

Briefing Paper

Is there a human right to microcredit?

According to the 2006 Nobel laureate, Muhammad Yunus, there is a human right to credit. In particular, Yunus thinks there is a right to the kind of credit that can enable the very poor to start small-scale commercial enterprises. Or, in other words, he believes in a human right to microfinance. To see whether Yunus is right, it helps to examine the following argument: extreme poverty—daily income under what \$2 would have bought in 2001-- is a human rights violation; microcredit is an effective way of alleviating extreme poverty; various banks are easily able to introduce microcredit schemes; so they ought to do so, and they do something wrong --violate a human right—if they fail to do so.

Part of the attraction of the argument is that it connects the urgency of the need to respond to extreme poverty with the widely recognized authority of human rights both as a concept and as international institutional machinery. Failure to respect human rights is widely thought to be morally wrong, and if the argument about credit works, then extra force is added to requests for any sort of financial help from the extremely poor. Extra force *should* be added to requests for help from the extremely poor, especially the poorest in the world. The argument for a human right to credit, however, does not readily cohere with other sound human rights arguments.

Although the poorest in the world are treated unjustly by those who can well afford to help and choose not to do so, the concept of a human right is not necessarily well suited to express this claim. The concept of a human right is the concept of a minimum standard for the treatment of people by institutions, including, centrally, nation states. Institutions rather than individuals are the targets of human rights claims, because individuals join together to form institutions and submit to them in ways that make institutions more powerful than

individuals. ‘More powerful’ means more capable than typical individuals acting alone of significantly benefiting or harming individuals. The institutions in question need not be states –the paradigm duty-holders in human rights law—but neither can the duty and rights holders be individuals in general; otherwise all failures to discharge moral duties might count as human rights violations.

To understand the point of calling extreme poverty a human rights violation --as opposed to a wrong or an injustice-- it is important to find common ground between the concept of a human right and what the central legal instruments and institutions of the global human rights movement call a human right. In the case of extreme poverty, this does not at first appear to be difficult. One of the two principal human rights treaties –the International Covenant on Economic, Cultural and Social Rights (ICESCR) – refers to many aspects of poverty in a single provision. Article 11 of ICESCR recognizes the right of:

everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions.

On a natural interpretation of Article 11 and the consequences of life on \$2 per day or less, there is an Article 11 right to be spared extreme poverty.

As of December 2010 there were 160 parties to ICESCR out of around 190 sovereign states in the world. The parties (plus a few signatories who have not reached the ratification stage) include very nearly all African countries,¹ all of Latin America and most of Asia, or in other words, most of the poorest countries in the world, as well as all of the richest. Since Article 11 obligations are likely to be unmet in most of the poorest countries, and since countries that are party to ICESCR probably contain most of the world’s extremely poor by the measure of people with income under \$2 per day or landlessness, we need not resort to moral philosophy for the makings of a rights violation constituted by extreme poverty. On the contrary, extreme poverty in state parties to ICESCR will suffice for an Article 11 human rights violation. Things are less clear, however, for extreme poverty in states that are *not* party to ICESCR. Although in those states the extremely poor may suffer injustice at the

¹ Neither Botswana nor Mozambique are party to the treaty.

hands of governments who could do more for them, or fellow citizens who refuse to pay taxes that could pay for basic food and shelter, it is not clear that their extreme poverty counts legally in those jurisdictions as a human rights violation.

In any case, it is not clear that microcredit would help to remedy extreme poverty. The empirical evidence does not establish firmly that microfinance is a reliable means of alleviating it. Furthermore, even if it were, in some of its more common forms it seems to involve coercive and stigmatizing practices to prevent default, as well as high interest rates, and these things offset its benefits. Microcredit often involves lending to individuals who share liability for repayments with a larger “solidarity” group of five or six people. This set up often produces pressure on individual members of a group who have difficulty repaying, with the result that defaulters –already disadvantaged by their poverty-- feel like social outcasts as well. Interest charges to members of solidarity groups are typically also high (around 35 per cent), and much higher than those charged to those who are richer and eligible for conventional banking services.

It might be thought that some of these problems could be met with subsidies that allowed for lower interest rates or interest-free loans. But whether even interest-free loans are appropriate for the poorest depends on whether *loans* are appropriate. BRAC, an active MFI but primarily an NGO, has come to the conclusion that for the poorest in Bangladesh, loans are not a *starting point* for poverty reduction, but rather an intermediate step in poverty reduction that the poorest have to be prepared for. The first step in helping those with nothing may be a donation (of food, money or some other good) rather than any kind of loan.

Finally, existing microfinance providers are typically not among the kinds of institutions that are recognized as being human rights duty bearers in either the hard or soft law of human rights. This does not mean that they do not have moral opportunities to relieve poverty above extreme poverty, or even opportunities to subsidize the relief of extreme poverty through means other than credit. What is doubtful is that the concept or machinery of human rights fits these opportunities.

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