

ARTICLES

GRAMEENCREDIT: ONE SOLUTION FOR POVERTY, BUT MAYBE NOT IN EVERY COUNTRY

Courtney L. Gould†

ABSTRACT

Nobel Prize winner Muhammed Yunus founded the Grameen Bank as an uncollateralized microcredit lender to impoverished borrowers because he thought you could trust all poor people to pay loans back. His “Grameencredit” tactics, combined with the Bank’s goal of elevating the status of the poor through providing business opportunities, epitomizes the “social entrepreneurialism” intention of community economic development (“CED”). But can the borrowing practices of Grameencredit employed in Asian village communities can be successfully transferred to different environments such as the U.S.?

This paper provides a brief description of the economic, legal, and cultural factors in Bangladesh and other developing Asian countries that shaped the concept of Grameencredit, summarizes the history of microcredit within the U.S., compares the environment in developing Asian countries against the U.S., and examines why differences between the two environments present obstacles to direct transfer and successful application of the Grameencredit model.

This paper argues that many of the obstacles to transferring the Grameencredit model specifically and microcredit generally to the U.S. marketplace are not easily corrected through changes to

† Attorney, O’Melveny & Myers LLP. J.D., UCLA School of Law, 2010; Semester Certificate, Tsinghua University LL.M. Program, 2009; B.S., Vanderbilt University, 2007. I would like to thank Mr. Ben Beach for his instruction in the Community Economic Development discipline, the UCLA Pacific Basin Law Journal for their thoughtful improvements to this piece, and Mr. Isaac Miller for his excellent draft edits and constant support.

the models alone. Barriers of competition, licensing, and threats of liability are factors that Grameencredit does not face in developing Asia, its formative environment. Simple attempts to address these barriers such as adjustments in loan size are made alter the intended use for the loan and change the nature of the financing service. Coupled with the significantly different credit needs of impoverished Americans, as compared to the borrowers in developing countries, the usefulness of microcredit as a CED program in the U.S. becomes questionable.]

TABLE OF CONTENTS

I. INTRODUCTION	2
II. ORIGINS OF MICROCREDIT: THE ENVIRONMENT WITHIN DEVELOPING COUNTRIES OF ASIA AND THE SOLUTIONS OFFERED BY THE GRAMEEN BANK	4
A. ECONOMIC, POLITICAL, AND CULTURAL LANDSCAPE IN DEVELOPING ASIAN COMMUNITIES.....	4
B. GRAMEENCREDIT: ONE SUCCESSFUL FORMAT FOR MICROCREDIT.....	7
III. BRIEF OVERVIEW OF MICROCREDIT OPERATIONS IN THE U.S.	9
IV. CONCERNS WITH DIRECT TRANSFER OF SEA METHODS TO THE UNITED STATES ...	12
A. BARRIERS TO ACCESSING MARKETS IN THE U.S.....	12
i. <i>Competition</i>	13
ii. <i>Licensing and Administrative Fees</i>	14
iii. <i>Threat of Liability</i>	15
B. DIFFERENCES IN CREDIT NEEDS	18
i. <i>Access to Credit</i>	18
ii. <i>Differences in loan amount and intended uses</i>	18
C. DIFFERENCES IN CULTURAL NORMS REGARDING GROUPS	20
V. CONCLUSIONS AND RECOMMENDATIONS FOR ALTERATION TO THE U.S.....	22

I. INTRODUCTION

Based on the philosophy that “poor people are the same everywhere, and that you can always trust them to pay back,” Nobel Prize winner Muhammed Yunus founded the Grameen Bank as an uncollateralized microcredit lender to impoverished borrowers for self-employment and income-generating pur-

poses.¹ The Bank's form of microcredit, referred to as "Grameencredit," involves making very small loans² to a borrower group, who then decides which member of the group will receive the loan and utilizes peer pressure to ensure that the recipient's business operates efficiently and payments are made on time.³ This active approach to community lending, combined with the Bank's goal of elevating the status of the poor through providing business opportunities, epitomizes the "social entrepreneurialism" intention of community economic development ("CED").⁴

CED initiatives function best when they are the product of the local cultural, political and legal structure, and reflect the present economic situation of the area where the initiative is to be implemented.⁵ As such, it is highly questionable whether the borrowing practices of Grameencredit employed in Asian village communities can be successfully transferred to different environments such as the U.S. which possess different cultural norms, liability schemes, and levels of urbanization.⁶

Part II of this paper provides a brief description of the economic, legal, and cultural factors in Bangladesh and other developing Asian countries that shaped the concept of Grameencredit. Part III summarizes the history of microcredit within the U.S., with a particular focus on the successes and failures of the various microcredit models. Part IV compares the environment in developing Asian countries against the U.S. in terms of the economic, legal, and cultural setting that shaped Grameencredit, and examines why differences between the two environments present obstacles to direct transfer and successful application of the Grameencredit model. Finally, Part V draws conclusions regard-

1. Lewis D. Solomon, *Microenterprise: Human Reconstruction in America's Inner Cities*, 15 HARV. J. L. & PUB. POL'Y. 191, 194-95 (1992).

2. In 2004, the average microloan made in Bangladesh was for \$65 USD. STEPHANIE CHARITONENKO, ANITA CAMPION & NIMAL A. FERNANDO, *COMMERCIALIZATION OF MICROFINANCE PERSPECTIVES FROM SOUTH AND SOUTHEAST ASIA* 29 (Asian Development Bank 2004).

3. Grameen Bank: What is Microcredit?, <http://www.grameen.com/> (under "Quick Links" follow "What is Microcredit?" hyperlink) (last visited Mar. 29, 2010). The term "Grameencredit" will be used throughout this paper to denote the Grameen model of microcredit as opposed to the concept of microcredit generally.

4. See generally, William H. Simon, *The Community Economic Development Movement*, 2002 WIS. L. REV. 377.

5. See *id.* at 378-80.

6. Some authors suggest the U.S. regulatory regime requires reform in order for any form of microcredit lending to occur there because of the restrictions on banking. See, e.g., Molly Richardson, *Increasing Microlending Potential in the United States Through a Strategic Approach to Regulatory Reform*, 34 J. CORP. L. 923 (2009). The focus of this paper will be on the transferability of the borrowing practices used by the Grameen Bank, such as group-lending circles, to the U.S. environment.

ing Grameencredit's likelihood of success in the U.S. and provides suggestions for how to best accomplish the goal of self-employment and entrepreneurship among low-income Americans.

II. ORIGINS OF MICROCREDIT: THE ENVIRONMENT WITHIN DEVELOPING COUNTRIES OF ASIA AND THE SOLUTIONS OFFERED BY THE GRAMEEN BANK

A. ECONOMIC, POLITICAL, AND CULTURAL LANDSCAPE IN DEVELOPING ASIAN COMMUNITIES

Despite the rapid economic growth Asia has experienced over the last few decades, the region is still home to more than 70 percent of the total population of impoverished persons worldwide.⁷ This imbalance is reflected in Asia's overall level of social development, which is only one rank above Africa, the least developed region.⁸

The lack of social development in South and Southeast Asia arises from a variety of factors. In contrast to highly developed counterparts in East Asia – namely, Japan and large cities in the People's Republic of China – Southeast Asia has a relatively low population density.⁹ Additionally, South and Southeast Asian countries are hindered by a comparative lack of resources.¹⁰ Indeed, without access to capital, the employment opportunities for inhabitants of impoverished regions in South and Southeast Asia are generally limited to subsistence agriculture and unskilled labor.¹¹ Moreover, as is characteristic of many of the poorest areas of the world, even low paying work is often not available.¹²

7. Richard J. Estes, *Social Development Trends in Asia, 1970-1994: The Challenges of a New Century*, SOC. INDICATORS RES., Feb. 1996, at 119, 146. The Per Capita (p.c.) GNP for the poorest countries within South and Southeast Asia are: Bangladesh, \$220 p.c.; Laos, PDR, \$250 p.c.; Myanmar, \$220 p.c. Each of these countries is officially classified by the United Nations as "Least Developing." *Id.* at 129-30. The focus of this article will be on the impoverished of Asia, generally located within South and Southeast Asia but also encompassing rural China and Mongolia.

