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# Should Access to Credit be a Right?

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Discussion on financial ethics increasingly includes the problem of exclusion of the poorer segments of society from the financial system and access to credit. This paper explores the ethical dimensions surrounding the concept of a human right to credit. If access to credit is directly instrumental to economic development, poverty reduction and the improved welfare of all citizens, then one can proclaim, as Nobel Prize Laureate M. Yunus has done, that it is a moral necessity to establish credit as a right. Arguments both supporting and opposing the concept of a right to credit are presented. While there may be general agreement that access to financial services may provide a pathway out of poverty, granting a universal right could induce perverse effects such as overindebtedness. Bearing in mind the ultimate goal of proponents of this right as well as the potential harmful consequences, this paper offers a new perspective on the question of access to credit based on a goal-right system.

JEL Classifications: B0, O16, Q14
Keywords: credit, financial exclusion, human right, justice, microfinance

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## 1) Introduction

Credit is central to the welfare of many citizens and the effective management of the economy in high- and low-income countries. In Belgium, for example, more than 7,1 million credit contracts were registered at the national credit bureau in 2006 by 4,6 million people out of a total population of 10,3 million[1].

In stark contrast to the situation in developed nations is the plight of the poor in developing countries. It is estimated that more than two billion people lack access to formal credit markets[2]. To fill this void, the microfinance movement began in the early 70's, in Bangladesh and Latin America, to provide access to financial services to those who had been previously excluded with the hopes of improving the welfare of these people and their local economies. In recognition of the significant advances to overcome financial exclusion the 2006 Peace Nobel Prize was awarded to M. Yunus and the Grameen Bank "for their efforts to create economic and social development from below". Believing that credit is so central to overcoming poverty, Yunus argues that credit should be a human right. By including this goal at the level of a universal human right, Yunus believes that it will receive critical international recognition and support, and that its lofty position will bring pressure to bear on those who have the responsibility and the authority and the power to take action.

Rights are increasingly promoted in development discourses[3]. While access to credit and other financial services is often mentioned as being instrumental to ensure other stated rights[4], in both the International Covenant on Economic, Social and Cultural rights and the Universal Declaration of Human Rights, there is no clear inference that access to credit should be a right, in and of itself.

Standing in opposition to those seeking to include access to credit as a universal human right, are those with objections and criticisms on several grounds. Unlike most rights, a

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[1] Cfr. National Bank of Belgium (2007)

[2] For an analysis of informal markets and microfinance, see Guérin (2006) or Holvoet (2004)

[3] See, for instance, Sengupta (2000), Gauri (2003), Sen (2004) or Anand (2007).

[4] In 1997, the Sub-Commission on Prevention of Discrimination and Protection of Minorities (currently renamed Sub-Commission on the Promotion and Protection of Human Rights) urged "governments to take increased measures to ensure that the economic and social rights of women were being fully promoted and implemented through their equal access to economic resources, including land, property rights and credit and savings schemes".

right to credit does not grant a good or service for all citizens. It involves a bilateral relationship which begs the question; who would be responsible for fulfilling this right to credit. A right to credit would automatically impose a credit transaction on another party, and in the case of private institutions, they would most likely not be willing to collaborate. The issue of how one right might conflict with another presents a major challenge. Furthermore, access to credit can result in an arduous repayment process that can be very costly for the borrower. The price of microcredits and the related risk of overindebtedness are repeatedly highlighted as potential dangers in the economic and anthropologic literature. These criticisms make the establishment of a legal right to credit very doubtful.

Despite these criticisms on the approach, it is important to take a step back to first acknowledge the widespread international support today, for increasing the outreach and depth of financial services and for improving the welfare and economic development of our world's poorest citizens. The intent of this paper is to suggest an alternative approach to achieving the same goal of universal access to credit. The proposal is to consider access to credit as a moral right in a *goal-right* system. This methodology addresses the concerns of those critical of a universal human right to credit, as well as the aspirations of those in favour.

The structure of the paper is as follows: In the following section, we present the concept of a right to credit and arguments supporting Yunus' appeal to declare access to credit as a fundamental right. The third section addresses the key criticisms and objections to this approach including those put forward by the Libertarians and the Benthamites. Finally, an alternative goal-right approach is proposed which hopes to achieve the shared goal to grant all of the world's people, as Yunus states, "the liberty to unleash one's own potential".

## 2) The Case for Establishing Credit as a Right

Despite the fact that M. Yunus has never published an article in support of his quest to establish credit as a right, we hope to fairly present in this section, his motivation along with arguments supporting his position, based on comments from interviews and lectures.

