

# Micro Financing Regulation and Women Empowerment

SHOBHNA JEET

## Abstract

India has achieved phenomenal economic growth in the past decade, but found lacking in the achievement of targets fixed under millennium development goals by 2015. These development goals have fully acknowledged the incredible role of women in the system, and prompted the policymakers to address the gender issues on every front be it economic, political and social. In this spirit, the empowerment of women has been well considered in the recent literature for making the present systems smoother. The recent initiative of Indian Government in the form of launching a “Women Bank” seems a remarkable step in the direction of women empowerment. However, it raises various questions related to the lending to women and women run businesses, supporting women self-help groups, financial inclusion, etc. There are various measures for women empowerment, but present study is an attempt to explore the existing credit facilities for women in particular through self-help groups. The study aims to highlight key legal provisions in this direction and tries to address the monitoring and regulatory aspect in particular, as the importance of financial regulations at macro level has been widely pronounced by the policymakers for stable financial system.

*Keywords:* Microfinance, Women Empowerment, Banking and Legislative Laws.

---

The goal of rendering justice to all the people of India irrespective of their caste, class, creed, and sex has been well enshrined in the constitution of India. A plethora of legislation has been enacted for equal access to justice in order to establish egalitarian society and to uplift and shield those who have been considered to be the “weaker” section of the society. On this front, the identification of the weaker section has been a debatable issue but to a greater extent the women and children have been considered the weaker section as reported in vast literature (Mohanty and Singh, 2001). In this direction a number of initiatives have been taken so far related to address these overlooked or weaker sections. These initiatives include as the equality of women (Article 14), no discrimination by the State (Article 15(1)), equality of opportunity (Article 16), and equal pay for equal work (Article 39(d)). Apart from these, there are many more provisions for women welfare (NIPCCD, 2010).

Nevertheless, Trust Law, the world’s leading legal news provider<sup>1</sup>, listed India at fourth rank in world’s most dangerous countries for women after Afghanistan, Congo and Pakistan. The prominent indicators for this ranking were female foeticide, infanticide and human trafficking. The latest survey done by Nielsen reveals that Indian woman is most stressed in world today. An overwhelming 87 percent of Indian women said they felt stressed most of the time, and 82 percent had no time to relax (Goyal, 2011). On world’s women progress UN Women’s Flagship report observed that, 63 percent of women in India, between the age group of 15 and 49 years’ lack autonomy in their homes. They are not included in everyday decisions such as own health care, large household purchases, purchases for daily needs and visits to family or relatives (Chandel, 2011). Constitution of India with other protective laws for women and children can be considered as a bench mark in order to curb the violence against them but still it is opined that

the picture of Indian woman is of dismay, despair and gloom.

In the recent past empowerment of women is considered as one of the tools to improve the vulnerable condition of women in the larger society. Women empowerment includes decision-making power and authority to influence others' decisions. There are various definitions of empowerment covering vast dimensions such as freedom to lead different types of life, universally valued functioning (proper nourishment, good health and shelter), increased participation in decision-making, etc. Malhotra *et al.*, (2002) considered multiple dimensions of women empowerment such as economic, socio-cultural, familial/interpersonal, legal, political, and psychological. They argued that fulfilment of any domain among these may be treated as an indication of women empowerment. The World Bank defines empowerment as "the process of increasing the capacity of individuals or groups to make choices and to transform those choices into desired actions and outcomes. It identifies four key elements of empowerment such as access to information, inclusion and participation, accountability, and local organisational capacity.

Many sources of literature have paid serious attention in measuring this empowerment. In this direction, two new complimentary indices such as Gender-related Development Index (GDI) and the Gender Empowerment Measure (GEM) have been widely used by the literature to identify the status of women in a country. The performance of India in both the indices had remained very poor in the late 1990's. Keeping in view the poor performance of developing countries in various development indicators United Nations have introduced MDG in 2001, where 18 targets have been set to be achieved by 2015. Later on with some improvement over the existing methodology UNDP computed GDI where India stood at the rank of 129<sup>th</sup> with the value of 0.617. This index represents the reproductive health, empowerment

and labour market participation. In the same reference the female participation in national parliament was observed 10.7 percent, and, the female labour force participation rate was noticed 32.8 percent compared to 81.1 percent of male.

The present study explains the multiple dimensions of women empowerment and presents the current situation with the help of three proxy indicators of empowerment: education for women, health, and economic participation. The discussion is followed by the present status of microfinance institutions in India and their functioning. Microfinance refers to various forms of financial services made available to entrepreneurs and small businesses lacking access to banking and related services. Women in India are critical stakeholders in the society and they have lacked proper access to loans and other financial services. The paper attempts to explain key legal provisions related to these microfinance institutions. It mainly highlights the monitoring and regulatory framework for these institutions through which greater partnership of women in economic activities with the help of self-help groups can be ensured.

## **Status of women in India**

### **Health**

Generally, health is considered as one of the most important factors for a happy, peaceful and prosperous life. Barro (1996) found that health status as measured by life expectancy and other analogous indicators is an important contributor to subsequent growth. Also the role of initial health is found to be better predictor of subsequent economic growth than the initial education. On the other side high economic growth enables people to have access to good nutrition, proper sanitation, appropriate shelter, and adequate medical care which are necessary to sustain a positive health condition (Costa & Steckel, 1995). On this front, the health of women has been considered the foundation for health of the other family members.

