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## **Access to Finance and Human Rights**

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## Access to Finance and Human Rights

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*“Every poor person must be allowed a fair chance to improve his/her economic condition. This can be easily done by ensuring his/her right to credit. If the existing financial institutions fail to ensure that right, it is the obligation of the state and the world community to help find alternative financial institutions which will guarantee this fundamental human right. This is basic for the economic emancipation of the poor, in general, and poor women, in particular”*

*Muhammad Yunus*

### **Introduction**

The world today is becoming increasingly subject to the control and domination of finance, and the process has culminated into such a state where finance has become all pervading in every walk of human life. It is on account of this that the mantra of financial inclusion has become a buzzword today, and access to adequate and affordable finance has been recognized as an effective tool to realize the objective of inclusive economic growth. Human rights on the other hand have been in the realm of discussion ever since it has been declared by the UN in 1948. We speak of many human rights like right to live, educate and the right to have equal opportunity. But rarely has finance been linked with the whole issue of human rights. This work is an attempt to integrate the field of human right with the issue of access to finance.

### **Access to Finance as a Human Right**

Article 25(1) of the UDHR adopted by the UN in December 1948 enshrines the idea that access to food, shelter, and health constitute basic human rights. As is known access to credit (finance, broadly speaking) is powerful in ensuring food, shelter and health in the modern exchange economy where finance has become all pervading. Right or access to finance, in narrow sense right to credit, is a necessary condition for breaking recurring cycles of poverty. According to Muhammad Yunus, poverty is the absence of all human rights. Hence, there is a case for considering access to finance or credit as a human right.

Right to Financial inclusion or right to credit is a derivative right, a derivative of the right to be free from poverty. Right to financial inclusion is a right to be accepted within a functioning financial system irrespective of one's financial position, and to have access to legitimate financial services such as bank account, saving facilities, and borrowing facilities on reasonable terms. Right to finance or credit is distinguished from other rights like education. For instance, right to education is an empowerment right (enhancement right) as it helps recipients to claim other rights. But, right to financial inclusion is to be reckoned as an 'empowerment right'-a right that empowers people to acquire other rights. Right to life and right against torture are 'maintenance rights' as they are rights not to have one's condition worsened.

Other distinguishing features of right to financial inclusion are;

1. **Conditionality:** Most rights are unconditional like right to education and health. But, right to financial inclusion should be conditional, that is conditional on good conduct, that is, *conduct-sensitive conditionality in financial inclusion*. Conduct means no misuse of funds borrowed, no defaulting on loans, and no over extending (taking out more loans than what one can repay). It does mean that there is the use of character as collateral for loan.
2. **Intrinsic value v/s Instrumental value:** Certain rights like right to education provide something intrinsically valuable. The state of being educated is intrinsically valuable. But financial inclusion has more instrumental value than the intrinsic value.
3. **A duty to exercise:** People have a duty to exercise certain human rights. In the case of financial inclusion as a right, financial services be made available; but it is not compulsory to have and use it.
4. **Primary Duty Bearers:** Who bears the duty to ensure financial inclusion? Financial services are most often offered by private corporate entities rather than government. It may jeopardize the status of financial inclusion as a right.

### **Access to Credit: Should it be a right?**

It is undeniable that access to affordable, adequate and timely credit is a boost to economic development both for developing and developed nations (Hudon, 2007). Credit comes from formal and informal sources. But credit supplied by formal credit appears to be preferable to the households. This being the reality, reports says that approximately more than two billion people lack access to formal credit sources (Holvet, 2004). Having recognized its role in eradicating poverty and making substantial changes in the economic and social life of humanity, the Muhammad Yunus, the pioneer in micro finance and Nobel laureate, has always stood for making access to credit a human right (Hudon, 2007).