Before delving into these details, it is important to first explain what Yunus means by a right to access to credit. This involves two points of clarification: whether the right to credit is a moral or legal one; and a clearer interpretation of credit access.

As to the first point, we can assume that Yunus considers a right to credit to be a moral one, based on the consequences of financial exclusion, which will be elaborated upon later in this section. Its existence is not intended to be conditional upon it being legally recognized. Access to credit, as with other moral rights, would not be a right in the strict sense of the word, but rather a moral claim, which may or may not be eventually assimilated into national and international law[5]. This right should exist whether or not they are acknowledged or imposed, and not necessarily "written down" somewhere.

However, not unlike other advocates of human rights, Yunus ultimately seeks legal recognition. Yunus refers to direct government support which would imply a legal right[6]. As Fagan (2006) suggests, human rights could be thought of as being both moral and legal since their legitimacy claims are tied to their status as moral rights.

With regard to the second point, on a clearer interpretation of credit, Yunus believes that a right to credit means a right to affordable (micro)credit in terms of interest rates[7]. Supporting this understanding are other microfinance experts, such as Kumar, who states that "access to financial services generally refers to the availability of quality financial services at reasonable costs" (Kumar et al., 2007).

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[5] On the distinction between legal and moral rights, see Fagan (2006).

[6] "If government is supportive in providing policy-support, micro-credit can ensure access to credit for the remaining poor families of Bangladesh" (Yunus, 2002).

[7] Some surveys (for instance, Dehejia et al;, 2005) also suggest that the interest rate charged by the institution matters since the demand of credit is not fully inelastic. On fairness of interest rates in microfinance, see Hudon (2007).

While such a definition is appealing in its simplicity, one must acknowledge the existing controversy as to what constitutes affordable credit. There is a very thin line separating the "laudable" activities of organisations providing services to financially excluded citizens, and those of moneylenders, who are commonly viewed as "extorting money" from their poor clients. Yunus considers microfinance institutions (MFIs) which charge interest rates greater than the costs of funds plus a 15% margin to be money-lenders (RESULTS, 2006). A case in point, Yunus considers Compartamos, a fast growing but also very controversial MFI in Mexico which charges rates of 100% or more, to be practicing a money lending business[8].

Yunus' primary motivation to establish access to credit as a right is likely to be the increase in recognition and support that such publicity would bring, which would ultimately increase the rate at which the poor would be included into the financial sector. Including access to credit amongst other lofty statements of human rights brings the necessary international exposure and associated pressure to bear on those who have the responsibility, authority, and the power to take action. Increasing the inclusion of the poor in the financial sector leads to the reaslisation of Yunus' ultimate goal – that of overcoming poverty. Yunus regularly states that thanks to microcredit, we could make poverty history and finally open the first museum of poverty (Bruck 2006).

Political philosophers and economists such as A. Sen (1999, p.39) or T. Pogge, include (micro)credit in the list of projects that "augment the capacities of the poor to fend for themselves" (Pogge, 2002, p.9) and which play a role in the eradication of poverty. Since they can greatly influence the economic entitlements that the poor are able to secure, availability and access to finance are core economic facilities in Sen's system of instrumental freedoms (Sen, 1999, p. 39). Rawls (1999, p. 42) even considers credit access as part of a global justice framework. In *The Law of People,* he explains that the parties will formulate, under the veil of ignorance, guidelines for setting up two cooperative organizations, one of these being a central bank to allow borrowing from a cooperative banking system, similarly to the World Bank.

[8] "It is leading microcredit in the moneylenders' direction" (Yunus, 2007).

To further show its efficacy as a tool to overcome poverty, one of the notable characteristics of the microfinance movement has been its focus on women (Mody, 2000). Access to credit for women has been shown to be a key factor in the improvement of household income and may even act as a force of empowerment when combined with other policies (Holvoet, 2004).

We will now turn our attention to the arguments in support of a right to credit. Yunus' opinion that a right to credit is intimately linked with the pursuit of certain other human rights enshrined in the International Covenant on Economic, Social and Cultural Rights (ICESCR). In the first place, Yunus claims that the establishment of a right to credit is critical to the achievement of other basic rights. He states simply that "nobody can get the right to food, to shelter, to education and to health until he creates his or her own income strength" (PBS 2007). If borrowers can create income for themselves, they can take care of the right to food, and the right to shelter. Access to credit offers an effective and efficient instrument which the poor can leverage to achieve these other rights.