8. *Id.* at 133.

9. Robert H. Moorman & Gerald L. Blakely, *Individualism-Collectivism as an Individual Difference Predictor of Organizational Citizenship*, 16 J. ORG. BEHAVIOR 127, 129 (Mar. 1995) (citing the influential work of Hofstede, the pioneer of the Geert Hofstede cultural dimensions, to establish this dimension as a fundamental distinction between cultures). As will be discussed *infra* in Part IV, the U.S. is the oft cited example of an individualistic culture.

10. See Estes, *supra* note 7, at 137.

11. Joseph P. Kaboski & Robert M. Townsend, *Policies and Impact: An Analysis of Village-Level Microfinance Institutions*, J. EUR. ECON. ASS'N, Mar. 2005 at 1, 5.

12. Estes, *supra* note 7, at 143.

Social development in South and Southeast Asia has been significantly hindered by a history of war and internal unrest.¹³ Many of these countries were colonies until recently, and thus subject to political and economic domination by the West.¹⁴ As a result of the instability caused by internal and external conflict and a history of foreign domination, the political systems of the developing Asian countries are primarily communist in name, but ruled by authoritarian regimes.¹⁵ The population tolerates such regimes, although riddled with corruption and inadequate governance, as “necessary lubricants of the system.”¹⁶ As a direct result of the corruption, however, justice is frequently unobtainable through the limited legal systems that exist in these states.¹⁷ Moreover, public services such as social security, welfare, and general infrastructure support are practically nonexistent.¹⁸

Given this state of affairs, the impoverished people of South and Southeast Asia have come to depend on community ties for private solutions to their economic and legal needs.¹⁹ Strong cultural norms of cooperation may be the sole reason these communities survive, particularly during war and after disasters such as tsunamis and earthquakes.²⁰ Behavioral psychologists and sociologists widely recognize the culture of Asian societies as being collectivist, rather than individualist, in orientation.²¹ A collec-

13. *Id.* at 137.

14. *Id.* Examples of previous colonies held within the region include: the French colonies of Laos, Vietnam, Cambodia and the British colonies of Brunei, Samoa, and the Philippines.

15. Multhiah Alagappa, *CIVIL SOCIETY AND POLITICAL CHANGE IN ASIA: EXPANDING AND CONTRACTING DEMOCRATIC SPACE* 17 (2004).

16. See generally, *FIGHTING CORRUPTION IN ASIA: CAUSES, EFFECTS, AND REMEDIES* (John Kidd et al. eds., 2003).

17. See Clay Wescott, *Combating Corruption in Southeast Asia*, in *FIGHTING CORRUPTION IN ASIA: CAUSES, EFFECTS, AND REMEDIES* 237, 262 (John Kidd et al., eds., 2003). Wescott cites one example from Vietnam. He asserts Vietnam’s inadequate institutional framework for effective law enforcement, especially with regard to the quality and independence of trials, allows for continuation of widespread corruption. *Id.* at 262-63.

18. *Id.* at 237-40.

19. Estes, *supra* note 7, at 143.

20. See generally Douglas Paton, *Preparing for and Responding to Adverse Events: Perspectives on natural and political hazards*, 1 *AUSTL. J. DISASTER* 1, 1 (2005) (citing the Boxing Day tsunami as an example of how collectivist cultures experience and respond to stress interdependently).

21. John A. Wagner III, *Studies of Individualism-Collectivism: Effects on Cooperation in Groups*, 38 *ACAD. MGMT J.* 152, 154 (1995). There is substantial speculation as to the origin of the individualist-collectivist distinction in societies; scholars suggest lower levels of political development and wealth coupled with homogeneous population might be the cause of the cooperative nature of society observed throughout developing Asia. *Id.* at 153; *Cf.*, Moorman & Blakely, *supra* note 9, at 129. Moorman and Blakely assert that both individualist- and collectivist-oriented

tivist mindset values the well-being of the group over any personal interests. As one sociologist states, “a driving force within a collectivistic culture is cooperation so as to attain group goals and safeguard welfare.”²² In fact, this mentality is so deeply rooted in collectivists that collectivism is “the definition of self they adopt,” such that the conception of “self” is premised upon the group one belongs to, rather than the personality or individuality of the person.²³

Similarly important in a collectivist culture is the acceptability of open chastisement, critique, and comment from others within a given community.²⁴ Though this behavior at first glance might seem to run contrary to the cooperative nature of collectivism, conformity and lack of criticism are actually characteristic of a group composed of individualists:

[A]n individualist acts as though he or she defines self as an entity consisting of a single person, bounded by his or her skin, but a collectivist acts as if he or she defines self as an entity extending beyond the individual to include a particular group of others, bounded by the social perimeter of that group. Thus, selfishness for an individualist implies attention to personal pursuits and inattention to group interests, but selfishness defined in the manner of a collectivist connotes attention to group interests and inattention to personal desires.²⁵

This “busy body” mentality, for lack of a better descriptor, is inherent in the collectivist mindset as part of good group membership. Given the close quarters of life within a village or urban ghetto, group members can easily acquire knowledge of other members’ actions.²⁶ This living situation promotes identifiability, or lack of anonymity, for the individual.²⁷ Studies suggest that identifiability is positively correlated with cooperation, primarily out of the fear of ostracism from the community if caught acting against the community’s interest.²⁸

individuals can exist within a single culture, and that cultures labeled individualistic or collectivistic are cultures in which the majority of individuals share the same individual orientation as opposed to cultural orientation.

22. P. Christopher Earley, *Social Loafing and Collectivism: A Comparison of the United States and the People’s Republic of China*, 34 ADMIN. SCI. Q., 565, 565 (1989).

23. Wagner, *supra* note 21, at 158.

24. *See id.* at 154.

25. *Id.*

26. *See* Solomon, *supra* note 1, at 197.

27. Wagner, *supra* note 21, at 167.

28. *Id.* Wagner’s study found that identifiability improved cooperation within a group regardless of whether the individual was oriented as individualist or collectivist. *Id.* The implications of this with regard to the application of the Grameen group-lending model within the U.S. will be discussed in Parts III and IV.