Healthy mothers can produce healthy children. But wide ranging instances of foeticide, infanticide, child mortality, anaemic in the nascent age etc have been found to be prevalent in India. Of the infant mortality cases, 59 percent are girls, and, in case of infanticide, almost 47 percent girls (in the age group of 11 to 19 years) are underweight. This is the highest percentage in the world (UNICEF, 2011). In addition to it over half of girls aged 15-19 (56 percent) are anemic. In the recent years (2006-10) the values for maternal mortality ratio (per 100000 live births) and adolescent fertility rate (births per 1000 women ages 15-19) in India are observed as 230 and 84 respectively. It is

found that around 50 percent of births were not attended by skilled health staff. Around 25 percent pregnant women are not receiving prenatal care. The value for contraceptive prevalence (% of women ages 15-49) stood 55 during 2006-10 (Table-1). The figures suggest that the births are not properly attended to by the health experts and vast number of women have no access to contraception. Also there is only one physician available for one thousand people in India. The situation may be considered worse for girl children in sex ratio. As per the 2011 census, there are only 914 girls (0-6 year age) per thousand boys, which were 927 in 2001 (censusindia.gov.in).

*Table (1): Health Statistics for Children and Women in India*

Series Name	1991-95	1996-2K	2001-05	2006-10
Maternal mortality ratio (modeled estimate, per 100,000 live births)	470.0	390.0	280.0	230.0
Pregnant women receiving prenatal care (%)	61.9	63.5	-	74.7
Adolescent fertility rate (births per 1,000 women ages 15-19)	-	110.9	96.4	84.0
Births attended by skilled health staff (% of total)	34.2	42.4	-	49.7
Condom use, population ages 15-24, female (% of females ages 15-24)	-	-	-	5.6
Condom use, population ages 15-24, male (% of males ages 15-24)	-	-	-	14.6
Contraceptive prevalence (% of women ages 15-49)	40.7	47.6	53.0	55.2

Source: World Development Indicators (2012).

In low income groups, 50 percent of girls are married before attaining the legal marriageable age of 18 years (Section 5 Hindu Marriage Act, 1956). That ultimately brings more problems in terms of physical and mental health. Recent data shows that 30 percent of girls aged between 15-19 are currently married or in union, compared to only 5 percent of boys of the same age. Though the number of girls who got married before the age of 18 years has decreased from 54 percent in 1992-93 to 43 percent in 2007-08, the figures are still the highest in the world. The state of Haryana has shown substantial increase of child marriage cases in the recent years as state reported 195 cases in 2011 compared to 47 in 2009 (Gayatri, 2011). Moreover, women are found suffering from physical and mental harassment by others in the

society. National Commission Report Bureau (2009) shows that 44 percent women are facing violence in their matrimonial home. At the same time there are many cases of dowry crimes and dowry deaths. It is found that huge numbers of girls conceive a child before getting for it physically and mentally prepared. The child born out of such wedlock soon gripped in the clutches of numerous diseases. The prevalent of various diseases and other crimes doubts the accumulation of human capital for welfare of the nation.

### **Education**

The then president Smt. Pratibha Patil, in valedictory address of Global Conference on Women in Agriculture in New Delhi (March, 13-15, 2012) emphasized the need to empower

women with new knowledge and skills to bring them into the mainstream of agricultural development and reduce gender disparity. The existing literature shows that the basic education is

primary step towards gaining knowledge and skill. In India, the recent data of literacy is evincing the inequality and discrimination in the education system among male and female (Table-2).

Table (2): Literacy Rate of Women in India

Literacy Rate	1991-95	1996-2000	2001-05	2006-10
Literacy rate, adult female (% of females ages 15 and above)	33.7	-	47.8	50.8
Literacy rate, adult male (% of males ages 15 and above)	61.6	-	73.4	75.2
Literacy rate, adult total (% of people ages 15 and above)	48.2	-	61.0	62.8
Literacy rate, youth female (% of females ages 15-24)	49.4	-	67.8	74.4
Literacy rate, youth male (% of males ages 15-24)	73.5	-	84.2	88.4
Literacy rate, youth total (% of people ages 15-24)	61.9	-	76.4	81.1

Source: World Development Indicators (2012).

One surprising fact is that out of the world's one billion illiterate, two-thirds are women. And out of 130 million children worldwide who are not in school, two-thirds of this number are girls. In terms of drop out (before reaching class VI) about 50 percent are girls, whereas only about 36 percent of girls complete their secondary education. The provisional data of census 2011 shows that the literacy rate of women in India is 65 percent whereas the figure for men is 82 percent. With the poor literacy rate of women, it is doubtful that they will be able to attain reasonable economic independence and or become good decision-makers, especially concerning health and education. Improvement in health and education is considered as the best option for reduction in the poverty which leads to development in the society (Bhagwati, 2012). But when huge numbers of women are facing the health and educational constraints, the feasibility of empowering them is really questionable. On this front giving, emphasis on education is really worthwhile. Since the paper emphasizes the monitoring and regulation of micro-finance institutions for increasing women's participation in economic activities, it seems unidirectional from top to bottom in hierarchy for women empowerment. However there is ample

scope to perform from bottom to top for engaging women as economic agent where creating awareness among women SHGs through education can lead to better access to credit and its proper utilization. There is plethora of literature which is emphasizing the importance of education in general and girls' education in particular for not only empowerment but also for overall societal development. The launching of the Right to Education Act 2009 and its recent upholding signify valuable attention to provide the basic education for all. This can have positive results over the long run. However, the success of this initiative hinges upon the effective implementation of programs by way of fixing targets related to enrolment and quality of education and evaluating them time and again.