Secondly, Yunus' stance is perhaps predicated on the same logic behind the establishment of these other human rights. It is a fair statement to say that poverty denies poor people the access to the basic necessities of life: to food, shelter, healthcare and education. Therefore, improving the welfare of the poor – overcoming poverty – is a goal implied by the pursuit of these other rights. Consider the hypothetical situation in which the poor were to receive better education, healthcare, food and security. While such an outcome is truly desirable, it does not mean that the poor are able to develop their own activities to create a pathway out of poverty. Access to these rights is not sustainable unless the poor are afforded the opportunity to provide these rights for themselves. Establishing credit as a right, alongside these other basic rights, provides a comprehensive set of rights, which is more likely to achieve their ultimate and sustainable fulfillment.

The argument for a right to credit is not restricted to advocates of the microfinance movement, which has historically been driven by a social mission to overcome poverty. Economists and financiers also believe, as we have seen in the Belgian example at the outset of this article, that access to credit is central to the economic development and prosperity of many high income countries. From a macro and micro economic perspective, financial providers, from both the non-profit and for profit sectors are committed to financing economic development and individual productive activities, regardless of their different credit methodologies, norms and values.

Publications by the World Bank confirm the relationship between access to financial services and the classic economic development indicators[9]. On a national level, proponents of a universal access to credit thus consider that credit is instrumental for creating income and advancing development[10]. And, from the point of view of the individuals, borrowers are able to unleash their potential by creating or expanding their own businesses – thanks to credit. There is an added benefit to this economic argument which serves to support Yunus' primary motivation of overcoming poverty. Economic development which encompasses all citizens has been shown to benefit the poor disproportionately, as their incomes grow faster than the average per capita GDP growth (Beck et al., 2006).

A third line of reasoning in support of Yunus' appeal for a right to credit has clear moral overtones. First, consider the socio-economic consequences of financial exclusion of the poor: without access to the opportunities credit can provide, there is little chance that the poor will be able to improve their position. Consider further the previous discussion that access to financial services is an essential tool for development, both at a micro and macro level. A moral response to both of these statements is the need for government action. Yunus' arguments clearly rely on the moral responsibility that the public and financial sectors bear to include all of its citizens[11]. He believes that political and socio-economic effects resulting from the lack of credit access triggers a moral obligation to provide better access to the benefits that financial markets can offer.

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[9] For economic data on these issues, see Beck et al. (2006) or, for a broader perspective Barr et al. (2007). A key limitation to the existing evidence is that it is limited to banking institutions while ignoring other financial service providers, such as microfinance institutions and cooperatives.

[10] One could well theorize a deontological and status-based approach of credit as a right. For instance, Peachey and Roe (2004) consider access to financial services on a similar level as access to basic needs such as safe water, health services, and education. However, even if they would be on the same level as water or education, they are still not likely to value access for itself but only for the benefits it implies. As we will see later, unlike these basic goods, financial services require a more global evaluation since they involve a bilateral relationship and thus important duties for the bearer of the potential right.

[11] He explains that "two-thirds of the world population does not have access to financial services" and that it is "the first thing that we should take care of" (PBS, 2007).

A moral approach to financial markets would argue that society should act so that financial institutions and all citizens should reach agreement to have access to financial services. Incentives, legal duties or (moral) obligations, such as mandating a right to credit, should then be established to reach this goal. Universal financial inclusion would foster more equitable access to opportunities, and as such, it is instrumental for the welfare of all citizens.

A final argument behind Yunus' ambition to establish access to credit as a right is a philosophical one and can be viewed as an addendum to the previous arguments. Following theses lines of reasoning, Yunus concludes that a right to credit is a legitimate and appropriate appeal. We should however assess if existing rights legislation is insufficient to provide for universal access to credit. Economic and social rights have long been discussed[12] and have been addressed in the ICESCR, adopted by the UN General Assembly in 1966. While it is beyond the scope of this paper to present a review of all associated rights, attention could however be drawn to this covenant, as a case in point. In particular, Article 6 of the ICESCR establishes a "right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts". The 'right to work' – what does this mean for the poor and the destitute in developing countries? Work, for most of the world's poor, means self-employment through micro enterprises. Yunus presents an innovative concept of entrepreneurship which includes the poor[13]. Not only is access to affordable credit an essential ingredient for micro enterprises, but Yunus believes that access to credit will also foster and stimulate self-employment creating more opportunities to attain the rights set forth. Yunus believes that the poor are natural entrepreneurs because their business activities are a matter of survival (Bruck 2006). He states that all people are entrepreneurs even if some never discover their talent and direction (Fortune 2006). This emphasis on entrepreneurship creates a need to focus attention on the importance of access to credit.