B. GRAMEENCREDIT: ONE SUCCESSFUL FORMAT FOR MICROCREDIT

Born in a Bangladeshi village, Grameen Bank founder Muhammed Yunus grew up immersed in the culture and the economic problems of South Asia outlined above. Consequently, the principles of Grameencredit incorporated the collectivist norms from Yunus' background.²⁹ The poverty and barriers to accessing credit inspired Yunus to find a way to lend the very small amount of money necessary to "give landless peasants the opportunity to purchase their own tools, equipment, or other necessary means of production and embark on income-generating ventures" by employing the skills the borrowers already possess.³⁰ Yunus was intent on the fact that the aid instrument should not be a charitable donation but rather a loan that must be repaid.³¹ Yet, he knew that villagers could not initially meet the typical loan requirements of existing credit structures, such as collateral, established credit, or contractual guarantees.³²

A loan of just \$27 USD to a group of women for a bamboo furniture business was the first of many small loans that led to the establishment of the Grameen Bank, a nongovernmental organization, in Bangladesh in 1983.³³ Today, the bank cites a 97 percent loan repayment rate,³⁴ and credits this high level of repayment primarily to its group-lending structure.³⁵

29. Additional evidence is available within the 16 [Sixteen] Decisions, intended to be a mantra of Grameen's borrower groups. All of the statements utilize the pronoun "we" as opposed to "I"; many of the decisions rest on collectivist practices, including participating in discipline as a community; and two of the decision specifically use the word "collectively" regarding the way in which investments and social activities should be accomplished. 16 Decisions, <http://www.grameen.com/> (follow "Methodology" hyperlink; then follow "16 Decisions" hyperlink) (last visited Mar. 29, 2010).

30. *Credit Delivery System*, <http://www.grameen.com/> (follow "Methodology" hyperlink; then follow "Credit Delivery System" hyperlink) (last visited Mar. 29, 2010).

31. *What is Microcredit?*, *supra* note 3. ("Grameen believes that charity is not an answer to poverty. It only helps poverty to continue. It creates dependency and takes away individual's initiative to break through the wall of poverty.").

32. B. James Johnson, *Yunus: From Microcredit to Mega Benefits*, BANGKOK POST, Sept. 8, 2009, available at <http://www.bangkokpost.com/life/education/23476/yunus-from-microcredit-to-mega-benefits>.

33. *Making the Dollar Go Further, the Yunus Way*, <http://www.muhammadyunus.org/In-the-Media/making-the-dollar-go-further-the-yunus-way/> (last visited Mar. 29, 2010).

34. Grameen Bank: GB at a Glance, Mar. 2010, http://www.grameen-info.org/index.php?option=com_content&task=view&id=26&Itemid=175 (last visited Mar. 29, 2010).

35. Rana Foroohar, *Can a Bangladeshi Bank Help Fix America's Financial System?*, NEWSWEEK ONLINE (Apr. 20, 2009), <http://www.newsweek.com/blogs/wealth-of-nations/2009/04/20/can-a-bangladeshi-bank-help-fix-america-s-financial-system.html>.

Under the Grameen Bank group-lending structure, to receive a loan borrowers are required to form a group composed of five members familiar with each other as well as with each other's reputation and character in the community.³⁶ This familiarity serves as the bank's due diligence, as members are expected to eliminate from the group individuals whom they judge to be unlikely to repay a loan.³⁷

During weekly meetings, members scrutinize their peers' prospective enterprise and managerial skills and select the borrower who will receive the group's loan at that time.³⁸ The borrower with the outstanding loan is expected to meet weekly repayment schedules.³⁹ In an instance of default, Grameen Bank holds the group's members jointly liable based upon "morally binding group guarantees."⁴⁰ Pursuant to this guarantee, members of the group are expected to repay a fellow member's outstanding debt if necessary.⁴¹ In order to further ensure that the debt is repaid, until the current debtor has repaid their debt, other group members may not receive further loans.⁴²

Additionally, a group saving program requires members to make weekly deposits and current borrowers to pay interest of 5 percent of their loan into the savings account.⁴³ While a member that leaves the group can recoup their weekly deposits, the interest is forfeited to the group upon departure.⁴⁴ Any group member can borrow from the group fund for investment and consumption purposes so long as they receive the consent of the group members.⁴⁵

The success of these repayment and savings programs relies on the responsiveness to and the exertion of peer pressure by individual members.⁴⁶ The collectivist norms of Asian culture

36. Solomon, *supra* note 1, at 197.

37. *Id.*

38. *Id.* at 198.

39. *Id.*

40. *Breaking the Cycle of Poverty Through Microcredit*, <http://www.grameen.com/> (follow "Methodology" hyperlink; then follow "Breaking the Cycle of Poverty" hyperlink) (last visited Mar. 29, 2010).

41. *Id.*

42. *Id.*; Solomon, *supra* note 1, at 200.

43. Solomon, *supra* note 1, at 200.

44. *Id.*

45. *Id.*

46. Grameen expressly relies on special loan conditions such as those which "stress on credit discipline and collective borrower responsibility or peer pressure" and "lean on solidarity groups: small informal groups consisting of co-opted members coming from the same background and trusting each other." *Credit Delivery System*, *supra* note 30; *Method of Action*, <http://www.grameen.com/> (follow "Methodology" hyperlink; then follow "Method of Action" hyperlink) (last visited Mar. 29, 2010).

amplify the effectiveness of using peer pressure as an enforcement mechanism. For a collectivist, the group's welfare is part of an individual member's self-identify and reputation within his or her community.⁴⁷ This motivates the individual not only to work diligently in his or her business and pay his or her own debt, but also to contribute to the group's welfare by encouraging others within the group to do the same.⁴⁸ The individual expects fellow members will use criticism and discipline against him or her if necessary for the good of the group.⁴⁹

Other microcredit organizations have achieved similar success throughout Asia.⁵⁰ The BAAC in Thailand, the Vietnam Bank for Social Policies in Vietnam, and P4K in Indonesia all have more than 300,000 members and continue to use group-lending practices similar to Grameencredit.⁵¹

III. BRIEF OVERVIEW OF MICROCREDIT OPERATIONS IN THE U.S.

Well known as "the land of opportunity," the U.S. would seem like the perfect fit for an entrepreneurial means of ending poverty. Many of the same reasons credit is unavailable to low-income persons in Asia and throughout the Third World apply equally to low-income Americans: collateral and guarantee requirements, inflexible repayment schedules, and the prohibitive costs of administering smaller loans. In fact, Grameen America asserts that approximately "28 million people in America are un-

47. See *supra* note 23 and accompanying text.

48. See *supra* notes 22, 24, and note 24's accompanying text.

49. Microcredit participants discipline borrowers into compliance by using social sanction such as "the loss of an errant borrower's reputation in the community, social isolation, restrictions on access to inputs necessary for business, or, in rare cases, the use of physical force." Beatriz Armendáriz de Aghion & Jonathan Morduch, *Microfinance Beyond Group Lending*, 8 *ECON. OF TRANSITION* 401, 404 (2000).

50. However, not all microcredit institutions in Asia have used the group-lending model. Wo Kai, a microcredit organization serving inhabitants of Inner Mongolia, P.R.C. and throughout rural China, makes loans on an individual basis according to requests from the micro-entrepreneurs themselves. Micro-entrepreneurs are assisted by field workers in preparing a short funding request form to fund a specific business need. Entrepreneurs may request additional loans after successful repayment. See WOKAI, <http://www.wokai.org/> (last visited Mar. 30, 2010). Indonesia's BRI-UD in Indonesia and Vietnam's Bank for Social Policies also engage in individual—lending to millions of members. Elvira Kurmanalieva et al., *Micro-finance and poverty reduction in Asia: what is the evidence?* (Dec. 5, 2003) (unpublished manuscript, prepared for the 2003 ADB Institute Annual Conference on 'Micro finance and poverty reduction') available at <http://unpan1.un.org/intradoc/groups/public/documents/apcity/unpan035366.pdf>.