### **Participation in Economic Activities**

Women comprise 50 percent of our population and it is highlighted that the participation of women in economic activities has been very low in India<sup>2</sup>. The mainstream approach to the empowerment of women followed in India is an economic approach and it is hypothesized that economic empowerment is one of the critical factors to empower them. Women constitute half the human

resources of a nation and putting aside these resources may cause the depletion of economic wealth of a country (Bureau, 2012). Women, after all, must be considered key players in the overall progress of any country. As exhibited in the modern growth theory that human capital, apart from the other primitive inputs such as land, and capital, plays a significant role in the economic growth of a country. Food and Agriculture Organization mentioned that access of productive resources to the women compared to men can increase the farm yields by 20-30 percent. This could raise total agricultural output in developing countries by 2.5-4.0 percent, which could in turn reduce the number of hungry people in the world by 12-17 percent (FAO, 2011). The involvement of women in economic activities can be measured by their participation in the labour force of India. The labour force participation rate in India is 40 percent and women account for 32 percent of this statistic. It shows that women's participation in economic activities is less than men. However, both the governmental and nongovernmental sectors have been pursuing ahead with programmes aimed at imparting education to women, giving them better healthcare and providing them with means of livelihood so that they can participate in the decision-making process at home and in the society as well. The empowerment of women through microfinance has been exhibited in three criteria- 1) the financial sustainability approach, 2) the community development approach, and 3) the feminist empowerment approach. In the first approach microfinance facilitates women by enhancing their level of income, control over it, and making decisions about to use the credit and to save the money in order to continue the fruits of financial services rendered by microfinance. As a result of increased income, women begin to become the decision-makers about the consumption of the household. This can directly improve their welfare and children's welfare. At the same time the

decision-making power at the household level facilitates improving the status of women, along with their networks and mobility (Mayoux, 1998). In this direction the microfinance programme has been considered an important initiative for positive economic impact and the empowerment of women. This is based on the view that women have been denied access to sharing the fruits of access to credit, and to utilizing their potentialities in the labour market and decision-making and bargaining power within the household.

The motivation for pursuing women empowerment is that they are among the most vulnerable and underprivileged. Raising them up and helping them serves a greater cause of the nation for overall improvement and development. Almost two-thirds of employed women in developing countries are in vulnerable jobs, as own-account or unpaid family workers, (UN, 2009) as casual agricultural labourers at the bottom of a global value chain (Barrientos, 2001), as workers in urban factories and workshops, or as domestic servants. On this front, the vocational training programme implemented in Colombia was appreciated for creating a favourable environment for the women. It provided on-the-job training and stipends for women with children so that they could participate (Kucera & Xenogiani, 2009). Of all DAC members' aid to employment policy in 2007-08, on average 25 per cent targeted gender equality and women's empowerment (OECD, 2011). Microfinance institutions channelize the funds to more effective means of alleviating poverty (Rogaly, 1996).

### **Microfinance in India**

In light of Millennium Development Goals, it is observed that microcredit and microfinance are playing an important role in achieving the two major goals related to reduction in poverty and hunger and promotion in gender equality and women empowerment (UN, 2005). The emergence of microfinance institutions in India is motivated

by the success of the Grameen Bank method of Bangladesh (Sujatha, 2011). Bangladesh is considered one of the birthplaces of microfinance. However no NGO's offering microfinance in Bangladesh were regulated or suppressed either by the central bank or any regulatory agency except in case of Grameen Bank (Pine, 2010). Recently in an interview with Muhammad Yunus, founder of Grameen Bank in Bangladesh, he claimed that 97 percent of 8.3 million beneficiaries of various schemes of Grameen Bank were women (Yunus, 2012). The financial system of India has undergone a repressed system in the 1980s, which led to less competition and higher cost of finance. In this system, the access of financial services was relatively satisfactory for the urban areas, but rural areas were not benefited much with the financial services of parking their short term surplus, taking consumption loans to meet the emergency requirement, etc. With the introduction of financial reforms in the mid-1990s in India, the numbers of banking branches have increased substantially and new products have been introduced into the system. At this point microfinance institutions may facilitate the empowerment of women in India. The model of Bangladesh may contribute to the well-functioning of the micro financing model of India.

In India there are currently two models of microfinance i.e. Self Help Group-Bank linkage model and the MFI model. The two initiatives were started in early 1990s by targeting poor women in rural areas. The credit groups consisted of 10-15 women and a reasonable amount of credit was provided for enhancing their potentialities. In this initiative the National Bank for Agriculture and Rural Development (NABARD) provided 100 percent refinancing to the lending institutions. In the self-help group (the SHG-bank model), NGOs and banks collectively interacted with people who belonged to the same socio-economic background. These groups were educated in small scale fiscal management with initiatives to form small saving

amounts from members and maintenance of accounts. The most significant feature of such a system is that it allows for the opening of bank accounts in the name of the entire group. This reduces transaction costs for banks significantly (Deiter, 2001). Recovery of loans is based on peer review, and the returns are empirically found to be higher (Lykke & Nina, 2000). Microfinance in India may be defined by the intent of lender; a loan given by a market intermediary to a small borrower is not seen as microfinance. However an institution whose constituent intent is the distribution of loan can be treated as microfinance (Sriram & Upadhyayula, 2004). The MFI model can be divided into state and private initiatives like the National Bank for Agriculture and Rural Development ('NABARD') and the Small Industries Development Bank of India ('SIDBI'), which are examples of state-run MFIs. Moreover, supporting small-scale financial institutions, commercial banks, RRBs, and co-operative banks provide separate retail services<sup>3</sup>. Private players have emerged in microfinance industry for more than last decade and providing similar services to the states.