The issues of human rights have found resonance in its social and political applications. Recently, rights are increasingly being promoted in development discourses as well (Sen, 2004). Access to right, obviously speaking, is instrumental to ensure other rights especially in a world which is experiencing the process of financialization at a greater pace. But, surprisingly, in the Universal Declaration of Human Rights (UDHR) in 1948 by the United Nations (UN), it is not explicitly mentioned that access to credit or finance in general should be accepted as a human right. People standing against including access to credit as a human right argue that right to credit does not involve the transaction of goods or services and it does not involve the granting of goods and services to all citizens. Credit itself is contractual in nature. It is an instrument transacted in the financial market. Credit stems out of an agreement between two personal, a bilateral agreement, the creditor (lender) and the debtor (borrower). The question then is who would be responsible for ensuring the right. Most likely the lender or the creditor would be unwilling to lend unless he is satisfied with the repayment capacity of the borrower. The price (the interest rate) and the conditions attached to the credit might also result in turning the situation against the borrower. Owing to these reasons, undoubtedly establishing right to credit as legal right becomes a remote impossibility. The only solution to this is to accept the right to credit as moral right in a global right system. But Yunus argues that with the support and intervention of the government right to credit could be made a legal right to some extent. Simply speaking, by right to credit Yunus refers only the right to affordable credit at reasonable interest rates. Broadly, access to financial services means access to affordable financial services at reasonable cost (Kumar, Joshi, Ronchi, & Tzioumis, 2007).

## **Statement of the problem and the Broad Objective**

Against this background the present work titled ‘Access to Finance and Human Rights’ intends to look into the issues of finance from the point of view of regarding it as human rights with the support of empirical data. Right to financial inclusion is a right against financial exclusion. Hence, the present study probes into the extent of financial exclusion among the Scheduled Tribe Communities in Kerala. The specific objectives of the present study are:

## **Research Methodology**

The study is a combination of descriptive and analytical method. Both primary and secondary data have been used in this study. Percentages, tables, crosstabs, figure have been contextually to illustrate things in an understandable manner.

## **What is Financial Exclusion?**

Defining financial exclusion is a very complex and difficult task as many academicians have attempted to define it in divergent ways. One could categorize the definitions under two heads: One is based on banking experts’ perceptions of defining financial exclusion, and the second is based on how the pure and unbiased financial economists define it. The former form of definitions carries a very narrow but technical meaning of financial exclusion that is the people having no bank account are considered as financially excluded whereas the latter defines it from the perspective of an array of financial services. Our study focuses on this latter form of definition. Nevertheless, a detailed account of important definitions of financial exclusion is worthwhile as it helps one to comprehend the broad meaning of this phenomenon.

The term financial exclusion first came into the financial literature in 1993 to describe a situation of limited physical access to banking services on account of bank closures (Sinclair, McHardy, Dobbie, Lindsay, & Gillespie, 2009). It was in 1999 the term financial exclusion began to be used to designate the condition of not having access to mainstream financial services (Kempson & Whyley, 1999). Thus, it is obvious that the term financial exclusion has a broad range of definitions. Research carried out and discussions held among experts lead us to propose the following definition: Financial exclusion refers to a process whereby people encounter difficulties accessing and/or using financial services and products in the

mainstream market that are appropriate to their needs and enable them to lead a normal social life in society to which they belong. The above definition of financial exclusion obviously reveals that financial exclusion is the culmination of a long process of inaccessibility that certain groups of people face in getting access to financial products. Financial exclusion is being viewed as a barrier towards accomplishing the goal of financial inclusion. Viewing from that point, it appears that financial exclusion ‘is a confluence of multiple barriers: lack of access, lack of physical and social infrastructure, lack of understanding and knowledge, lack of technology, lack of support, lack of confidence, among others’ (Rao, 2007). Breaking these barriers is the key to achieve ‘financially inclusive growth’. According to Sinclair (2001), financial exclusion means the inability to access necessary financial services in an appropriate form. Mohan (2006) opined ‘financial exclusion signifies the lack of access by certain segments of society to appropriate, low-cost, fair, and safe financial products and services from mainstream providers’. Similar views were expressed by Thorat (2008) that ‘by financial inclusion we mean the provision of affordable financial services, (viz. access to payments and remittance facilities, savings, loans and insurance services) by the formal financial system to those who tend to be excluded’. Thus, almost all of these definitions emphasise financial exclusion to be the manifestation of a much broader issue of social exclusion of certain societal groups such as the poor and the disadvantaged. For the purpose of this work, we define financial exclusion as a process that fails to ensure the ease of access, availability and usage of the formal financial system for all members of an economy. This definition emphasizes several dimensions of financial exclusion, viz. accessibility, availability and usage of the financial services.