[12] See, for instance, Eide et al. (1995) or Alston (1992).

[13] Yunus explains: "What is entrepreneurship, after all? Bigness is not the issue. Poor people are the ones who take challenges every day. The guy who sells a hot dog on the street is as much an entrepreneur as anyone else. Getting his $50 loan to start could be as difficult as finding $50 million for someone else" (Fortune, 2006).

But does this covenant provide for universal access to credit? Article 11 of the ICESCR maintains that states must recognize the right to an adequate standard of living. It would follow, therefore, that states are responsible for creating the necessary conditions for these rights to be realised and as such access to credit would be mandated. However, states are allowed and entitled to their own interpretation. Therefore, there is no guarantee that the needs of poor entrepreneurs will be met unless access to credit is established as a specific right to complement a broader understanding of the definition of work which encompasses self-employment. One could thus consider that establishing a right to credit is an imperative if successful implementation of the right to 'work', as stated in Article 6, is to be realised.

A case has now been made for Yunus' advocacy of the establishment of a right to credit. As in all debates and negotiations, a successful solution can be achieved if all parties involved are not only aware of the arguments supporting a proponent's position, but, perhaps, more importantly, are able to truly understand and appreciate the underlying motivation and objectives of those proposing change. Now, it is time to examine the position of those who disagree with Yunus' approach.

## 3) Criticisms and Objections to a Rights-Based Approach

This section will present the primary challenges and objections to the proposition that access to credit should be a right. In the first place, at issue is the Benthamite an Libertarian objections to the concept of human rights, in general, and to the right of credit access, in particular its markedly different characteristics from other human rights. A second objection is in direct response to an argument put forward by the proponents of the right: that of a causal link between access to credit and development. Thirdly, those opposing a right to credit point out the potential negative consequences, including the risks to borrowers from over indebtedness and abusive financial practices by lenders. And finally, from a practical point of view, the infeasibility of granting such a right is addressed and as such the question of whether a right to credit is really a manifesto right..

**The Benthamite and Libertarians Objection to Human Rights**

It is well-know that Bentham has been particularly fierce in his criticism of the notion of human rights. Bentham's famous denunciation of the idea of natural "rights of man", or more generally of natural rights[14], refers to the use of the term of "rights," in its specifically legal interpretation (Sen, 2004). Bentham clearly opposes that there are such things as rights superior to a government's rule of law. He contests these rights which are intended to be imprescriptible and which cannot therefore be abrogated by governments (Schofield et al., 2002).

One could wonder if a Benthamite could even theoretically endorse a human right, a right to credit in this case. It is well-known that rather than natural rights, Bentham favors the use of utility. Sen (2003) however argues that the Benthamite would define human rights as rights, protected by law, which all people ought to have in any organized political society. These rights would promote the aggregate social welfare, understood by Bentham as the net balance of pleasure over pain. One can then imagine that a Benthamite would consider that access to credit should be protected by law since its aggregated welfare effect is positive.

More generally, rather than a universal human right to credit, a Benthamite approach could well try to determine what "makes for the good of the particular community whose interests are at stake", with the government having the responsibility to legislate afterwards in consequence (Schofield et al., 2002). As a follow-up to this definition, we now turn to a related criticism, that of the Libertarians, which is concerned with the impact of the right to credit on lenders.

While Yunus' approach focuses on the moral consequences of financial exclusion, a Libertarian approach stresses the individual rights of the lender (e.g. property rights and personal liberties). They argue that moral rights should only be negative duties refraining people from violating the individual rights of the lender. A right to credit could even violate some positive duties of financial institutions by imposing certain behaviours (i.e. lending to very poor clientele) that they would otherwise not be willing to do. Any moral

[14] Bentham argues that natural laws are the product of the imagination of those who invoke them since anyone may lay down what he pleases (Principles of Legislation, Ch. XIII)

and ethical obligation of the lender or of society to offer financial services to all citizens should therefore be dismissed.

In order to provide universal access to credit, governments in the developing world would have to intervene in order to bolster supply, and such intervention could have harmful results, in terms of distorting the market, as well as questionable success, in terms of achieving its goal. Government intervention, in the first place, is the result of the imperfect nature of credit markets in the developing world. Based on liberty rights[15], one can consider that limited access to credit is the result of an impossible match between the requirements of the demand side of credit and the ability of the supply side to provide.