Presently, commercial banks, co-operative banks and Regional Rural Banks (RRBs) are actively engaged in the programme. As on March 31, 2007, 50 commercial banks, 96 RRBs and 352 co-operative banks were participating in the programme<sup>4</sup>. The number of bank branches (as per the last available data) lending to SHGs was 35,294 at end-March 2006 and the number of participating NGOs and other agencies was 3,024<sup>4</sup>. It is highlighted that the repayment rates are much better than other rural modalities. A great attention has been paid by the majority of microfinance programmes as an explicit goal of empowering women. Keeping in view the vast potential of women, Ministry has been interested to encourage the organization of women into Self Help Groups (SHGs) and to channel resources to these groups. About 70 lakh SHGs have been formed, of which

80 percent are women's groups. Nearly 60 lakh SHGs have opened bank accounts and over 42 lakh SHGs have received micro-credit of approximately 27,600 crores. SHGs have been instrumental in socio-economic empowerment by enabling women to have greater credit access and work together more collectively. However, in recent times, issues have come out about the high rate of interest being charged by MFIs (GOI). The high rate of interest may be attributed to the lessons learned by micro-financing institutions from bigger financial institutions during the global financial crisis of 2007-08. As a result of this crisis, the lending institutions have become more cautious and have discouraged credit disbursements by fixing higher borrowing costs. Somehow the monitoring of micro-financing institutions may overcome the high interest rate problem. As of December 31, 2010, 3,652 microfinance institutions reported reaching 205,314,502 clients, 137,547,441 of whom were among the poorest when they took their first loan. Of these poorest clients, 82.3 percent, or 113,138,652, are women. Institutional Action Plans (IAPs) were submitted by 609 MFIs in 2011. Together, these 609 institutions account for 56.5 percent of the poorest clients reported: this means that 56.5 percent of the data reported is current, less than one-year-old at the time when this report is published. Assuming five people per family, the 137.5 million poorest clients reached by the end of 2010 affected some 687.7 million family members (MCS, 2012).

In India, the Reserve Bank of India (RBI) has identified the growth of the microfinance sector as an important avenue for meeting the broader national goal of making a wide range of financial services accessible to increasing proportion of the population (usually referred to as financial inclusion goal<sup>5</sup>). In addition, the RBI considers lending by banks to the microfinance sector as a part of their priority sector lending requirements<sup>5</sup>. Both these aspects increase the

importance of ensuring orderly development and sound governance and regulatory structures for the microfinance sector<sup>5</sup>.

The existing literature related to the microcredit and women empowerment produces mixed results as some argue that women have experienced positive impact from the microcredit facilities. (Hashemi *et al.*, 1996; Puhazhendi, 2000; Puhazhendi & Satyassi, 2000). In contrast to this, others argue that the full benefits of credit access do not reach to women because women allow these loans to be used by the men in their lives (Mayoux, 1997). Rahman (1999) evidenced in a village level study that between 40 percent and 70 percent of the loans disbursed to the women are used by the spouse, and, when this happens, the tensions within the household increases (domestic violence). It is argued that microcredit has not been as effective for increasing the decision-making power of women (Garikipati, 2011). No doubt that microcredit has attained some successes, but the stories on the ground reflect a harsher reality. Often the loans are inflexible, have an exorbitantly high interest rate attached to them, and re-payment starts immediately. This puts enormous psychological pressure on the workers, thereby affecting productivity and output. Microfinance bears the great potential to facilitate the empowerment of women, but it cannot be explicitly stated that microfinance has empowered women, the reason being the methodological differences in the measurement of degree of empowerment. Defining Empowerment is multidimensional as it incorporates economic, health, education, decision-making, etc. dimensions. Microfinance institutions might have influenced the individual dimensions.

### **Experiences in Andhra Pradesh and West Bengal**

Andhra Pradesh (AP) has a central role in the Indian microfinance story. The state government

in Andhra Pradesh (AP) has dominated the efforts to scale-up access to micro-credit services with a concerted program to promote bank-led SHG schemes (Sane and Thomas, 2011). It is also here that the largest registered NBFC-MFIs are headquartered. Lastly, given that the growth of the MFI has created turf wars with the bank-led SHGs that have been strongly promoted by the state itself (Sane & Thomas, 2011); it is also the state which has proved to be the strongest source of political risk for MFIs. The first episode (called the Krishna crisis) took place in 2005<sup>6</sup>. At this time, the NBFC-MFI model was yet nascent and had just started scaling up in AP. District authorities closed down 50 branches of two major MFIs following accusations that they were charging usurious or unethical interest rates and indulging in forced loan practices (Shylendra, 2006). The state government and the microfinance sector negotiated a set of terms under which MFIs could get back on track with the micro-lending business in the state<sup>7</sup>. Once the negotiations were over, however, anecdotal data suggest that business growth took precedence over fulfilling the terms under which the MFIs were allowed to continue their business, and the MFIs took no further action to adhere to the terms. The second crisis came to fore in October, 2010. In this episode also, MFIs were subject to similar allegations of poor credit interfaces with the micro-borrower, as they were in 2006. The AP government proposed an ordinance that was passed as law within two months, which effectively stopped collections on old loans and prohibited any new micro-lending business in the state (Government of Andhra Pradesh, 2010<sup>8</sup>). Moreover, it caused all private sector microfinance operations in the state to shut down. This was the major blow to the entire microfinance industry as Andhra Pradesh accounts 40 percent of all loans by MFIs across India<sup>9</sup>. However this Act aims to protect the government's own microfinance programs which had been losing market share to the more efficient

and better run MFIs. By and large the government was worried because of the exploitation of SHGs by private Micro Finance Institutions (MFIs). Their usurious interest rates and forced means of recovery leading towards suicides and intimidation.