### **Credit Exclusion**

Access to credit is imperative to manage resources to smoothen the effects of different kinds of shocks in one’s life span like income and employment shocks. As far as the tribes are concerned, we know that since they are generally low-income people, they badly require quick credit but of small quantity. The real question is how to address this peculiar credit need of the tribal folk when we experience that formal banking institutions are reluctant to offer short-term credit as it affects their credit operations, probably resulting in high operational costs and consequently low profit levels. ‘Indebtedness’ connotes the meaning that indebted are caught in a plight as they have expenditure surpassing income. This comes out to be a truism as far as the low-income people as the tribes are concerned. Nevertheless, the pertinent issue is how they cope with this

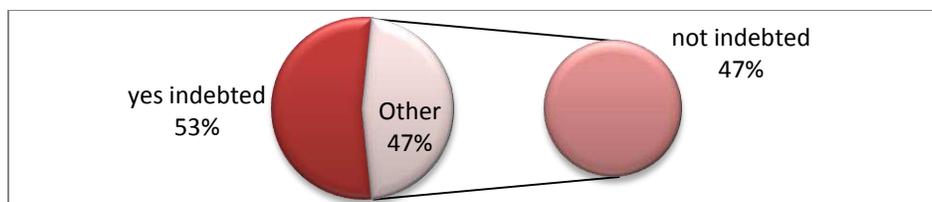
mismatch between expenditure and income. Surely, to bridge the gap they need to rely on short-term money management policies, which can be tackled by way of knocking the doors of credit suppliers, either formal or informal. If they get access to formal credit providers, which normally supply credit at reasonable interest rates, then it is a sign of the fact that the system works to help them to smoothen the occasional short fall in their income, providing much relief to this people. Greater the access to the formal credit modes, greater will be the extent of their inclusion into the financial system.

The story, however, turns out to be precarious when it comes to the informal credit suppliers. Indebtedness is the consequence of overreliance on informal credit sources by the vulnerable low-income people like the tribes when formal credit sources become a bane for them thanks to exclusionary conditions and onerous procedures. This makes credit almost interest inelastic for the vulnerable and disadvantaged, fueling the demand for informal credit even at exorbitant and unjustifiable usury. This high cost of borrowing from ‘non-mainstream sources can lead them (the vulnerable) to a *‘cycle of indebtedness’* (Bridges & Disney, 2004). That said, however, one thing is apparent that if the credit seeker happens to be as ineligible even as to borrow from informal credit sources, then the situation warrants serious rectifications. This is in fact abject exclusion from the credit sources, which may have serious deleterious repercussions on the economic and social well-being of such people. Mostly, tribes being economically and socially backward at least in the eyes of informal credit suppliers, who normally belong to the non-tribe communities, in times of financial trouble they (the tribes) may feel themselves deprived.

**Analysis ; Extent of Credit Exclusion (Both from Formal and Informal Sources)**

Now, we first put forth a pertinent question as to what extent tribes as a whole have been excluded/included in the credit market.

**Figure 6.3 Extent of Credit Exclusion**



Source: Field Survey, 2012.

Only 53 percent of tribe households have been indebted. This apparently shows the extent of credit exclusion among the tribe households in study area. Tribal community wise examination of the status of indebtedness would perhaps provide much insight into the inter tribal variation in credit exclusion. As is evident from the table (Table No.1) households belonging to Kuruma community exhibit the highest percentage of indebtedness whereas it is the lowest among the households under the Adiya community. The high indebtedness in Kuruma tribe stands testimony to the fact that they appear to be creditworthy for both formal and informal credit suppliers. The economic advancement that this tribes is said to have achieved compared to other tribes may also be partly due to the access to credit that this community enjoys over the years. Paniya and Adiya being two backward communities appear to have been excluded from the credit market owing to reasons both economic and social backwardness of these tribes, resulting in their less creditworthiness.

