billion mobile subscribers worldwide," while "[t]he global population over age 15 is only 4.9 billion," suggesting that "it is now plausible to imagine universal access to basic financial services."[278] Government support has proved to be a critical tool in the proliferation of wireless banking.[279] Governments can act as alternative banks for borrowers.[280] "Governments [already] make regular payments to at least 170 million poor people worldwide – far more than the 99 million or so who have active microloans."[281] Government-to-person payments "have the

270. Kenny, *supra* note 80 ("In India, four people in five who signed up for basic traditional bank accounts aimed especially at the poor said they would need to spend half a day's wages and an entire day just to reach the nearest bank branch and make a transaction").

271. Kenny, *supra* note 80.

272. *Id.; see also* Pickens, *supra* note 62, at 13 (asserting that Brazil has used the bank outsourcing system very effectively. "In 2001-2005 banks in Brazil used agents to expand across the country, with a service point in all of the country's 5,567 municipalities," and they were able to accomplish this feat with few agents).

273. Kenny, *supra* note 80.

274. *Id.*

275. *Id.* ((noting that when banks like M-Pesa outsource services "to street vendors, their costs drop dramatically.") (citing Pickens, *supra* note 62, at 13 ("In Pakistan, Tameer Bank discovered that the capital and operating costs for an agent are 76 times less than for its microfinance branches in the first year, and 89 times cheaper over five years.")).

276. Pickens, *supra* note 62, at 13.

277. *Id.* ("According to the GSM Association (the trade association for the global communications industry), more than 80 percent of the world's population is now within mobile coverage," and "[f]inancial institutions increasingly make use of wireless networks to connect their infrastructure.").

278. Kenny, *supra* note 80.

279. *Id.* (noting that, in the past, governments have been a crucial player in implementing "branchless banking" because banks need "cheap and effective ways to deliver cash transfers to their citizens.").

280. Pickens, *supra* note 62, at 1.

281. *Id.*

potential to become a vehicle for extending financial inclusion and improving the welfare of poor people."[282]

I. Increased Regulation & Government Support

Increased government support and regulation is also crucial in other contexts.[283] Many scholars argue that increased regulation is the answer,[284] and even governments agree that microlending needs government support.[285] However, opponents of increased regulation believe restricting freedom for MFIs is damaging to the MFIs.[286] As USAID has said, the goal of MFI reform or regulatory framework "should be to create an environment that supports the expansion of financial services to the poor, thereby increasing access."[287] Many MFIs purport that "regulation is essential for MFIs looking to fund themselves," some think "regulation will promote their business and improve their operations," while others believe "regulation is key in speeding the emergence of sustainable MFIs."[288] Local governments often also support a stronger regulatory framework, as they "are sometimes troubled by the weakness of many MFIs, and unimpressed with the coordination and supervision being exercised by the donors who fund them."[289] Therefore, they would like "someone to step in and

282. *Id*.

283. Walker, *supra* note 57, at 393 (noting that proponents of privatization claim government regulation is "inevitable" for the conversion of microfinancing into a for-profit industry).

284. *Id*. at 389 (citing David Bornstein, who "believes that the government can and should play a role in the microfinance industry . . . He believes that the government's role should be to subsidize the costs of institutional development, but that this subsidy should not be infinite."); *see also* Muhammad Yunus, *How Legal Steps Can Help Pave the Way to Ending Poverty*, 35 A.B.A. HUM. RTS. NO. 1, 23 (Winter 2008) ("The best option would be to create new law exclusively for establishing microfinance banks for low-income people and people on welfare" and "lawyers [should] form groups in each country to develop and revise laws that ultimately help the poor to help themselves.").

285. Bellman & Chang, *supra* note 18 (noting that politicians and regulators have grown concerned "that unfettered expansion was leading to poor lending practices" and "multiple loans to the same borrowers.").