51. Kurmanalieva et al., *supra* note 50.

banked and 45 million people are 'underbanked.'"⁵² As a result, low-income Americans often resort to using payday lenders and check-cashing services, which charge an average of 400 percent annual interest, although rates can run as high as 780 percent.⁵³

Nevertheless, microcredit in the U.S. has faced a rocky start, and not all organizations have survived. Microcredit has been available in the U.S. since the 1980s and has been present in all fifty states since the 1990s, but less than one percent of micro-entrepreneurs in the U.S. have received microloans.⁵⁴ In the late 1980s, Grameen Bank failed in its first attempt at transferring the Grameencredit model.⁵⁵ In conjunction with Southern Bancorp Bank and the Good Faith Fund in Arkansas, Grameen Bank attempted to mimic the social ties and group-lending strategies of Grameencredit by establishing a mandatory six-week training program for individuals and then creating groups from among the training program's participants.⁵⁶ However, even after a minimum of six weeks of familiarity and the prospect of a continued group relationship over the life of the loan, the groups lacked the social cohesion to enforce payments above a 70 percent repayment rate.⁵⁷ Group-lending was consequently phased out of the Good Faith Fund and the organization now focuses on career training through its Business Development Center.⁵⁸

In light of past shortcomings, many CED institutions have chosen to adjust their microcredit operational strategy according to certain characteristics of the U.S. ACCION USA, the largest U.S. microcredit lender with more than \$200 million USD loaned over the past twenty years,⁵⁹ rationalized their decision to utilize an individual-lending model as opposed to group-lending model as follows:

Internationally, the group-lending methodology has achieved widespread adoption and well-documented success [for ACCION]. Domestically, ACCION USA has found the individ-

52. *The Financially Underserved in the U.S.*, <http://www.grameenamerica.com/how-we-work/how-we-work/the-financially-underserved-in-the-us.html> (last visited Mar. 30, 2010) (citing the 2005-2007 American Community Survey 3-Year Estimates, American Community Survey).

53. *Id.*

54. Richardson, *supra* note 6, at 929.

55. Barbara Kiviat, *Can Microfinance Make it in America?*, TIME, Jan. 11, 2009, available at <http://www.time.com/time/magazine/article/0,9171,1950949,00.html>.

56. Rajdeep Sengupta & Craig P. Aubuchon, *The Microfinance Revolution: An Overview*, 90 FED. RES. BANK ST. LOUIS REV. 9, 16-17 (2008), available at <http://research.stlouisfed.org/publications/review/08/01/Sengupta.pdf>.

57. Kiviat, *supra* note 55.

58. Sengupta & Aubuchon, *supra* note 56.

59. Alex Goldmark, *The GOOD 100: Microfinance Comes to America*, GOOD, Oct. 7, 2009, available at <http://www.good.is/post/the-good-100-microfinance-comes-to-america>.

ual-lending model better suited to U.S. borrowers, who often resist peer collateralization, the sharing of sensitive information, and the perceived inequities in loan amounts among group members. The individual model also better prepares borrowers to enter the mainstream U.S. credit system.⁶⁰

Other institutions, including Grameen America, the Grameen Bank's American outpost, continue to assert the universality of Grameencredit.⁶¹ Grameen America operates using the group-lending model by making loans to a group of five members that meet weekly in order to encourage financial responsibility and repayment of the loan.⁶² Groups are "expected to voluntarily provide assistance to their peers where needed."⁶³ In fact, the only difference between Grameen America's operations and that of Grameen Bank is the average loan size.⁶⁴

In sum, microcredit institutions in the U.S. that use models similar to Grameencredit have failed. Grameen America is making small adjustments to its strategy with its second attempt to transfer the Grameencredit model, but the results are currently unknown. The next section will discuss some of the issues Grameencredit faces in the U.S. market.

60. Microfinance FAQs: ACCION USA, <http://www.accionusa.org/home/support-u.s.-microfinance/about-accion-usa/microfinance-faq.aspx> (last visited Nov. 17, 2010).

61. In addition to Grameen America, the Women's Self-Employment Project (WSEP) in Chicago, Illinois, also uses a group-lending model. WSEP originally started as a twelve-week training program that culminated in the opportunity to apply for collateralized individual loans, but has now added the peer group revolving-credit program based on Grameencredit. Solomon, *supra* note 1, at 203.

62. Frequently Asked Questions - Grameen America, <http://www.grameenamerica.com/how-we-work/frequently-asked-questions/1> (last visited Nov. 17, 2010).

63. *Id.*

64. *Id.* The first established Grameen America branch, in Queens, New York, has recruited approximately 2,459 borrowers but dispersed over \$7.8 million USD in loans, indicating that the mean loan size is approximately \$3,100 USD. Our Borrowers-Grameen America Branches, <http://www.grameenamerica.com/our-borrowers/our-locations/grameen-america-branches.html> (last visited Dec. 27, 2010). In comparison, the developing Asian countries average loan sizes in the low hundreds of USD. A few examples drawn from the text of average loan sizes of microfinance loans throughout South and Southeast Asia include: \$65 USD in Bangladesh; \$112 USD in Sri Lanka; \$335 USD in Indonesia; \$105 USD in the Philippines; and \$349 USD in Cambodia. CHARITONENKO, et al., *supra* note 2, at 29. This significant adjustment upward in the loan amount is consistent with other microcredit lenders in the U.S. such as ACCION USA. ACCION USA has adjusted the amount of its loans to the U.S. market needs, with an average loan of \$5,100 USD and a range that starts at \$700 USD but stretches as far as \$50,000 USD. Microfinance FAQs: ACCION USA, *supra* note 60.

IV. CONCERNS WITH DIRECT TRANSFER OF SEA METHODS TO THE UNITED STATES

The Grameen Bank's "Method of Action" principles state: "[s]tart with the problem rather than the solution: a credit system must be based on a survey of the social background rather than on a pre-established banking technique."⁶⁵ In this section, the transferability of Grameencredit from its South and South East Asian social background to the U.S. environment, as attempted by Grameen America, will be analyzed in light of the vastly different market and liability barriers present in the two regions. The different credit needs of low-income Americans in terms of access, loan amount, and intended use will be referenced to question Grameencredit's usefulness in the U.S., and whether small adjustments should be made to the model. Finally, the efficacy of the group-lending structure outside of its collectivist origins and its application to the individualistic culture of the U.S. will be considered.