This situation, which results in financial exclusion of the poor, is the product of behaviours on both sides of demand and supply. For instance, a poor client may not receive a credit offer of any kind, if the lender does not want to lend to this clientele. Alternatively, the offer could be refused by either party if the loan conditions are considered unacceptable. The only price at which an institution would be willing to enter into a credit arrangement, would be too high for its potential clients. In all cases, supply does not meet demand and the result is the same: exclusion from the traditional financial sector. It is therefore a bargaining problem, as the private, and sometimes public institutions, do not have sufficient motivation to provide services to the economically disadvantaged population.

This distinction between the moral approach of credit and the bargaining one of the Libertarian is critical to understanding the differences in the analysis of imperfect markets. If one only supports the bargaining aspect of credit, ethical justifications for a new right to credit are not plausible[16]. A bargaining approach considers that credit will only be given if there is voluntary agreement to enter into the transaction, by both borrower and lender.

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[15] For instance, the protection of private property or even the freedom to dispose of one's natural wealth and resources. See International Covenant on Economic, Social and Cultural Rights, Article 1.

[16] A discussion in 2001 at the Economic and Social Council of the UN reflected the opposition between the two approaches and what they entail. The Independent Expert of the UN, supported by some countries, argued that economic, social and cultural rights are entitlements that require correlated legal duties and obligations, similarly to what we called a *moral* approach. Five other countries, however, oppose that these rights would require duties and obligations, a *bargaining* approach. They argued that 'that States have the primary responsibility for the creation of national conditions favorable to development. The workings of the free market, supported by clear property rights and the rule of law, have proved worldwide to be the best and fastest way to achieve these development goals" (United Nations, 2001).

In the case where supply is limited to private institutions providers, any right to credit would then force agreement by obliging the institution to accept the borrower's position. This would undeniably constrain the credit market and create inefficiencies. A classic Libertarian, such as Nozick, would thus oppose Yunus' moral arguments, and argue that this would distort the process or the market[17] and violate the principle of transfer. Thus, any moral view on the credit transaction, related to redistributive policies, would be misleading and illegitimate.

Furthermore, it is highly questionable whether government intervention could effectively provide uniform access if the event that a right to credit were established. It would mostly depend on how such a moral right is translated into legal rights as part of international and national legislation. The question, as with other human rights (Campbell, 2005), is not only how they would be incorporated into national law and override other national laws which might conflict with them. Translation is likely to be unequal. Some countries would legislate to guarantee access to credit through public or private institutions, or even public-private partnerships. Others would be less interventionist and might focus on establishing a framework to expand access to credit.

**A Right to Credit is Unlike Other Human Rights**

If one considers that human rights are minimal standards[18] and that they are concerned with avoiding unacceptable situations, rather than striving to achieve the best, access to credit is not likely to be part of these standards. Clearly, a large group of academics and experts challenge the urgent need of credit for all. Contrary to most economic rights, a right to credit does not grant a good or service that would be awarded to all citizens. Further, all rights, even the economic, social and cultural ones, are goods that should only impact positively their holder. As we will see shortly, this may not be the case with the use of credit. If there is only a small risk that the right will have very harmful consequences, it would be hardly justifiable to name "right" a policy that could hurt its holders.

[17] The distortion would be small for the traditional financial sector since few financial institutions are offering financial services to this clientele. Nevertheless, if one considers all institutions or individuals offering financial services, including cooperatives and informal lenders, the distortion could be significant.
[18] Henry Shue (1996) suggests that human rights concern the "lower limits on tolerable human conduct" rather than "great aspirations and exalted ideals".

Finally, in credit disbursement as in many (socio-)economic activities, the context and culture of a society matters if ones want to establish a rule or a right. For instance, Supiot (2003) argues that human rights should be appropriated and enriched by practices and values from different societies, rather than imposed from one society's perspective, i.e. a Western one[19]. Establishing interest rate practices as a right, when they are banned in some societies, is an imposition of Western principles on what should be universal values.

In short, credit is not a basic good as uncontroversial as other basic rights such as the minimalist protection against torture or bodily security. While everybody agrees that it is essential to be protected against torture, everybody does not agree that credit is useful for all citizens. As Cohen (2004) argued, it seems desirable that human rights are rights that are accepted by all, even if the religious, philosophical, ethical or political outlooks differ. This is not the case with access to credit as some religions, such as Islam, prohibit the use of interest rates.