286. McNew, *supra* note 15, at 288 ("[M]ore regulation of MFIs is needed, but too much regulation may make it impossible for MFIs, which by their nature require flexibility, to survive."); *see also,* Alexandra O'Rourke, *Public-Private Partnerships: The Key to Sustainable Microfinancing*, 12 LAW & BUS. REV. AM. 179, 179 (2006) (discussing "legal barriers to the sustainability" of MFIs).

287. USAID, *Model Scope of Work: Legal & Regulatory Reform for Access to Finance Policy & Programming Toolkit* (2005), *available at* http://pdf.usaid.gov/pdf_docs/PNADF663.pdf.

288. McNew, *supra* note 15, at 295.

289. McNew, *supra* note 15, at 295; *see also* Robert Christen & Richard Rosenberg, *The Rush to Regulate: Legal Frameworks for Microfinance*, CGAP Occasional Paper No. 4, 1 (Apr. 2000), *available at* http://www.cgap.org/gm/document-1.9.2699/OP4.pdf.

clean up a situation that they think is hurting the development of microfinance in their country."[290]

J. Andhra Pradesh Utilized a Regulatory Framework

AP recently approved microfinance regulations, in an attempt to improve microlending. Politicians and critics have accused MFIs of "using coercive practices to recover loans from overleveraged customers," and claimed MFIs were "held responsible for suicides by debt-burdened borrowers."[291] In response to this onslaught of criticism and the suicide epidemic, "the panicky state government has pushed through a tough new law that seeks to regulate the industry, much to the latter's consternation."[292] In October of 2010, AP "passed an ordinance – which later became law – tightening regulation of microfinance companies that lend to the unbanked poor" after MFIs were "accused of exploiting by charging high interest rates."[293] "The regulations require that all microfinance institutions register with the government, restrict the total interest payments charged from exceeding the amount of the loan, ban the taking of security for loans and impose penalties of jail time and hefty fines for coercing borrowers with strong-handed techniques."[294] The law has changed collection practices, prohibiting "companies from accepting weekly repayments" and demanding "clearance from local authorities to extend a second loan to a borrower."[295] It put loan applications "under government scrutiny," asked lenders to stop "doorstop lending," and switched "from a weekly to a monthly loan recovery system."[296] India has followed suit in regulating microfinance companies.[297]

K. Conclusion on Recommendations

It is clear that a multi-faceted approach will be required to fully address all the difficulties with microlending. There is no one simple solution for addressing the problem. Multiple approaches are required to adequately aid microfinance institutions. Luckily, in AP, MFIs and borrowers alike have agreed that change needs to occur and they have agreed to participate. While it is too soon to tell how the new

290. Christen & Rosenberg, *supra* note 289.
291. Pilla, *supra* note 185.
292. Biswas, *supra* note 59.
293. Pilla, *supra* note 185.
294. Walker, *supra* note 57, at 391-92.
295. Biswas, *supra* note 59.
296. Pilla, *supra* note 185.
297. Walker, *supra* note 57, at 391 ("As of early 2011, the Indian federal government and the Reserve Bank of India were working together on new federal regulations to oversee microlending."); *see* Maes & Reed, *supra* note 86, for more information on Andrah Pradesh post-epidemic regulatory actions.

regulations in AP will influence the industry, it is clear that the government is making a concerted effort to address all the difficulties. With the continued support of NGOs and government institutions, a continued influx of capital, and global interest, there is no doubt that there is hope for the microfinance industry.

VI. CONCLUSION

Microfinance, as it currently stands, is clearly facing adversity. The suicide epidemic of borrowers in AP indicates that microfinance is flawed as it stands, but this does not mean that microfinance as an institution is dead. As Grameen Bank's beginnings demonstrate, microfinance has the ability to greatly aid the world's poor and to stimulate development. As Sivamma, Jane, and the millions of other women supported and empowered through microfinance demonstrate, microfinance is still thriving. In spite of microfinance's flaws, if microfinance institutions, governments, and non-profit organizations implement some of the recommendations, microfinance will continue to be used to achieve the MDGs and help women like Jane sew their way out of poverty.