Exorbitant rate of interest, lack of transparency with regard to their interest rate practices, unethical ways of recovering loans by confiscating title deeds, using intimidation and abusive language, and combining multiple products like savings, insurance and loan to ensure prompt recovery are considered as some of the main reasons for collapse of the microfinance institution in Andhra Pradesh. Existing literature accepts the weaknesses of regulatory system and ineffective policy mechanism at this front (Priyadarshie & Ghalib, 2011). Keeping in view the regulatory problems, the Government of India has proposed legislation and formulated a bill for the development and regulation of microfinance sector. To protect the SHGs, regulating the money-lending transactions and achieving greater transparency in MFIs are the foremost and important aims of the government behind the above act. The existing literature raises various questions regarding the delinquent closing down of MFIs in the absence of adequate regulatory guidelines. It is pertinent to mention here that Andhra Pradesh, which is considered as the birthplace of private sector microfinance in India. This state had the highest concentration of MFIs and the largest exposure through the SHG-Bank linkage model. It was also responsible for 30 percent of all loans by MFIs across India according to some estimates.

In case of West Bengal, the ownership pattern of women for utilizing the funds accessed through micro-finance institutions has been skewed. Only 5 percent of these women had autonomous control over the money they had taken for income-generating activities. The figure for sharing control with their husbands was 56



percent, and in 38 percent of cases husbands had full control over the money (Kulkarni, 2011). With this information in mind, the continuous increase in the number of SHGs and respective credit amounts for recent periods should be read with a caution. Although the number of loans may have increased by microfinance institutions, the access of these funds by the women who took them out is questionable. Thereby, the achievement of the main goal of supporting women SHGs through microfinance remains doubtful. In a nutshell, the malfunctioning of microfinance institutions in Andhra Pradesh and West Bengal may be attributed to the lack of effective regulation and monitoring mechanism for these institutions.

### **Regulatory Structure for Microfinance**

India also has enacted wide ranging provisions for regulating the MFI. Registration can be considered as the primary problem for MFI as in the absence of regulatory mechanism, multitude of ways to form and register private MFIs has occurred. In the absence of a similar set of services each category invokes different legislations to regulate MFI (Sarivastva, 2005). For an example Domestic Commercial Banks, Public Sector Banks, Private Sector Banks & Local Area Banks are governed by RBI Act 1934, BR Act 1949, SBI Act, SBI Subsidiaries Act, Acquisition & Transfer of Undertakings Act 1970 & 1980. Regional Rural Banks are regulated by RRB Act 1976, RBI Act 1934, and BR Act 1949. Co-operative Bank and Co-operative Societies are governed by Co-operative Societies Act, BR Act 1949 (AACs), RBI Act 1934 (for sch. banks) and State legislation like MACS. Registered NBFCs are regulated by RBI Act 1934 and Companies Act 1956. Other providers like Societies, Trusts, etc. are being dealt with by Societies Registration Act, 1960, Indian Trusts Act, Chapter IIIC of RBI Act, 1934, State Moneylenders Act. However this sectoral approach of legislation makes gaps at implementation part as it is considered that no

single legislation alone or as a whole responsible to govern and regulate. Having all these different regulatory agencies makes it very difficult to see the truth of the whole picture in an authentic way.

### ***The Andhra Pradesh Act***

Andhra Pradesh has successfully launched the MFI programme and has reached to the weaker section of the society, many of whom are women. But in October 2010, the Government of Andhra Pradesh issued the Andhra Pradesh Microfinance Institutions (Regulation of Money Lending) Act, 2010 that has had a devastating impact specifically upon the 9.2 million women in AP who are now considered to be delinquent in their loan repayments. According to MIX (Microfinance Information Exchange) the leading resource for data on the sector, overall loan portfolios for MFIs across India shrunk by 33 percent from INR 26,255 Cr. (USD 5.25 billion) to an estimated INR 17,591 Cr. (USD 3.52 billion) (10) and MFIs lost 1.8 million clients in AP alone, between March and December of 2011. Much of this loss can be attributed to the blockage of new loans in Andhra Pradesh, which accounted for about 30 percent of the gross loan portfolios of MFIs in the country in March 2011. However 2010 crisis was not the first time that the state faced such a problem. Usurious interest rates caused the state to close down nearly 50 branches of 2 MFIs in the state in March 2006. (Shylender, 2006). While the impact has been greatest in AP, where MFIs have been unable to lend or collect since the AP Act, increased delinquency rates have spread to 12 districts in surrounding states; and because MFIs have been forced to divert capital from other states to shore up their AP portfolio, the value of loan portfolios in Maharashtra and Tamil Nadu, for example, has now fallen below levels last seen in March 2011<sup>11</sup>.

### ***The Malegam Committee Response***

With the growing number of reported suicides in Andhra Pradesh who were borrowers of state led

microfinance institutions, Reserve Bank of India appointed the Malegam Committee. The major objective of the committee was to inquire into shortcomings in the regulation of these institutions. The central bank, while accepting the Malegam Committee report, recently suggested that the repayment schedule (weekly or monthly) of loans can be chosen by the borrower. However, the AP Micro Finance Institutions (Regulation of Money Lending) Act, 2011 clearly says that the repayment cycle should not be less than a month. There is absolutely no clarity on the issue of repayment schedules. There are two agencies (AP government and RBI) trying to regulate the system. It seems to be contributing to confusion concerning microfinance. The Andhra Pradesh microfinance crisis of 2010 led to the acceptance of the need for more rigorous regulations of NBFCs functioning as MFIs<sup>12</sup>. Malegam committee was an attempt to demarcate jurisdictional overlaps in the applicability of legislative and regulatory controls exercised by the RBI<sup>12</sup>. The major recommendations of the committee were- to create separate category of NBFC-MFIs, assign a margin cap and an interest rate cap on individual loans, transparency in interest charges, lending by not more than two MFIs to individual borrowers, creation of one or more credit information bureaus, establishment of a proper system of grievance redressal procedure by MFIs, creation of one or more “social capital funds” and continuation of categorisation of bank loans to MFIs, compliance with the regulation laid down for NBFC-MFIs under the priority sector, etc. Moreover the Malegam committee suggested making appropriate changes in state laws with the coordination of RBI. However the Ministry of Finance has come out with a solution in form of the Microfinance Institutions (Development and Regulation) Bill, 2011.