**Table 1 Tribe Community Wise Distribution of Indebtedness**

Status of Indebtedness	Tribal Communities				Total
	Kurichya	Kuruma	Paniya	Adiya	
Yes, indebted	62	52	133	18	265
	(59.60)	(68.40)	(51.00)	(30.50)	(53.00)
Not indebted	42	24	128	41	235
	(40.40)	(31.60)	(49.00)	(69.50)	(47.00)
Total	104	76	261	59	500
	(100)	(100)	(100)	(100)	(100)

Source: Field Survey, 2012 Figures in parenthesis are in percentages

### **Sources of Indebtedness: An Introduction**

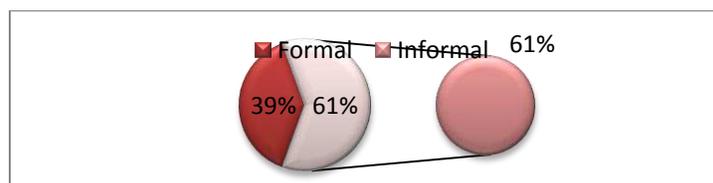
Broadly speaking we could categorize the sources of indebtedness into two: Formal and Informal Sources. Formal sources encompass those financial institutions, which are regulated by the government or those coming under the regulatory framework of RBI. On the other hand, informal sources cover money lenders, money borrowed from relatives and friends ('relational capital' as it is sometimes called) in sense that institutional framework is absent to decide rate and service provisions in respect of these types of credit sources. Access and use of finance originating from formal sources is a good sign of financialization process that a society undergoes. Excessive dependence on informal players in the field of credit supply is normally

reckoned as something, which deteriorates the economic and social well being of people. The difference between formal and informal sources in the credit market lies in the price at which lending takes place. Normally, the credit suppliers in the informal market charge exorbitant and exploitative interest rates whereas regulatory mechanisms act as a watchdog over the charging of interest rate in the formal credit market. Informal borrowers also facilitate ‘**reciprocal lending**’, which is common among the low-income people, where if you pay back the credit today you would be eligible to borrow the same tomorrow (Kempson, Bryson, & Rowlingson, 1994). Thus it is generally held that informal sources of credit quickly responds to the credit demand of the potential borrowers which is said to have given an edge to the informal players over the formal players in the realm of supplying credit especially to disadvantaged segments of society like tribes. Perhaps on account of this, that ‘informal finance still represents a major source of credit for many households’ in India (Carbo, Gardner, & Molyneux, Financial Exclusion, 2005). This is because ‘formal financial institutions are often unable to meet the demand for grassroots credit’ (Tsai, 2004). With this brief note on the formal and informal credit, now we proceed to analyze the picture that emerges in respect of the tribes under our study.

### Sources of Indebtedness

The following figure shows the source wise indebtedness of tribal households. Evidently, 39 percent of all tribal households taken together are indebted to formal sources and 61 percent indebted to informal sources, which are also sometimes designated as ‘*non-status lenders*’ (Carbo, Gardener, & Molyneux,2007) in the literature on financial exclusion. This relatively high extent of indebtedness to the informal system is a pointer to the extent to which tribe households have been excluded from the formal financial institutions.

**Figure 6.4 Sources of Indebtedness**



Source: Field Survey, 2012.

Now, we proceed to analyze whether there is any difference among tribal communities with regard to access to different sources of credit viz. the formal and informal credit. The following table (Table No. 2) throws light into this aspect of our study.

**Table 2. Tribal Wise Distribution of Sources of Indebtedness**

Sources of Indebtedness	Tribal Communities				Total
	Kurichya	Kuruma	Paniya	Adiya	
Formal	26	38	37	2	103
	(41.90)	(73.10)	(27.80)	(11.10)	(38.90)
Informal	36	14	96	16	162
	(58.10)	(26.90)	(72.20)	(88.90)	(61.10)
Total	62	52	133	18	265
	(100)	(100)	(100)	(100)	(100)

Source: Field Survey, 2012.