A. BARRIERS TO ACCESSING MARKETS IN THE U.S.

The poverty and lack of political structure in developing Asian countries stands in sharp contrast to the highly-developed U.S. market. In analyzing the success of the Grameen Bank and microcredit in developing countries generally, Professor Lewis D. Solomon describes the informal economic center of these developing countries:

Entry-level microenterprises include vendors peddling their wares on street corners, farmers and traders selling locally-grown and produced foodstuffs, and entrepreneurs engaging in a variety of service and repair activities. Informal-sector enterprises comprise 80-90% of the business activities in a typical poor Third World urban neighborhood or village, and employ from 30-70% of a developing nation's labor force. Informal-sector businesses often rely on family members for capital and labor. The informal sector is relatively easy to enter, family-owned, unregulated, small-scale, competitive, labor-intensive, and permits resources to be adapted from one use to another.⁶⁶

The international, national, and statewide markets of the U.S. are generally considered significantly more formal than the small village economies of developing Asian countries.⁶⁷ Whereas a village micro-entrepreneur faces few obstacles to

65. Grameen Bank: Method of Action, *supra* note 46.

66. Solomon, *supra* note 1, at 193-94.

67. Rashmi Dyal-Chand, *Reflection in a Distant Mirror: Why the West has Misperceived the Grameen Bank's Vision of Microcredit*, 41 STAN. J. INT'L L. 217, 248 n.144 (2005). Professor Rashmi Dyal-Chand defines an "informal" market as:

starting a business other than access to capital, the obstacles for a U.S. micro-entrepreneur are three-fold: competition already present in the market; licensing and administrative fee requirements; and the threat of liability.

i. Competition

In developing Asian countries, competition is extremely limited. In essence, the only form of competition for micro-entrepreneurs is the cost for a villager to make the same product at home.⁶⁸ The loan provided by a microcredit institution for agricultural materials or small consumer goods allows an individual to become self-employed while often also providing the village with access to scarce resources.⁶⁹ Therefore, microcredit loans can have significant impact when the cost of providing seed capital to cover raw materials is low and unrestricted access to natural resources is great.⁷⁰

The opposite is true in the U.S. marketplace. Competition is high for both sources of cheap materials and for retail of the micro-entrepreneur's product. Product mark-ups and the control of most ingredients or elements by some form of enterprise cause the cost of raw materials for a U.S. micro-entrepreneur to be disproportionately higher than comparators in developing economies.⁷¹ Market saturation further compounds these start-up costs by imposing a price ceiling for the micro-entrepreneur.⁷² Since many companies offering products in the U.S. market have

an economy in which services are sold, and goods are produced and sold, by numerous small businesses rather than by one or a few large firms. . . . [The term is used] to signify the nature of these small businesses . . . and of their business relationships . . . namely that they transact business without permits, written contracts, clear evidence of title, or expectation of reliable enforcement of their rights.

But see Solomon, *supra* note 1, at 208. Solomon refutes the absence of an informal market in the U.S., citing examples of unmet demand in areas such as home repair, electrical services, plumbing, child and elder day care, health and environmental services, and food services

68. Dyal-Chand, *supra* note 67, at 248-49, 249 n.149.

69. Estes, *supra* note 7, at 143.

70. *See* Marie Leone, *Microcredit: Trickle-up Economics*, CFO.COM, Oct. 20, 2005, available at http://www.cfo.com/article.cfm/5053532/1/c_2984367 (citing examples of micro-entrepreneurship with negligible production costs; selling bricks, soap, and vegetables).

71. *See e.g.*, Ralph D. Christy et al., *A Microenterprise-Centered Economic Development Strategy for the Rural South: Sustaining Growth with Economic Opportunity*, 32 J. AGRIC. & APPLIED ECON 331, 338 (2008) (citing more capital-intensive nature of production or service delivery in the U.S. as a disproportionate cost).

72. *Cf.*, Solomon, *supra* note 1, at 208. Solomon argues that market saturation is not an obstacle for U.S. micro-entrepreneurs, because even if the service exists in the national market, these goods and services can be developed by local micro-entrepreneurs as substitutes. *Id.* This assumes, however, that micro-entrepreneurs can produce the good for less than it costs to produce and import the national brand, or

already developed cost-efficient means of mass production, and may employ cheaper overseas labor, it is nearly impossible for a micro-entrepreneur to offer goods at a competitive price.⁷³

Furthermore, even where U.S. micro-entrepreneurs are successful in capturing part of their market, they are simply benefiting from a redistribution of wealth from larger or previous firms.⁷⁴ The net gain of providing a necessity otherwise not available, as often occurs for village communities in developing Asian countries, is not typically experienced in the U.S.⁷⁵ This effect of competition in the U.S. renders microcredit significantly less valuable as a CED tool there due to its inability to elevate the status of the entire community and not just specific credit recipients.

ii. Licensing and Administrative Fees

As previously mentioned, the markets of the developing world are characterized as “informal.” They lack the regulation that a formal market like the U.S. imposes: permits, written contracts, clear evidence of title, and expectations of reliable enforcement of rights.⁷⁶ The absence of such administrative burdens allows micro-entrepreneurs in developing Asian countries to devote the majority, if not all, of the seed capital to production and business growth.⁷⁷ Lack of regulation also translates into less restrictions for these micro-entrepreneurs when choosing the form of business to pursue, and in what manner to do so. Finally, because registration of the business with the government is not required, a micro-entrepreneur would presumably have no

that the local community will support the micro-entrepreneur even if the product is more expensive.

73. Some argue these costs are subsidized by the microcredit, and that even if minimal profit is made, the benefits of self-employment make entrepreneurship worthwhile. Professor Lucie White writes that in reality, the restrictions of the market will force most enterprises to cut corners in order to survive. “The advocates of microenterprise assistance need to specify exactly how it promotes gender equality or women’s empowerment to assist individual women to start businesses that must use sweatshop strategies of labor organization in order to stay afloat.” Lucie E. White, *Feminist Microenterprise: Vindicating the Rights of Women in the New Global Order?*, 50 ME. L. REV. 327, 333 (1998).

74. Dyal-Chand, *supra* note 67, at 249.

75. William Harms, *Arkansas uses Chicago’s South Shore Bank model for development project*, 24 UNIV. OF CHI. CHRON., Jan. 6, 2005, available at <http://chronicle.uchicago.edu/050106/arkansas.shtml>. Professor Richard Taub, an expert on local economic development, describes how he noticed this while advising at the Good Faith Fund. “One woman who borrowed money to set up a dry-cleaning business was a big success,” Taub said. “But she probably could have got the money on her own. In the end, her business may not have boosted the local economy because she was likely taking away business from another cleaner in town.” *Id.*

76. See Dyal-Chand, *supra* note 67 and accompanying text.

77. Solomon, *supra* note 66 and accompanying text.

reason to be concerned about an issue with her citizenship or personal history limiting her opportunity to develop a business.

For a U.S. micro-entrepreneur, the licensing and administrative requirements of the formal market can impose significant burdens or even bar entry to the market entirely.⁷⁸ For instance, most municipalities require a basic license to operate any type of business.⁷⁹ Filing a license registers the micro-entrepreneur's identity with the government, which could be problematic for individuals without the appropriate immigration status. Licenses also entail payment of an administrative fee, which although comparatively small, may pose a genuine barrier for a micro-entrepreneur with already high start-up costs. Many market activities also require micro-entrepreneurs to file for special licenses and incur additional fees.⁸⁰ Some activities, particularly home-based businesses such as child-care, may be subjected to further regulation from zoning requirements or dwelling covenants, rendering such activities completely untenable.⁸¹

iii. Threat of Liability

In the event that a micro-entrepreneur's product is defective or causes injury, the threat of liability arises. For a micro-entrepreneur in developing Asia this threat is minor or non-existent, because as described above, local legal systems are often ineffective and fraught with corruption. Lack of registration requirements and the anonymity of the informal market also presumably make it difficult to locate offending micro-entrepreneurs or identify the responsible party. Furthermore, the likelihood of collecting damages is limited when the average person in Asian villages

78. To the contrary, some authors suggest the microfinance industry is in need of regulation if it is to continue to grow and reach more borrowers. *See generally* Seth McNew, *Regulation and Supervision of Microfinance Institutions: A Proposal for a Balanced Approach*, 15-SPG L. & BUS. REV. AM. 287 (2009).

