

Abstract

Microfinance is one of the key tools of financial inclusion, instrumental in uplifting the livelihood of the underserved and less privileged by way of attracting them to the formal banking segment. The social impact of microfinance is very much significant as against the monetary value of the business, thus lot of microfinance providers are in action in Sri Lanka for past few years. As a consequence of the market oriented system the demand for microfinance has been very much higher, since the majority of the LCBs and NBFIs are focusing on the upper segment of the population whereby the lower layer of the society has not been adequately served. Nevertheless, a little number of players, who are willing to cater the segment has a challenge in sustaining the business due to the inherent nature of the industry of defaulting loans. This has paved the way for the lending institutions to outsource the debt portfolios to some less qualified individuals such as the ex-police and army personnel for recovery, whereby un necessary and un ethical recovery practices are inevitable.

This situation has recently become a social dilemma, nearly two hundred rural poor borrowers have committed suicide, leaving legal scholars a lacuna to research about the root cause. One such possible cause for this issue could be the weakness of the legitimate remedies for the loan defaults whereby the parties are reluctantly compelling to pursue unlawful acts. This issue has two dimensions, one is the borrower's vulnerability to enter in to an unfair contract, due to his financial illiteracy, and the social deficiency, thereby the legal recourse and its consequence could not be seen as a possible threat. The next is that the lending institution having an on-going motive with profits would try to cut it short, but making un lawful pressure rather than relying on the legitimate recovery mechanisms available.

Effort of this research is to bring the both parties to a centre point by suggesting a neutral but efficient method of debt recovery by simple amendment to the existing laws.