Analyzing the tribal wise distribution of sources of indebtedness it would be obvious that informal indebtedness is highest among the Adiya households followed by Paniya and Kurichya tribes. This is seldom unusual as these two tribes, Adiya and Paniya, belong to the backward tribal category. Nevertheless, what is startling is the increase in informal indebtedness in the case of Kurichya tribe, a forward tribe in terms of many indices of development. On the other hand, in the case of Kuruma tribe formal indebtedness is substantially high denoting the relative advancement that has been made by this community in respect of accessing credit from formal sources.

### **Informal Sources of Credit**

Generally, the low-income poor households like the tribes borrow frequently from ‘relatives, shopkeepers and fellow villagers’, which constitute the informal source of credit, a ‘significant part of the complex rural financial market’ (Llanto, 1989). It is generally held that the mere existence of formal banks and cooperatives in a locality does not make informal lending unimportant. In India, even in localities where there is a bank branch nearby, only 6.4 percent of borrowing is from banks and cooperatives (Banerjee & Duflo, 2007). The rest undoubtedly depend on informal sources. Among various informal credit sources, we have found three as prominent among the tribal households in our study area: Moneylenders, Self Help Groups, and credit supplied by Relative and Friends or Relational capital (Commission, 2008). Quite

expectedly, the reliance on moneylenders for credit is apparently high (54.3 percent) among all tribal households taken together (Table No. 3) whereas their dependence on relatives and friends constitute near about 30 and 15 percent respectively.

**Table 3 Tribe Wise Distribution of Informal Sources of Credit**

Informal Sources of Credit	Tribal Communities				Total
	Kurichya	Kuruma	Paniya	Adiya	
Money Lenders	38.90	64.3	58.30	56.30	54.30
Others	27.80	21.40	32.30	31.30	30.20
Relatives and Friends	33.30	14.30	9.40	12.50	15.40
Total	100	100	100	100	100

Source: Field Survey, 2012.

The heavy dependence on moneylenders for credit despite the presence of formal banking system poses complex questions on the success and effectiveness of the banks and cooperatives in catering to the peculiar credit requirements of the tribes.

A look at the tribe wise analysis of dependence on various informal sources of credits brings us contrasting pictures. What is of interesting is the fact that moneylenders are heavily relied upon for credit by the Kuruma community, a forward tribe among which the dependence on formal sources has also been found to be substantially high. This implies, to some extent, that economic and social backwardness and cultural inhibitions may not bear any significance in the case of dependence of tribal households on different sources of credit. What deserves to be noted is that it is the need of credit and the credit worthiness, which makes a household indebted to a particular source of credit regardless of whether it is formal or informal. In the case of all tribes, it is revealed, that the dependence on moneylenders as an informal source of credit is high. This stands testimony to the fact that among the credit suppliers particularly the informal credit providers moneylenders traditionally have a distinctive role. This is primarily because they most probably belong to the same locality and this enables them to hurdle the 'information barrier' (Llanto, 1989) which act as a deterrent in credit delivery process as far as the formal payers are concerned.

Thus, it follows from the preceding discussion that tribes in our study seem to be depending on both formal and informal sources of credit, with informal dependence nevertheless surpassing formal dependence. The continued coexistence of formal and informal credit suppliers in the rural credit market apparently shows that the rural credit market is a truly ‘dualistic’ one (Singh & Balishter, 1991). Perhaps because of this realization that the Technical Group constituted by RBI in 2006 had recommended to establish ‘a link between formal and informal credit providers to be called *“Accredited Loan Providers”* for the use of an additional credit delivery channel’ (Thorat, 2008). This is undoubtedly an attempt to legitimize the role of moneylenders in the rural credit market of our country, which may make life troublesome for the disadvantaged rural people like the tribes.

### **Exclusion from the Formal Credit Suppliers**

Tribes are by nature averse to have credit from formal sources as the formality involved in application procedures to seek credit may not appear to be as digestible to the beliefs of tribes as it is to the mainstream population. In our study, we have taken care in examining the extent of exclusion of tribes from the formal credit market.