79. Licenses and Permits: Overview, FINDLAW, available at <http://smallbusiness.findlaw.com/starting-business/starting-business-licenses-permits/starting-business-licenses-permits-overview.html> (last visited Nov. 26, 2010). A search on the California Permits website, CalGOLD, for the permits that apply to "sidewalk and street vending" in Los Angeles County yielded twenty separate permits and registration forms which may be required for some kinds of businesses. CalGOLD Permit List Results Page.

80. Licenses and Permits: Overview, *supra* note 79. Health Department permits are required for businesses involved in the preparation and/or sale of food. *Id.* Most states require special licenses to sell liquor, lottery tickets, gasoline or firearms. *Id.*

81. Where these restrictions may be unnecessary and even the result of prejudice, some CED practitioners encourage lobbying for their repeal or obtainment of uniform safe-harbor provisions. Susan R. Jones, *Supporting Urban Entrepreneurs: Law, Policy, and the Role of Lawyers in Small Business Development*, 30 W. NEW ENG. L. REV. 71, 88-89 (2007).

lives on less than \$1 USD per day,⁸² so there is no reason to bring a lawsuit.

Conversely, the potential for liability facing a micro-entrepreneur is quite expansive within the U.S. legal system. Indeed, U.S. micro-entrepreneurs may need to defend against lawsuits claiming breach of contract for failure to fulfill duties to a client or vendor, product liability, *respondeat superior* and employee claims, and other tort claims that might arise during the general course of operating the business. Extensive registration of businesses and strong enforcement bodies make anonymity from the law impossible. Though a U.S. micro-entrepreneur might likewise be effectively judgment-proof, with assets of even a modest car and/or house, some savings, and the business infused with some amount of microcredit capital, this fact alone may not deter all lawsuits.

Given these various bases of potential liability, it is important for U.S. micro-entrepreneurs to safeguard their venture, which may be achieved through a variety of mechanisms. For instance, one way a U.S. micro-entrepreneur can insulate herself from the potentially devastating impact of an unfavorable judgment is to purchase insurance. General guidance for U.S. small business insurance suggests four broad risk exposures that should be guarded against: 1) liability loss exposures; 2) income loss exposures; 3) property loss exposures; and 4) people loss exposures.⁸³ Depending on the size and nature of the business, quotes for annual insurance policies can, for example, vary from \$350-\$700 USD⁸⁴ for a home-based child care business to \$1,000-\$1,500 USD⁸⁵ annually for professional liability coverage for a photographer.

Incorporation is an additional option for a U.S. micro-entrepreneur to protect against liability.⁸⁶ Incorporation offers benefits such as limited personal liability and a structure for raising capital. However, incorporation can be very expensive depend-

82. Leone, *supra* note 70.

83. Small Business Insurance Quotes: Small Business Insurance Overview, <http://smallbusinessinsurancequotes.org/> (last visited Nov. 26, 2010).

84. National Network for Child Care, Child Care Home: Liability Insurance, <http://www.nncc.org/Business/cch.liability.html> (last visited Nov. 26, 2010).

85. Professional Photographers of America: Protecting Your Business with Insurance, <http://www.ppa.com/ppa-today-blog/business/protecting-your-business-with.php> (last visited Nov. 26, 2010).

86. Incorporation can be so crucial to the protection of a small business that many non-profits offer pro bono assistance to entrepreneurs completing the process. See, e.g., Public Counsel Early Care & Education Law Project, http://www.publiccounsel.org/practice_areas?id=0003 (last visited Nov. 26, 2010) (providing transactional legal assistance for child care providers including assistance with incorporation).

ing on the size of the business and the state of incorporation. It can cost a micro-entrepreneur anywhere from \$50 to around \$300 USD to incorporate a C or S corporation, and from \$50 to more than \$500 USD for an LLC, which offers optimum liability protection and tax advantages for small businesses.⁸⁷

Apart from threats of liability against a micro-entrepreneur's company, the group-lending aspect of Grameencredit might also present liability concerns for the individual micro-entrepreneur under the U.S. legal framework. The group-lending model used by Grameen America and other microcredit organizations makes loans to a group, which disperses those funds to individuals, and holds the group liable if repayment difficulties arise.⁸⁸ However, whether a joint liability agreement made in a written or oral contract, or even an implied promise, is legally enforceable is an unanswered question.⁸⁹ It remains unclear whether such liability would be enforceable only by the microcredit lending institution against the groups' members, or whether group members have a remedy against a defaulting member for a subrogation claim. Some economists assume Grameen Bank and Grameencredit group-lending operations entail some form of legally enforceable joint liability.⁹⁰ Currently, Grameen America remains vague about whether they are legally entitled to execute on group members' commitment to cover fellow members' defaults, or whether they would actually attempt to do so.

87. Carol Tice, *The Cost of Incorporation*, ALL BUSINESS, <http://www.allbusiness.com/legal/contracts-agreements-incorporation/1650-1.html> (last visited Nov. 27, 2010).

88. Armendariz de Aghion & Morduch, *supra* note 49, at 402.

89. See Alexander S. Kritikos and Denitsa Vigenina, *Key Factors of Joint-Liability Loan Contracts: An Empirical Analysis*, 58 KYKLOS 213, 214 (2005). For instance, language within the ACCION definition of their group-lending program could indicate members are liable as guarantors. "Group-lending, also known as solidarity group-lending or village banking, is a mechanism that allows a number of individuals to gain access to microcredit by providing collateral or guaranteeing a loan through a group repayment pledge." ACCION USA: Microcredit vs. Microfinance, <http://www.accion.org/microcredit-vs-microfinance> (last visited Apr. 20, 2010).

90. See, e.g., Malgosia Madajewicz, *Joint Liability Versus Individual Liability in Credit Contracts 1-2* (Economics Department, Columbia Univ., Discussion Paper No. 0304-18 Aug. 2004), available at <http://www.econ.columbia.edu/RePEc/pdf/DP0304-18.pdf> (making simplifying assumption for purpose of economic modeling that the contracts are enforceable); Armendariz de Aghion & Morduch, *supra* note 49, at 402. *Contra*, Grameen Bank: GB at a Glance, *supra* note 34. Grameen Bank states it "does not wish to take any borrower to the court of law in case of non-repayment" and therefore does not require the borrowers to sign any legal instrument.

B. DIFFERENCES IN CREDIT NEEDS

While small businesses can benefit from assistance and support in both the developing and developed world, the drastically variable credit needs of the entrepreneurs brings into question the usefulness of Grameencredit and microcredit in general.

i. Access to Credit

Providing access to credit was the impetus of founding Grameen Bank, and the intention was to provide only the smallest amount of money necessary for an individual to start a business. In Asia's developing rural areas, just visiting a bank can take several days of travel. Furthermore, the poverty of these countries' governments can mean that banks in the region simply do not have the requisite funds to make loans.⁹¹ This economic environment has created a platform that has translated to tremendous success of microcredit programs in developing Asian countries.

Conversely, geographic distance and lack of bank funds are not the difficulties traditionally associated with obtaining a loan in the U.S. Rather, a bank's own lending restrictions of requiring borrowers to have credit or collateral creates hurdles for entrepreneurs.