Independently from its use, credit may well not be the best instrument to reduce poverty for everyone. Realization of the desirable impact that access to credit can bring is dependant on so many variables. Its effectiveness depends on the characteristics of the borrower and the object of investment. Depending on whether it aims to develop sustainable income-generating activities, repay debts from other loans, buy a house or satisfy some other consumption need[20], access to credit differs and it does not have the same consequences.

Even if microcredits have proven to be successful with some destitute, the very poor have a limited ability to assume risk, and very poor borrowers may become worse off because of business failure. Loans may be suitable in cases where a microenterprise is already profitable and can afford the risk of a loan for business expansion[21]. The next section will expound on the negative consequences related to credit.

[19] Supiot (2003) argues for human rights as "common resources". Taking the example of child labor, the 'common value' is the right of a child to be a child, and to be treated as such, according to their own specific needs and abilities. He argues that a standard of 'decent work' is a much more promising notion than fulminating prohibitions, ignorant of the civilizations at which they are aimed.

[20] See Ngendahayo (2007) and Servet (2006) on this point.

[21] See Hulme and Mosley (1996) and Pretes (2002)

**Potential Negative Consequences of Establishing a Right to Credit**

Similarly to the Libertarian criticism, one may deny that access to credit is so imperative that it should be a right. The current level of access to formal financial services may mirror[22] more basic inequalities in society. In regions where financial exclusion is significant, access to financial services is likely to be an additional inequality in addition to more harsh ones such as security, food and health. Even if the association between some welfare indicators and the access to financial services is highlighted, the direct causality between the two is not yet clearly established until now[23]. It may well be that it is not access to credit that matters but the amelioration of the borrowers' background characteristics that will make them more acceptable to lenders. When the borrower will be empowered, he will more likely be eligible for credit. For instance, access to finance is not a primary good, and if the principles of justice are correctly applied, borrowers will no longer suffer from this situation. If the literacy or education levels would increase, access to credit would also expand since the clients would be more creditworthy for the financial institutions.

An even more stringent criticism than the Libertarian one is related to the consequences of the unconditional use of credit. If not carefully managed, credit can be counterproductive if borrowers are put at increased risk of overidebtedness.

Debts contracted have pushed some borrowers that do not generate sufficiently regular cash-flow into debt-cycling[24]. Credit can involve a repayment scheme that can be very costly for the borrower. Imagine a community of well-trained citizens where all would directly benefit from a very profitable business opportunity if they could invest a small sum of money. Now, consider another community, in a very remote and poor rural area, where entrepreneurs lack access to business opportunities. In the first case, the results could be striking as universal access to credit would allow borrowers to benefit from the profitable opportunity. However, in the second situation where variable and unlikely returns would be insufficient for a typical repayment schedule., a right to credit would be

[22] I am indebted to Kanbur (2004) for this representation.
[23] Khandker (1998), for instance, found that microfinance causes a 5% decrease in the poverty level and an 8% increase in the consumption level. Nevertheless, the economic impact of credit services for the poor on poverty alleviation is still hotly debated by various academics (Armendariz and Morduch, 2005).
[24] See, for instance, Rahman (1999) or Montgomery (2006)

much more controversial if not dangerous Howse (1974) similarly argued that even if credit is necessary at a later stage in a farmer's financial development, credit development almost invariably runs into serious difficulties.

A second issue when considering the potential harmful effects on borrowers is the situation of abusive lending practices. When they are not very competitive, credit markets are even more contentious because of the possible opportunities for abuse. Authorities have also declared that uncompetitive microcredit markets can be dangerous and usurious, such as in India during the summer 2006. They argued that the success of many credit institutions would not only come from the huge demand but also from heavy loan recovery practices. This can bring microfinance institutions dangerously close to the practices of money lenders. Some microfinance institutions charge very high interest rates, as high as 80% to 100%. While these are considered to be microfinance institutions in the financial sector, other actors would consider them as loan sharks.

On a more macro perspective, Immanuel Kant emphasized the dangers on the use of credit. He warned the countries against the use of credit "as an opposing machine in the antagonism of powers" (Kant, 1795). In his Perpetual Peace: A Philosophical Sketch, the fourth step that should be taken immediately to get perpetual peace is that national debts shall not be contracted with a view to the external friction of states:

"As an opposing machine in the antagonism of powers, a credit system which grows beyond sight and which is yet a safe debt for the present requirements — because all the creditors do not require payment at one time — constitutes a dangerous money power. (…) Therefore, to forbid this credit system must be a preliminary article of perpetual peace all the more because it must eventually entangle many innocent states in the inevitable bankruptcy and openly harm them." Kant (1795)

After a review of the potential negative consequences related to a right to credit, we will now turn to two final criticsms: the allocation of responsibilities and the unrealistic goal of providing universal access to credit. These two dimensions are key characteristics of what are referred to as "manifesto rights".