On March 8, 2011 with recommendations of Malegam Sub-Committee, the RBI set up a separate working group to inquire into the

regulations of microfinance institutions<sup>13</sup>. On the face of it there were various ways to initiate MFIs in India in the absence of regulatory concerns<sup>14</sup>. The experience of co-operative banks in India suggests that multiple regulators may not be as effective as a single strong regulator and may also make it difficult for MFIs to comply with different sets of guidelines. Hartarska (2004) points out that supervision in the sector by central banking authorities does not affect either sustainability or outreach. Any approach to regulation and supervision of MFIs needs to recognize their heterogeneity, and accommodate the flexibility and scope for development that MFIs need Hardy *et al.*, 2002). On one hand there are non-profit institutions with provisions to provide specific services while on other hand there are profit-making entities. It is pronounced in existing literature that there must be prudential regulations for MFIs (Seth, 2009). The SHG-Bank Linkage model builds upon the existing institutional infrastructure with civil society participation. Therefore, regulatory issues have been minor and handled by NABARD which regulated them in early phases of the movement<sup>15</sup>. It is, however, the MFI model that has borne the brunt of the lack of adequate regulation. In light of the crackdown by the state, these institutions have vociferously demanded legal and regulatory accommodation to create institutional space for them<sup>16</sup>. In particular, microfinance institutions are unable to access deposits and act as banks, due to regulatory barriers and prudential norms dictated by the RBI for entities seeking to act as banks.

#### ***The Microfinance Finance Institutions (Development and Regulation) Bill, 2011***

In response to the second microfinance crisis in AP which took place in October 2010, the Ministry of Finance has proposed a new Micro Finance Institution (Development and Regulation) Bill. In a nutshell, as expressed in preamble of the bill views microfinance institutions as extended

arms of banks and financial services. It proposes to (a) create advisory councils to guide the development of the industry, (b) place registration and micro prudential regulatory functions upon the RBI and, (c) create a new redressal mechanism for handling consumer grievances. Moreover the bill legitimises microfinance as an industry, appoints the RBI as the key regulator, and clearly removes regulation of the sector from the purview of state law regulating moneylenders and usurious loans. The bill's objective to "facilitate universal access to integrated financial services for the unbanked population" is laudable. Its provisions aim to bring in standardised accounting and reporting, better standards of corporate governance and transparency, and ensure that funding is channelled for the social development.

Under this bill all microfinance institutions will be regulated and governed under the jurisdiction of RBI. The major micro-financial institutions in India include: Non-Government organizations engaged in microfinance (NGO-MFIs) including societies and trusts, cooperatives registered under the conventional state-level cooperative acts, and Non-Banking Financial Companies (for-profit as well as not-for-profit). It is worth mentioning that some of these entities are not covered in the liaison of RBI (Kline, 2011). The recent bill (on the recommendations of Malegm report) is by and large talking about major regulatory points, including priority sector lending, deposit mobilization, access to capital, the Money Lending Act, and state level regulation. It can be argued that there is a gaping hole in the regulation bill in terms of monitoring the funds after money lending. The funds which are targeted for women can be utilized by men and more importantly for different purposes than already stated. The recent initiatives of launching a women's bank can work in better way for proper allocation of funds to women and respective monitoring of the funds.

## CONCLUSION

The inclusive approach towards every agenda of the nation may help to acknowledge and ensure women's equal involvement in every aspect of life and society as well. So far the role of microfinance and legal provisions are concerned, both may be clubbed together to bring more fruitful results. Different efforts in the line to empower women and spurring on the meaningful pronouncements that are central to India's Constitutional values may not successfully work in isolation. However it can be stated that the things are taking place in the movement of women on the road to empowerment, and paying attention towards the existing government initiatives may be the complementary to it.

At macro level, the introduction of financial reforms in India has facilitated the functioning of financial system in economy. The financial system plays a crucial role in mobilizing the savings into investment, acquiring information about the profitable projects ex-anti, monitoring managers' ex-post and many more. But, the recent happenings at global level have given due importance to the regulation and supervision for maintaining the financial stability in economic system. The release of global financial development report stresses upon rethinking the role of state in maintaining the same in a country. At micro level much development has taken place to promote the financial institutions in India. The introduction of micro-financing institutions is matter of great pride for country as they are injecting sufficient funds to promote the economic activities at micro levels. The role of these institutions in women empowerment is attracting significant attention of the policymakers in the form of economic participation, however the real empowerment resides in the decision-making capacity of women.

The engagement of women in economic opportunities through Self Help Groups (SHGs) is another sign indicative of women empowerment.

Women need to have the same opportunities as men to borrow money. The wide-ranging functions of micro-finance institutions are satisfactory but these institutions are lacking somehow in effective regulation and supervision. In growing numbers the credit funds initially borrowed by women are either managed by men or utilized by them for other purposes. In the recent literature, it is highlighted that the poor supervision in micro financing has somehow hampered the empowerment of women and this phenomenon demands special provisions towards the supervision of financing patterns of micro finance institutions. The presence of asymmetry of information and moral hazard among the micro-finance institutions restrain the scope of women empowerment. The proper monitoring and regulation of the credit expansion of the micro-finance institutions may prove beneficial for enhancing the economic potential of women as well as their decision-making capacity about health, education and many more things which ultimately equals women empowerment. On this front the strengthened legal provisions may supplement the realization of the women empowerment goal in India. The recent initiatives of launching a women's bank may work in better way for proper allocation of funds to women and respective monitoring of the funds.