These restrictions are often based on sound business practices. For example, most banks in the U.S. consider the borrower's credit score in deciding to make a loan. A credit score is based upon the borrower's history of debt and bill repayment, and is a good indicator for whether the borrower will repay the loan. In fact, the credit score evaluates the same information that Grameen Bank does by relying on group members for due diligence,⁹² only through a more institutionalized and objective method. The rationale for the loan restrictions is perhaps best supported by the recent sub-prime loans crisis, where so many borrowers lost their homes after taking out uncollateralized loans without sufficient prospective income to repay the loan.

ii. Differences in loan amount and intended uses

Microcredit operations like Grameen Bank usually charge a relatively high interest rate of approximately 15 percent in order to keep the organization sustainable and continue lending to

91. *Burma's Private Banking Crisis - a Chronology*, 11 IRRAWADDY NEWS, Dec. 2003, available at http://www.irrawaddy.org/print_article.php?art_id=7687.

92. See *supra* note 37 and accompanying text.

other borrowers.⁹³ However, the differences in credit needs between residents of developing countries in Asia and of the U.S. may mean that small loans at high interest rates are an undesirable offer for the poor in the U.S. Indeed, while borrowers in developing countries have no alternatives available with lower interest rates, in the U.S. even an impoverished individual with poor credit or unsteady employment can sign up for a credit card that may offer a better rate than a microcredit loan.⁹⁴

To make the microcredit loans more useful in the U.S. context, the loan size should be adjusted to fit the U.S.'s higher GDP per capita, and indeed many banks including Grameen America have done so.⁹⁵ However, such adjustments raise the question: does a significant amount of modification to the model change the financial service from microcredit to a different type of financing? The increase in the loan size is partially due to the transactional costs facing a U.S. micro-entrepreneur, in terms of higher licenses, incorporation and operational fees, and insurance costs.⁹⁶

This increase in the size of the loan has also changed the borrower's intended use for the funds. With higher loan amounts, Grameen America predicts U.S. borrowers might use loans to invest in equipment for a food truck or purchase a sewing machine for a tailoring business.⁹⁷ Such uses vary considerably from the original intention for Grameencredit: to provide money for raw materials to produce products that could be brought quickly to the market, such as small consumer goods or agriculture.

Such differences in use of funds may be negligible to the usefulness of the Grameencredit model. However, evidence of the importance of the difference can be seen from within Grameen Bank itself: when businesses in Bangladesh progress quickly and credit needs change, Grameen Bank provides a different type of loan program. These 'micro-enterprise loans' are made on an individual basis and without restrictions on size.⁹⁸ The largest micro-enterprise loan dispersed by Grameen Bank was for \$23,209 USD.⁹⁹ This type of loan is used for purposes

93. Frequently Asked Questions - Grameen America, *supra* note 62. Even at this rate, neither Grameen nor other microcredit institutions are fully covering costs. *See also* Armendariz de Aghion & Morduch, *supra* note 49, at 405.

94. Of course, penalties for default on these credit cards are notorious, but then again the Grameen model is premised on the idea that the poor will pay their debts if given access to credit, as evidenced by their 99 percent repayment rate.

95. *See supra* note 64 and accompanying text.

96. *See supra* Part IV.a.ii.

97. Frequently Asked Questions - Grameen America, *supra* note 62.

98. Grameen Bank: GB at a Glance, *supra* note 34.

99. *Id.*

similar to the loans made to U.S. micro-entrepreneurs, including machinery.¹⁰⁰ Essentially, Grameen Bank recognizes the differences of the larger loan amount and the use of the credit more for growth of a pre-existing business rather than seed capital as a sufficient basis to move its strategy away from the Grameen-credit group-lending model and toward individualized small business loans. This is true even within the environment of developing Asia. As such, perhaps the circumstances in the U.S. that necessitate a larger loan amount coupled with U.S. micro-entrepreneurs frequent use of microcredit for growth of a pre-existing business make the Grameencredit group-lending model less useful in the U.S. The existence of small business loans and other options for financial support for entrepreneurs currently available in the U.S. may make the microcredit concept that is workable in the U.S. market generally pre-empted.¹⁰¹

C. DIFFERENCES IN CULTURAL NORMS REGARDING GROUPS

As described in Part II, Asian cultures may be generally viewed as collectivist in nature and the Grameencredit group-lending model as a product of that culture operates under collectivist assumptions. Conversely, American society is viewed as more individualistic for a variety of reasons.¹⁰² An individualist culture may be characterized as lacking both the interest in cooperation for the benefit of the group and the "busy body" mentality mentioned in Part II.¹⁰³ Individualism in a culture is characterized by a perceived right of "maximum freedom of the individual, the existence of voluntary groups that individuals can join or leave as they please, and equal participation of individuals in group activities."¹⁰⁴ Members of an individualist culture will not only expect others to respect their possession of these rights, but will respect the possession of these rights by others. Furthermore, because an individualist is focused solely on promotion of her interests and attainment of her goals, she will not be interested in engaging in the conflict associated with offering even constructive criticism since it does not advance her interests.¹⁰⁵

100. *Id.*

101. Jones, *supra* note 81, at 72-77. For example, support is offered by the government through tax credits, Empowerment and Enterprise Zones; by technical assistance from the U.S. Small Business Administration; and by non-profit Community Development Financial Institutions. *Id.*

102. Wagner, *supra* note 21, at 154; Moorman & Blakely, *supra* note 9, at 129.

103. Wagner, *supra* note 21, at 154.

104. HARRY C. TRIANDIS, *INDIVIDUALISM & COLLECTIVISM* 19 (1995) (discussing political philosophers' writings on individualism and collectivism in the eighteenth and nineteenth centuries).

105. See Wagner, *supra* note 21, at 154.

Applying this individualist nature to the Grameencredit context, not only would an individualist be unlikely to engage in chastising a peer for failing to repay the group's money or covering a peer's debt so that the group can continue to operate, an individualist would also be unlikely to respond to chastisement if he or she is the delinquent member.¹⁰⁶ This difference in cultural norms should not be overlooked or dismissed when considering models for microcredit. Indeed, Solomon cites the collectivist nature of Bangladeshi and Asian societies as particularly important to the success of the Grameen Bank.¹⁰⁷

It is important to note that individualists are not entirely opposed to collaboration, as long as this peer collaboration leads to attaining personal benefits the individual could not obtain alone.¹⁰⁸ Certain investment or mentoring circles may have success within the U.S. based upon this norm, because members realize they will receive the benefit of advice and networking through membership. This impetus for cooperation is not likely to benefit the group-lending model, however. Indeed, while a small part of the model is advice regarding business plans, most of the group's role is to peer pressure members into repayment. In fact, individualist participation in a group-lending structure might lead instead to the situation that has occurred even in developing countries, where members of a group-lending circle collude against the bank, undermining the bank's ability to make use of its social "collateral."¹⁰⁹

When the first branch of Grameen America opened in Jackson Heights in 2008, the New York Times published an article entitled, "Will Bangladeshi-Style Microlending Work in Queens?" Microfinance expert Saiful Islam stated that while he thought the area's Bangladeshi, Indian, and Latino immigrants would be amenable to the Grameencredit group-lending model, he was doubtful the group model would be successful in the American market.¹¹⁰ Islam suggested instead that Grameen America keep the model flexible to adjust to the multicultural society of the U.S. in order to see widespread success.¹¹¹

Two years later, the Grameen America website confirms that many of its borrowers are indeed recent immigrants to the U.S., some of whom are likely ethnic minorities from collectivist-

106. *Id.*

107. Solomon, *supra* note 1, at 214.

108. Wagner, *supra* note 21, at 154.

109. Armendariz de Aghion & Morduch, *supra* note 49, at 404.

110. Amanda M. Fairbanks, *Will Bangladeshi-Style Microlending Work in Queens?*, N.Y. TIMES, Apr. 29, 2008, available at <http://cityroom.blogs.nytimes.com/2008/04/29/will-bangladeshi-style-microlending-work-in-queens/>.