**Table 4 Extent of Exclusion from the Formal Credit Suppliers**

<b>Status</b>	<b>Frequency</b>	<b>Percent</b>
Excluded From the Formal Credit	397	79.4
Not Excluded from the Formal Credit	103	20.6
Total	500	100

Source: Field Survey, 2012

The results are worth mentioning. As the table reveals, around 79 percent of tribes willingly or unwillingly are denied access to credit from the formal credit providers. This may lead one to arrive at a wrong inference that formal credit institutions are mostly unfriendly towards supplying credit to the tribes, which is, however, incorrect. To elucidate more on this, here we need to borrow two concepts, which have been brilliantly come out of the conceptual clarity of *Prof. Amarty Sen*; they are *Active and Passive Exclusion* (Sen, 2000). The meaning of these two terms has already been elaborated on in a previous section. Yet for a brief recollection, we may touch upon these concepts. Active exclusion, as the name connotes, implies exclusion by the

system, here in this study the formal Credit system, whereas passive exclusion happens when those expected to seek of credit decide not to seek credit from the system, and thus excluded from the formal credit system. In the latter, it is altogether incorrect to find fault with the system, which denies access to credit.

**Table 5 Denial of Credit by the Formal Credit Institutions**

Whether denied credit by formal players	Tribal Communities				Total
	Kurichya	Kuruma	Paniya	Adiya	
Yes (Active Credit Exclusion)	26.90	15.80	10.00	18.60	15.40
Not Denied	25.00	50.00	14.20	3.40	20.60
Never Sought Credit (Passive Credit Exclusion)	48.10	34.20	75.90	78.00	64.00
Total	100	100	100	100	100

Source: Field Survey, 2012.

As is evident from the table Active Credit Exclusion (the ‘Yes Category’) denotes those who have been denied credit by the suppliers citing different reasons like lack of sufficient collateral or the non-existence of scheme. ‘Not denied’ are that who have been given credit by the institutions and is akin to those who have been indebted to the formal sources of finance. The last category titled ‘Never Sought Credit’ are those who have chosen themselves to remain out of the credit supplied by the formal system due to various reasons which are further discussed in another section. It is quite interesting to see that most of the tribes are excluded from the formal credit market not because of any type of active denial by the formal credit institutions but by the decision of the tribes to keep aloof from the ambit of the formal credit. Nearly 36 percent of tribes appear to have sought credit from the formal system whereas only around 16 percent have been denied credit actively by the formal credit suppliers. It appears that 64 percent of tribes have never sought credit from the formal source, which makes them ‘*self excluded*’ (Kempson & Whyley, 1999). Now it is pertinent to look at the reasons for not seeking credit from the formal sources despite the fact that formal system offers credit at reasonable rate of interest and issue of over exploitation at the hands of banks are low compared to the rough behavior of moneylenders, who controls the chunk of informal credit.

## Reasons for not seeking formal credit

From the preceding discussion pertaining to the denial of credit by the formal sources to the tribes, it is evident that 64 percent of tribes have not sought any form of credit from the formal sources. In this section, we attempt to probe into the reasons, which force tribes not to approach formal credit sources for borrowings despite they offer credit seemingly at affordable interest rate.

**Table 6 Reasons for not seeking formal credit**

Reasons for not seeking formal credit	Tribal Communities				Total
	Kurichya	Kuruma	Paniya	Adiya	
No need is felt	12.00	3.80	9.60	8.70	9.40
Lack of Collateral	34.00	26.90	22.20	15.20	23.40
Interest Rate	6.00	11.50	10.60	6.50	9.40
Fear of being debt trapped	14.00	11.50	8.60	15.20	10.60
Psychological Pressure	14.00	7.70	8.60	15.20	10.30
Fear it would be refused	20.00	38.50	40.40	39.10	36.90
Total	100	100	100	100	100

Source: Field Survey, 2012.

### Findings and Conclusion

The study has found that the problem of financial exclusion is rampant among the scheduled tribe communities in Kerala. The problem is more acute among the backward communities like the Paniya and Adiya. The solution to this problem lies in making the formal financial institutions more accessible to the tribe population. This can be done more effectively by making access to finance or credit a human right.

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