**Is the right to credit a "manifesto right"?**

Even if we agree on the need for universal access to credit, critics may dismiss such a right as a "manifesto right" as it lacks two key characteristics of other economic and social rights (Pogge, 2002). The **first** one is a clear allocation of duties amongst those parties responsible for ensuring that all rightholders have secure access to the object of the right. This characteristic can be related to what Sen (2004) calls the institutionalization critique of human right. The Benthamite conception of a legal right similarly requires organized political institutions to fulfill this right along with laws that necessitate political authority (Sen, 2003). The distribution of responsibility between the different (public or private) financial institutions should be clearly specified. If not there is a clear risk that the poor living in remote areas will not have access.

Even Yunus is skeptical of the distribution of responsibilities for many economic and social rights. While the right to food and the right to shelter are clearly established, Yunus wonders who will provide for the hungry and the homeless.[25]. One can use this very argument against his proposal for a right to credit. Despite the good intentions of governments, how many people can they reach. Credit is a contractual relationship but who would be responsible for providing the credit to the poor?

Establishing a legal right to credit is much more difficult because of the need for an institutional counterpart to provide financial services. If one accepts that access to affordable credit is sufficiently important to be established as a right, one also has to be able to claim one's right against a counterpart. There must be an existing institutional framework against which a right can be claimed. In contrast with education, political rights or basic health, for which there are direct and free access rights, credit is not provided primarily by public institutions. The problem of establishing a private infrastructure is even more difficult as most traditional financial institutions do not trust the repayment capacities of the poor. Even if some commercial institutions are slowly

[25] In an interview Yunus explains: "Well, we have a list of human rights—right to food, right to shelter, right to health, right to education, many such items which are considered and accepted as bill of rights. These are to be insured to people. So all nations, all societies try to do that. And who is going to bring food to a person who is hungry? Who is going to bring the shelter to a homeless person? Of course you say, government should do it. And even if government tried its best, how many are they going to reach?" (PBS, 2007).

entering the microfinance market[26], many are still likely to refuse to lend to poor citizens without collateral.

The **second** characteristic of a manifesto right is how unrealistic it is for those responsible for providing credit to meet these demands so that all rightholders have secure access to credit. It can also be related to what Sen (2004) calls the feasibility critiques of human rights. There is indeed a risk that the institutions, which are in charge of the realization of the right to credit, will not be able to fulfill their role. Similarly to the lack of counterpart, this objecting to the establishment of a right to credit argue that the right would hardly be legally enforceable and if not directly actionable, a right to credit would be worthless. Immediate access to credit for all seems not feasible, at least in the short term.

## 4) An Alternate Approach: A Goal-Right System to Credit

Now that the position of each side of the debate for and against the establishment of a right to credit has been described, how do we move forward? An important first step is to recognise the criticisms and challenges and the potential difficulties and negative consequences. Acknowledging limitations does not mean that M. Yunus should not continue in his pursuit for a universal right to credit. On the contrary, by clearly stating the potential risks, and offering creative approaches and responses, it will bring even more credibility to those who champion his cause.

I will describe in this section an alternate approach to achieving the same objective of increasing financial inclusion of the poor. That approach would be to consider universal access to credit as a moral right in a goal rights system[27] as described by Sen (1982). In such a system, human rights can be coherent and meaningful even if the immediate and

[26] Most commercial institutions entering the microfinance market focus on the higher end of the market, those better-off among the poor.

[27] Sen defines a goal-right system as "a moral system in which fulfillment and non-realization of the rights are included among the goals, incorporated in the evaluation of state of affairs, and then applied to the choice of actions through consequentialist links" (Sen, 1982, p. 15).

full realization of this right is not possible (Sen, 2004). This approach would address both some of the needs and concerns of those on both sides of the debate.

The criticisms on the vagueness of credit use, and the related risks to borrowers, are essential in the evaluation of the right. Clearly, the real purpose of a right to credit would be to empower the poor through the development of productive activities for borrowers. A possible response in a rights-based framework to the challenges on the credit universalism would prioritize some specific rights based on the country profile as the UNDP does[28]. Credit would be prioritized if the current sector contains monopolistic institutions or if there are sufficient markets and margins to ensure that it provides a positive impact. The goal-right would also clarify that credit should be affordable. The impacy credit will have is dependant on the cost of service, the interest rate applied and the associated fees.