---

SHOBHNA JEET, Assistant Professor,  
Department of Law, School of Law, Governance,  
Public Policy and Management. Central University  
of Haryana, Haryana, India.

---

## REFERENCES

- Barrientos, S. (2001).** Gender, flexibility and global value chains. *IDS Bulletin*, 32(3), 83-93.
- Barro, R. J. (1996).** Determinants of economic growth: A cross country empirical study. Cambridge, MA: NBER. *National Bureau of Economic Research*, Working Paper No. 5698.
- Bhagwati, J. (2012, April 6).** Obama's blunder at the bank. *The Economic Times*, p. 12.
- Bureau, E. T. (2012, March 8).** Engendering India: Greater gender equality is the need. *The Economic Times*, p. 9
- Chandel, H. (2011, July 8).** 39% Indians think domestic violence is justified, says UN report. *The Tribune*, p.11
- Costa, D. L. & Steckel, R. H. (1995).** Long-run trends in health, welfare, and economic growth in United States. *National Bureau of Economic Research*. Cambridge, MA: NBER, Working paper No. 76.
- Deiter S. H. (2001).** *SHG banking: A financial technology for reaching marginal areas and the very poor*. IFAD Rural Finance: University of Cologne, Working paper No. 167910
- FAO (2011).** *The state of food and agriculture: women in agriculture, closing the gender gap for development*. Rome: Food and Agriculture Organization of the United Nations.
- Garikipati, S. (2011).** *Microcredit and women's empowerment: Through the lens of time use data from rural India*. CEB : Working Paper No. 11/034
- Gayatri, G. (2011, July 8).** Haryana horror: Number of child brides shoots up 195 child marriages reported in state till June 2011 as against 47 in 2009. *The Tribune*, p.16
- GOI. Five years strategic plan (2011-2016).** *Ministry of women and child development*. New Delhi: Government of India. [http://wcd.nic.in/MWCD\\_Strategic\\_Plan\\_10-02-2011.pdf](http://wcd.nic.in/MWCD_Strategic_Plan_10-02-2011.pdf)
- Goyal, M. (2011, June 29).** Indian women most stressed in the world: Nielsen survey. *The Economic Times*, p. 01.
- Hardy, D. C., Holden, P. & Prokopenko, V. (2002).** *Microfinance institutions and public policy*. IMF: Working Paper No. WP/02/159.
- Hartarska, V. (2004).** *Governance and performance of microfinance institutions in central and eastern Europe and the newly independent States*. William Davidson Institute: Working Paper Series, Paper No. 677, 2004.

- Hashemi, S. M., Schuler, S.R. & Riley, A. P. (1996).** Rural credit programs and women's empowerment in Bangladesh. *World Development*, 24(4), 635-653.
- Kline, K. & Sadhu, S. (2011).** *Microfinance in India: A new regulatory structure centre for microfinance*. Chennai: IFMR research.
- Kucera, D. & T. Xenogiani (2009).** Women in informal employment: What do we know and what can we do? In J. Jutting & J. R. De Laiglesia (Ed.). *Is informal normal? : Towards more and better jobs in developing countries*. Paris: OECD.
- Kulkarni, V. S. (2011).** *Women's empowerment and microfinance: An Asian perspective study*. Rome, Italy: International Fund for Agricultural Development (IFAD).
- Lykke, E. A. & Nina, O. (2000).** Micro-credit and group lending: The collateral effect (University of Aarhus, Department of Economics, Working Paper No. 1998-18, 1998). In T. V. Bastelaer (Ed). *Imperfect information, social capital and the poor's access to credit 13*. Centre for Institutional Reform and the Informal Sector: Working Paper No. 234.
- Malhotra, A., Schuler, S. R. & Boender, C. (2002).** *Measuring women's empowerment as a variable in international development*. Washington, DC: The World Bank.
- Mayoux, L. (1997, February).** *The magic ingredient? Microfinance and women's empowerment*. Washington: A briefing paper prepared for the Micro Credit Summit.
- Mayoux, L. (1998).** Women's empowerment and micro-finance programmes: Strategies for increasing impact. *Development in Practice*, 8(2), 235-241.
- MCS (2012).** *State of Microcredit Summit Campaign Report*. Washington, DC: Microcredit Summit Campaign.
- Mohanty, M. & Singh, A. K. (2001).** *Voluntarism and government policy, programme and assistance*. New Delhi: Voluntary Action Network India (VANI)
- NIPCCD (2010).** *Statistics on women in India*. New Delhi: National Institute of Public Cooperation and Child Development.
- OECD (2011).** *Aid in support of women's economic empowerment*. Paris: Organization for Economic Cooperation and Development.
- Pine, D. (2010).** *The microfinance sector in Bangladesh: Innovation or stagnation* (BA Thesis in Banking and Finance). Zurich: University of Zurich, Swiss Banking Institute, Center for Microfinance.
- Priyadarshree, A. & Ghalib, K. A. (2011, October).** *The Andhra Pradesh microfinance crisis in India: manifestation, causal analysis, and regulatory response*. BWPI: Working Paper 157.
- Puhazhendi, V. & Satyassi, K. J. S. (2000).** *Microfinance for rural people- an impact study*. Mumbai: National Bank for Agriculture and Rural Development.
- Puhazhendi, V. (2000).** *Evaluation study of self help groups in Tamil Nadu*. Mumbai: National Bank for Agriculture and Rural Development.
- Rahman, A (1999).** Micro credit initiatives for equitable and sustainable development: Who pays? *World Development*, 2(1), 67- 82.
- Rogaly, B. (1996).** Micro-finance evangelism, "destitute women", and the hard selling of a new anti-poverty formula. *Development in Practice*, 6(2), 100-112.
- Sane, R. & Thomas, S. (2011).** *A policy response to the Indian microfinance crisis* (p.11). Mumbai: Indira Gandhi Institute of Development Research.
- Section 5 Hindu Marriage Act, 1956**
- Seth, M. B. (2009).** Regulation and supervision of microfinance institutions: A proposal for a balanced approach. *Law and Business Review of America*, 15 (2), 287.
- Shylender, H. S. (2006).** Microfinance institutions in Andhra Pradesh: crisis and diagnosis. *Economic & Political Weekly*, 41(20), 1959-1962.
- Sriram, M. S. & Upadhyayula, R. (2004).** Transformation of the microfinance sector in India, experiences, options, and finances. *Journal of Microfinance*, 6(2), 88- 104.