111. *Id.*

based cultures.¹¹² These cultural tendencies are presumably weakened, however, by the lack of a continuous community to strengthen the impact of peer pressure and ostracism. The steady influence of individualism in U.S. culture and the challenges of increased regulation and competition, has resulted in Grameen America not achieving the same success of its Grameen Bank counterpart. “They’ll pay back in the beginning, but a lot of times you get more trouble later on,” commented Andrea Levere, president of the economic development group Corporation for Enterprise Development.¹¹³

V. CONCLUSIONS AND RECOMMENDATIONS FOR ALTERATION TO THE U.S.

Many of the obstacles to transferring the Grameen credit model specifically and microcredit generally to the U.S. marketplace are not easily corrected through changes to the models alone. Barriers of competition, licensing, and threats of liability are factors that Grameen credit does not face in developing Asia, its formative environment. If to address these barriers adjustments in loan size are made, the corresponding alteration in the intended use for the loan seems to change the nature of the financing service. Coupled with the significantly different credit needs of impoverished Americans, as compared to the borrowers in developing countries, the usefulness of microcredit as a CED program in the U.S. becomes questionable.

If the model is to be pursued in the U.S., perhaps the most necessary adjustment to the group-lending model is a shift from practices that depend on collectivist cultural norms to practices supported by the individualist cultural norms of the U.S.¹¹⁴ The individualist nature is highly entrepreneurial and the concepts of microcredit and micro-entrepreneurship are sufficiently flexible to expand beyond the Grameen Bank’s prototype.¹¹⁵ As Jones describes, the characteristics of a successful urban entrepreneur

112. Frequently Asked Questions - Grameen America, *supra* note 62.

113. Clare Trapasso, *Grameen America lending women a hand with small business loans*, NY DAILY NEWS, Nov. 15, 2008, available at http://www.nydailynews.com/ny_local/brooklyn/2008/11/16/2008-11-16_grameen_america_lending_women_a_hand_wit.html.

114. *But see* White, *supra* note 73, at 334. White suggests pursuing the empowerment goals of the Grameen loan circles and adjusting them to pursue participation in policy changes, citing examples of organizers who formed a “loose network of local groups” to increase funding and improve public law infrastructures for child care. White argues that new legislation to subsidize the training, licensing, and operating expenses will create the “infrastructural and budgetary environment in which particular microenterprises can thrive.” *Id.*

115. *See supra* note 60 and accompanying text (demonstrating ACCION USA’s change to the model).

include “persons with a willingness to take risks to earn a profit. . . confidence in their ability to succeed. . . self-direction. . . and leadership.”¹¹⁶

In fact, because of the high level of trust and knowledge necessary for members of a collectivist society to successfully function, collectivism itself might hinder development by limiting the amount of players in society’s market.¹¹⁷ Studies indicate more individualistic society requires fewer exchanges of information and little to no trust among players, and is consequently able to grow faster.¹¹⁸ A side benefit of more individualized lending is greater growth and outreach for the lender beyond the five-person groups.¹¹⁹ Study results ultimately suggest that “the innovators finding methods of lending individually (and more flexibly) to the poor may be moving in the right direction.”¹²⁰

There are several alternatives to the group-lending model that still enable uncollateralized loans to be made, including joint liability contracts, short term contracts, due diligence on individual potential borrowers, and “loan ladders,” which increase subsequent loan amounts after repayments are made.¹²¹ Loan guarantees and character references from the community can function as the community recommendation that is key to the success of group-lending.¹²² Or, small loans can be made with guarantees of small amounts of collateral, such as livestock or vehicles.¹²³ Many individual-lending microcredit programs throughout the world have repayment rates of 4 percent, 3.4 percent and even 1 percent,¹²⁴ comparably, if not more, successful than Grameen’s 2-3 percent repayment rate.

116. Jones, *supra* note 81, at 82.

117. Xavier Giné & Dean Karlan, *Group versus Individual Liability: Long Term Evidence from Philippine Microcredit Lending Groups* 22-23 (Econ. Growth Center, Yale Univ., Ctr. Discussion Paper No. 970, July 2006), available at http://www.econ.yale.edu/growth_pdf/cdp940.pdf. *But see* Earley, *supra* note 22 (citing evidence that collectivist-oriented individuals are more productive working together than working alone).

118. Giné & Karlan, *supra* note 117, at 23. What is necessary, the authors state, is “well-functioning formal institutions to enforce contracts,” which can include microcredit officers as enforcement as opposed to members of a lending group.

119. *Id.*

120. The joint liability aspect of the group-lending model can cause problems even within developing countries. Some groups preemptively limit loan terms by what the group feels it can jointly guarantee, restricting the growth of successful micro-entrepreneurs within the group who would prefer to take more loans to continue expansion of their business. *Id.* at 23-24. Aghion and Morduch assert the usefulness of the group-lending model ends for areas that are already relatively industrialized and/or where loans become larger in amount.

121. Richardson, *supra* note 6, at 926.

122. Armendariz de Aghion & Morduch, *supra* note 49, at 406.

123. *Id.* at 405.

124. *Id.*

Training and technical support can be required by the organization lending the microcredit and can be offered through other capable institutions such as the Small Business Association or various nonprofits. Individualists are not opposed to collaboration with peers in a group setting so long as cooperation leads to attaining personal benefits the individual could not obtain by working alone.¹²⁵ Trainings might include opportunities to voluntarily work in a group context as a means of networking or receiving constructive criticism from experts. Another option might be the incorporation of competition within the program. For example, individuals may compete within the membership of the microcredit organization for approval of their business proposals and to receive the limited amount of credit. The winner could be chosen either by the entire membership or by a panel of the past recipients of credit.

Because the group-lending model allows for peers familiar with their fellow prospective borrowers' reputations and backgrounds to assess their viability as an entrepreneur and loan recipient, a move toward individual banking would need to incorporate other means of assessment.¹²⁶ Such assessment could involve interviews, background research, and careful consideration of the business plans by the lending institutions. Of course, while the high transaction costs of such analysis compared to the relatively small amount of the loan is what originally caused traditional banks to reject requests for small loans,¹²⁷ many banks are now finding such loans increasingly lucrative.¹²⁸ While due diligence is a common aspect of lending for any commercial bank, a microcredit institution could provide greater assistance with helping the entrepreneur design a business plan, rather than simply evaluating the plan for lending purposes.

In conclusion, it is the position of this paper that the transfer of Grameencredit from its foundational environment of developing Asian countries to the significantly different environment of the developed U.S. market requires many adjustments to the loan model. The amount of required adjustments, and the consequent effect of those adjustments, cause success of the model to be tenuous. The likelihood of success for an American model of microcredit generally can be improved by adjusting the cultural basis inherent in the Grameencredit model from collectivist to individualist.

125. Wagner, *supra* note 21, at 154.

126. Kristen David Adams, *Promise Enforcement in Mortgage Lending: How U.S. Borrowers and Lenders Can See Themselves as Part of a Shared Goal*, 28 REV. BANKING & FIN. L. 507, 533-34 (2009).

127. Solomon, *supra* note 1, at 198.

128. Kiviat, *supra* note 55.