A goal-right to credit would not be a binding constraint but rather a high priority goal. In line with Pogge's institutional understanding of human rights (Pogge, 2002), the responsibility of governments and financial institutions would be to work for an institutional order that ensures that everyone has secure access to credit. Rather than a traditional legal right that is practically impossible, the duties would fall upon all those who participate in the socio-economic framework. It is their collective responsibility to structure the financial system so that all have secure access to credit. This approach offers a flexible approach to implementation, in order to accommodate the different cultural and economic contexts. (Pogge, 2002).

Goals classified as goal-rights[29] would be consistent even if their full realization is not readily achievable. This is preferable to the imposition of radical actions which would be required to achieve the establishment of a right to credit. The objectives of a goal-right would be incorporated in the evaluation of state affairs. Furthermore, a goal right system allows for conflict and limitations when goal fulfillments are not mutually compatible[30].

[28] See Nyamu-Musembi and Cornwall (2004) for an analysis of the rights-based approach of multilateral donors.
[29] See also Pogge (2002), Gauri (2003) or Nickel (2006).
[30] See Sen (2004) and Wizard (2006)

This would satisfy some of the concerns of those objecting to a credit right. Institutions need not already exist since the goal-right aims to change the institutions. A first step would be to prohibit discrimination against citizens in terms of access to financial services based on elements in our existing system of rights. If the reason for rejection is related to certain elements that do not fulfill our principles of justice, such as the caste of a client, then the institution would be obliged to change its policy.

One may criticize, however, this pragmatic approach and argue that such a right someway loses the degree of absolute inviolability and urgency that a universal human right would impose. Imagine a government arguing that if all citizens get access to credit, some other right, such as food, education or housing, should not be prioritized anymore since they could be fostered through credits. The status of credit as a right requires that it is not the citizen's responsibility to acquire the good but that the whole of society, led by governmental policy and legislation, should strive for its provision[31].

The different actors involved with the financial system would focus on all of the elements that account for financial exclusions[32]. Each member of society would in someway be responsible for creating a favorable disposition toward enabling access to credit. A positive and active role should be given to a group responsible for the fulfillment of the right. The responsibilities would be allocated between financial institutions, which are no longer able to exclude the poor, and governments which should subsidize the delivery of credit services to clients who are not likely to be reached by commercial players. A key challenge is to design efficient governance mechanisms to fulfill this goal[33].

## 5) Conclusion

Access to credit is today acknowledged as a major constraint by most entrepreneurs in low-income countries. Yunus claims that the establishment of a right to credit is critical to poverty reduction and the achievement of other basic rights. If borrowers can create

[31] The enforcement is of course difficult to control. In a democratic society, the vote is a major control mechanism or incentive to work on these rights. States which have ratified the International Covenant on Economic and Social Rights must also submit reports on their activities and the steps taken to guarantee the rights. Alternatively, political pressure can be applied, as it is regularly done for political rights.
[32] See Pogge (2002) for a similar approach but on global poverty.
[33] See Anand (2007) for a similar discussion of governance mechanisms to improve access to water.

income for themselves, they can take care of the right to food, and the right to shelter. Recent evidence indeed suggests that access to credit is instrumental to economic development, which makes it a "candidate" for being a right. Moreover, even if some rights, such as the right to work, indirectly address access to credit, no direct right to credit is listed as an economic right.

Many cricticisms can however be presented against a right to credit. A Libertarian would certainly decry the opposability of this right and the market distortion from government intervention. Furthermore, the impact of credit depends on several elements, such as the credit use, the type of activity and the wealth of the borrower. An indistinct right to credit underestimates all financial and organizational constraints that it would require. The difficulty of how to allocate responsibilities across the various financial actors makes it also less likely to be efficient. One can then challenge the opportunity to establish credit as a right since its instrumental effect is not unconditionally successful.

Acknowledging these limitations does not mean that all elements or statements related to the right to credit are unsupported. Rather than a blind right to credit, we support a goal-right system taking into account the important elements necessary to achieve both the positive impact of credit as well as minimising its potential harmful consequences. In such a system, a combination of actors would be responsible for working toward the goal of universal access to credit. This approach also addresses, at least theoretically, the challenge of the opposability of the right and the concerns of those responsible for the provision of credit. By clearly stating the potential risks, and offering creative approaches and responses, a goal-right will bring even more credibility to those who champion Yunus' cause.

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