**Srivastava, P. (2005).** Microfinance in India: Odysseus or interloper. *Economic & Political Weekly*, 40(33), 3626-3627.

**Sujatha, K. S. (2011).** Economic empowerment of women and beyond SHG as an organizational possibility to find social development spaces. *JM International Journal of Management Research*, 1(5), 317-328.

**UN (2005).** *Microfinance and the millennium development goals* (Fact Sheet). New York: UN Department of Public Information.

**UN (2009).** *The millennium development goals report*. New York: UN Department of Public Information.

**UNICEF. (2011, February).** *The state of the world's children: Adolescent an age of opportunity*. New York: UNICEF.

**Yunus, M. (January 3, 2012).** International Conference on Technology Enhanced Education at Amrita Mutt. *The Economic Times*, p. 4

<sup>1</sup>Trust Law is run by Thomson Reuters Foundation.

<sup>2</sup> It was demonstrated that the eradication of poverty in China is largely attributed to its development model. But at the same time, the gender equality has been seriously attended by the country as it has given due importance to the participation of women in the economic activities. The country has attained the highest growth in women employment in the world. Such involvement of women in economic activities may empower them and a result of which the care taking or proper feeding of the children as well themselves can be served.

<sup>3</sup>National Bank for Agriculture and Rural Development, Mumbai. [http://www.nabard.org/microfinance/mf\\_institution.asp](http://www.nabard.org/microfinance/mf_institution.asp) (retrieved on March 14, 2011).

<sup>4</sup>For the last available numbers on Microfinance Institutions, see Reserve Bank of India, Report on Currency and Finance, 2006-08, available at <http://www.rbi.org.in/scripts/AnnualPublications.aspx?head=Report%20on%20Currency%20and%20Finance> (retrieved on March 14, 2012).

<sup>5</sup>Asher, M. & Shankar, S. (March 17, 2010). *As microfinance grows, so does the need for better regulation*. available at [http://www.dnaindia.com/money/comment\\_as-microfinance-grows-so-does-the-need-for-better-regulation\\_1359900](http://www.dnaindia.com/money/comment_as-microfinance-grows-so-does-the-need-for-better-regulation_1359900) (Last visited on September 18, 2012)

<sup>6</sup> This was called so because it arose around issues of bad practices of lending by MFIs in the Krishna district in AP. Arunachalam (2010) is a good reference to details of this case as well as the later episode of September 2010.

<sup>7</sup>The terms included, among other things, definition of a better code of conduct when dealing with customers, as well as the proposal of the Micro Financial Sector (Development and Regulation) Bill. The bill has been pending in parliament since 2007.

<sup>8</sup>Arunachalam (2010) provides a brief history of the crisis.

<sup>9</sup>Microfinance in India: A bottom of the pyramid (2011). available at: <http://www.legatum.org/attachments/MicrofinanceCrisis.pdf>

<sup>10</sup>Note that actual reporting to MIX Market in December 2011 represented only 56% of MFIs; actual reported Gross Loan Portfolio was INR 13,764 Cr. ((USD 2.81 billion) which would have been a 46% decrease in GLP. See: <http://www.cgdev.org/doc/blog/Roodman%20open%20book/India%20market%20numbers.xlsx>

<sup>11</sup>MIX data for MFI portfolios as of December 31 2011

<sup>12</sup>Reserve Bank of India (2011, January). Report of the sub-committee of the Central Board of directors of Reserve Bank of India to study issues and concerns in the MFI sector. available at <http://www.rbidocs.rbi.org.in/rdocs/PublicationReport/Pdfs/YHMR190111.pdf>.

<sup>13</sup> Business Standard (March 8, 2011). RBI working group under Thorat to study NBFC issues. available at <http://www.business-standard.com/india/news/rbi-work-ing-group-under-thorat-to-study-nbfc-issues/427608/> (retrieved on March 18, 2011).

<sup>14</sup> The Economic Times (April 28, 2011). Microfinance companies needs stable regulation to survive: Fitch. available at [http://articles.economictimes.indiatimes.com/2011-04-28/news/29482804\\_1\\_fitch-microfinance-ompanies-india-s-mfis](http://articles.economictimes.indiatimes.com/2011-04-28/news/29482804_1_fitch-microfinance-ompanies-india-s-mfis) (retrieved on March 13, 2012).

<sup>15</sup>National Bank for Agriculture and Rural Development, Mumbai. [http://www.nabard.org/microfinance/mf\\_institution.asp](http://www.nabard.org/microfinance/mf_institution.asp) (retrieved on March 14, 2012).

<sup>16</sup>Granito, A. (August 2, 2007). Demand for tighter microfinance Bill, neutral regulator. available at <http://www.livemint.com/2007/08/02003258/Demand-for-tighter-microfinanc.html> (retrieved on March 14, 2012)